

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—*

(1) the President should direct the United States Trade Representative to withdraw the United States from the Agreement on Government Support for Civil Aircraft that was entered into with the European Community in 1992; and

(2) the President should direct the United States Trade Representative immediately to file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of serious injury to the commercial aviation industry of the United States.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3957. Ms. COLLINS (for herself 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.

SA 3958. 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 3959. 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 3960. 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 3961. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3966. 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 3967. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3792 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAU-

TENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3972. 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 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3957.** Ms. COLLINS (for herself 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:

On page 5, beginning on line 15, strike “and the Department of Energy” and insert “the Department of Energy, and the Coast Guard”.

On page 5, beginning on line 23, strike “including the Office of Intelligence of the Coast Guard”.

On page 6, line 10, insert “, as determined consistent with any guidelines issued by the President,” before “to the interests”.

On page 9, beginning on line 13, strike “counterterrorism” and all that follows through “foreign intelligence” on line 15 and insert “intelligence activities of the United States Government between intelligence activities located abroad and intelligence”.

On page 10, line 23, strike “a principal” and insert “the principal”.

On page 12, line 18, insert “of” before “the National Intelligence Program”.

On page 13, line 12, insert “appropriations for” after “oversee”.

On page 20, beginning on line 12, strike “related to the national security which is”.

On page 21, line 23, strike “(4)” and insert “(5)”.

On page 22, line 3, strike “(5)” and insert “(6)”.

On page 25, line 10, strike “head of the”.

On page 28, line 17, strike “or” and insert “and”.

On page 30, line 24, strike “205” and insert “206”.

On page 31, line 23, strike “205” and insert “206 and the Clinger-Cohen Act (divisions D and E of Public Law 104-106; 110 Stat. 642)”.

On page 32, beginning on line 13, strike “on all matters” and all that follows through line 15 and insert “or international organizations on all matters involving intelligence related to the national security.”.

On page 32, beginning on line 21, strike “head of each element of the intelligence community” and insert “head of any department, agency, or other element of the United States Government”.

On page 59, line 20, strike “309” and insert “310”.

On page 87, line 8, insert “and analytic” after “intelligence collection”.

On page 93, line 17, insert “of” before “electronic access”.

On page 96, beginning on line 13, strike “National Security Council” and insert “President”.

On page 99, line 25, strike “National Security Council” and insert “President”.

On page 134, strike lines 6 through 9 and insert the following:

(1) in consultation with the Executive Council, issue guidelines—

(A) for acquiring, accessing, sharing, and using information, including

On page 153, between lines 2 and 3, insert the following:

#### SEC. 207. PERMANENT AUTHORITY FOR PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) IN GENERAL.—Section 710 of the Public Interest Declassification Act of 2000 (title VII of Public Law 106-567; 50 U.S.C. 435 note) is amended—

(1) by striking “(a) EFFECTIVE DATE.—”; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENT.—The head of such section is amended by striking “; SUNSET”.

On page 154, line 16, strike “section 205(g)” and insert “subsections (e) and (g) of section 205”.

On page 154, line 21, strike “section 205(g)” and insert “subsections (e) and (g) of section 205”.

On page 156, line 4, strike “section 205(g)” and insert “subsections (e) and (g) of section 205”.

On page 170, line 19, strike “and independent” and insert “independent”.

On page 171, beginning on line 1, strike “and independent” and insert “independent”.

On page 171, beginning on line 8, strike “and independent” and insert “independent”.

On page 171, line 14, strike “objective and independent” and insert “timely, objective, independent”.

On page 171, line 20, strike “and independent” and insert “independent”.

On page 175, strike lines 8 through 17 and insert the following:

(2) COVERED INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of—

(i) a false or inaccurate statement to Congress contained in any intelligence assessment, report, or estimate; or

(ii) the withholding from Congress of any intelligence information material to any intelligence assessment, report, or estimate.

(B) EXCEPTION.—Paragraph (1) does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

On page 177, after line 17, add the following:

#### Subtitle D—Homeland Security Civil Rights and Civil Liberties Protection

##### SEC. 231. SHORT TITLE.

This title may be cited as the “Homeland Security Civil Rights and Civil Liberties Protection Act of 2004”.

##### SEC. 232. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking “and” after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

“(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and”.

**SEC. 233. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

“(a) IN GENERAL.—The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—”;

(2) by amending paragraph (1) to read as follows:

“(1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;”;

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

“(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

“(5) coordinate with the Privacy Officer to ensure that—

“(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

“(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

“(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.”.

**SEC. 234. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.**

Section 81 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS-15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

“(2) The senior official designated under paragraph (1) shall—

“(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

“(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

“(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

“(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

“(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

“(i) alleged abuses of civil rights or civil liberties; and

“(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

“(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

“(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

“(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

“(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

“(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

“(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.”.

**SEC. 235. PRIVACY OFFICER.**

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting “, who shall report directly to the Secretary,” after “in the Department”;

(2) in paragraph (4), by striking “and” at the end;

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

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

“(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

“(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

“(B) Congress receives appropriate reports on such programs, policies, and procedures; and”.

On page 180, line 8, strike “pertaining to intelligence relating to” and insert “related to intelligence affecting”.

On page 181, beginning on line 8, strike “on all matters” and all that follows through line 10 and insert “or international organizations on all matters involving intelligence related to the national security.”.

On page 201, strike line 14 through 20 and insert the following:

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 902(a) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107-306; 116 Stat., 2432; 50 U.S.C. 402b) is amended—

(1) by striking “President” and inserting “National Intelligence Director”; and

(2) by striking “Director of Central Intelligence” and inserting “Director of the Central Intelligence Agency”.

On page 205, line 1, strike “COUNTERTERRORISM” and insert “COUNTERINTELLIGENCE”.

On page 207, between lines 13 and 14, insert the following:

“The Director of the Central Intelligence Agency.

On page 207, line 21, insert “Deputy” before “Director”.

On page 44, strike line 24.

On page 45, line 1, strike “(6)” and insert “(5)”.

On page 45, line 3, strike “(7)” and insert “(6)”.

On page 45, line 5, strike “(8)” and insert “(7)”.

On page 45, line 7, strike “(9)” and insert “(8)”.

On page 45, line 9, strike “(10)” and insert “(9)”.

On page 45, line 11, strike “(11)” and insert “(10)”.

On page 45, line 14, strike “(12)” and insert “(11)”.

On page 52, strike lines 1 through 20.

On page 52, line 21, strike “126.” and insert “125.”.

On page 55, line 1, strike “127.” and insert “126.”.

On page 56, line 9, strike “128.” and insert “127.”.

On page 57, line 1, strike “129.” and insert “128.”.

On page 57, line 17, strike “130.” and insert “129.”.

On page 58, strike lines 3 through 9 and insert the following:

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall—

(1) 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;

(2) 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;

(3) 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;

(4) provide unfettered access to the Director to financial information under the National Intelligence Program; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

On page 59, line 15, strike “131.” and insert “130.”.

On page 202, line 16, strike “131(b)” and insert “130(b)”.

On page 19, line 12, insert “of access” after “grant”.

On page 20, line 25, insert “of” after “development”.

On page 53, line 2, strike “President” and insert “National Intelligence Director”.

On page 173, line 11, strike “2” and insert “3”.

**SA 3958.** 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 4, strike lines 5 through 16 and insert the following:

(2) The term “foreign intelligence” means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term “counterintelligence” means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

On page 6, line 12, strike “counterintelligence or”.

On page 6, beginning on line 17, strike “expressly provided for in this title” and insert “expressly provided for in law”.

On page 7, beginning on line 5, strike “the Office of Intelligence of the Federal Bureau

of Investigation" and insert "the Directorate of Intelligence of the Federal Bureau of Investigation".

On page 8, between lines 6 and 7, insert the following:

(8) The term "certified intelligence officer" means a professional employee of an element of the intelligence community who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President."

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and the National Intelligence Director in a manner consistent with section 112(a)(8).

On page 123, line 7, strike "(e)" and insert "(f)".

On page 123, line 17, strike "(f)" and insert "(g)".

On page 126, between lines 20 and 21, insert the following:

**SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.**

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act as the Office of Intelligence is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) Supervision of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403-5b).

(3) The oversight of Bureau field intelligence operations.

(4) Coordinating human source development and management by the Bureau.

(5) Coordinating collection by the Bureau against nationally-determined intelligence requirements.

(6) Strategic analysis.

(7) Intelligence program and budget management.

(8) The intelligence workforce.

(9) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

On page 196, strike line 20 and all that follows through page 197, line 7, and insert the following:

**SEC. 304. MODIFICATION OF COUNTERINTELLIGENCE AND NATIONAL INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.**

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) The term 'counterintelligence' means foreign intelligence gathered, and informa-

tion gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities."; and

(2) in paragraph (5)(B)—

(A) by striking "counterintelligence or"; and

(B) by striking "expressly provided for in this title" and insert "expressly provided for in law".

**SA 3959.** 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. \_\_\_\_ . COMPTROLLER GENERAL STUDY AND REPORT.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study that examines—

(1) detention alternatives for monitoring aliens who do not require a secure detention setting while they are awaiting hearings during removal proceedings or the appeals process, including—

(A) electronic monitoring devices;

(B) home visits;

(C) work visits; and

(D) reporting by telephone;

(2) the effectiveness of the Intensive Supervision Appearance Program of the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and

(3) any other matters that the Comptroller General considers appropriate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) any recommendations, including recommendations for administrative and legislative action, that the Comptroller General considers appropriate.

**SA 3960.** 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:

**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 3961.** Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) 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—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) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular

posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at 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.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

##### SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, 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 made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

##### SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, 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 made available during the preceding fiscal year.

**SA 3962.** Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the 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 1, line 3, strike “military” and all that follows through page 2, line 9, and insert the following:

uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the 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 uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

**SA 3963.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-re-

lated activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 4 and all that follows through page 2, line 2 and insert the following:

Nothing in this Act, or the amendments made by this Act, shall be construed to impair the authority of—

(1) the Director of the Office of Management and Budget; or

(2) except as otherwise provided in this Act, or the amendments made by this Act, the principal officers of the executive departments,

**SA 3964.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUE) to the 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 1, strike lines 4 through 6 and insert the following:

Except as otherwise provided by this Act, or the amendments made by this Act, nothing in the Act, or the amendments made by this Act, shall be construed to impair the authority of—

**SA 3965.** Mr. SHELBY 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:

(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.”

**SA 3966.** 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:

In lieu of the matter proposed to be inserted, insert the following:

##### SEC. \_\_\_\_ PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking “DEFINITION.—In this section, the term” and inserting the following: “DEFINITIONS.—In this section—

“(1) the term”;

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(2) the term ‘expert advice or assistance’ means any act, effort, or service—

“(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

“(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.”

“(3) the term ‘training’ means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

“(4) the term ‘personnel’ means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.”

(b) **PROHIBITED ACTIVITIES.**—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “, within the United States or subject to the jurisdiction of the United States, knowingly”; and

(B) by inserting “with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization,” after “conspires to do so,”; and

(2) by adding at the end the following:

“(3) **BURDEN OF PROOF.**—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

“(A) is designated a ‘foreign terrorist organization’ under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

“(B) has engaged or does engage in international or domestic terrorism.”

**SA 3967.** 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:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. \_\_. TERRORISM SUBPOENAS.**

(a) **IN GENERAL.**—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

**“§ 2332g. Terrorism subpoenas**

“(a) **AUTHORIZATION OF USE.**—

“(1) **IN GENERAL.**—In any terrorism investigation within the jurisdiction of the Department of Justice, the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General, or designee, finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials under the circumstances set forth in paragraph (5).

“(2) **CONTENTS.**—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and may require production as soon as possible, but in no event less than 24 hours after service of the subpoena unless the subpoena recipient consents to production forthwith.

“(3) **DELEGATION.**—The Attorney General’s authority to issue terrorism subpoenas under this section may be delegated, with authority to redelegate only to the following officials:

“(A) Each United States attorney.

“(B) The Assistant Attorney General for the Criminal Division.

“(C) The Director of the Federal Bureau of Investigation or a designee of the Director.

“(4) **LIMITATION ON DELEGATION.**—The authority to issue subpoenas under this section by the Federal Bureau of Investigation is limited to circumstances under which the issuer of the subpoena has a good faith belief for asserting, and certifies on the face of the subpoena, that either—

“(A) an Assistant United States attorney was not readily available at the time the subpoena was issued; or

“(B) a grand jury investigating the relevant matter was not currently sitting in the district in which the subpoena was being issued. If a subpoena is issued under this subsection, the issuing agent must notify and provide a copy of the subpoena to the United States attorney for the district in which the terrorism investigation is being conducted not later than 3 days after the date of issuance of the subpoena.

“(5) **ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.**—

“(A) **IN GENERAL.**—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

“(B) **LIMITATION.**—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where the witness was served with a subpoena.

“(C) **REIMBURSEMENT.**—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

“(b) **SERVICE.**—

“(1) **IN GENERAL.**—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

“(2) **SERVICE OF SUBPOENA.**—

“(A) **NATURAL PERSON.**—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

“(B) **BUSINESS ENTITIES AND ASSOCIATIONS.**—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

“(C) **PROOF OF SERVICE.**—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

“(c) **ENFORCEMENT.**—

“(1) **IN GENERAL.**—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

“(2) **ORDER.**—Any court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to appear, to produce records, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof.

“(3) **SERVICE OF PROCESS.**—Any process under this subsection may be served in any judicial district in which the person may be found.

“(d) **NONDISCLOSURE ORDER.**—

“(1) **IN GENERAL.**—A United States district court, upon application of the United States, may issue an ex parte order that no person or entity disclose to any other person or entity (other than to an attorney in order to obtain legal advice) the existence of such summons for a period of up to 120 days if there is reason to believe that such disclosure may result in a danger to the national security of the United States, the endangerment to the life or physical security of any person, flight to avoid prosecution, destruction of or tampering with evidence, or intimidation of potential witnesses.

“(2) **EMERGENCY NONDISCLOSURE AUTHORITY.**—Notwithstanding any other provision of this title, when the Attorney General or designee reasonably determines that—

“(A) an emergency situation exists with respect to the issuance of a subpoena under this section in order to obtain relevant information before an order authorizing non-disclosure can with due diligence be obtained; and

“(B) the factual basis for issuance of a non-disclosure order under this section exists,

the Attorney General or designee may authorize the issuance of a subpoena under this section and order that it not be disclosed if an order in accordance with paragraph (1) is made to a Federal district judge as soon as practicable, but not later than 72 hours after the Attorney General or designee authorizes the non-disclosure subpoena. Any non-disclosure order issued by a district court under this section shall be effective as if entered at the time the subpoena was issued.

“(3) **NOTICE OF NONDISCLOSURE REQUIREMENT.**—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the non-disclosure requirements under paragraph (1).

“(4) **FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.**—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

“(5) **ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.**—Any person who knowingly violates a non-disclosure order issued by a district court shall be imprisoned for not more than 1 year. If the violation is committed with the intent to obstruct an investigation or judicial proceeding, the person shall be imprisoned for not more than 5 years.

“(6) **NONDISCLOSURE EXTENSIONS.**—An order under this subsection may be renewed for additional periods of up to 120 days upon a showing that the circumstances described in paragraph (1) continue to exist. An officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed when a non-disclosure order is no longer effective.

“(e) **JUDICIAL REVIEW.**—

“(1) **IN GENERAL.**—At any time before the return date specified in a subpoena issued under this section, the person or entity subpoenaed may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the subpoena.

“(2) **MODIFICATION OF NONDISCLOSURE REQUIREMENT.**—A district court may modify or set aside a non-disclosure order imposed under paragraph (1) or (2) of subsection (d) at the request of a person to whom a subpoena has been directed if the court finds that the reasons supporting the original non-disclosure order no longer exist. The burden is on the government to support the validity and continuity of any non-disclosure orders under this section.

“(3) **REVIEW OF GOVERNMENT SUBMISSIONS.**—In all proceedings under this subsection, the

court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

“(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

“(g) GUIDELINES.—Not later than 6 months after the date of enactment of this section, the Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section including guidelines for effective retention and recordkeeping.

“(h) INFORMATION SHARING.—Information acquired by the government under this section may be disclosed under the exceptions and pursuant to the procedures set forth in rule 6(e)(3) of the Federal Rules of Criminal Procedure.

“(i) CONGRESSIONAL OVERSIGHT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Attorney General 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 subpoenas issued by the Federal Bureau of Investigation under subsection (a)(4);

“(2) any guidelines or changes to guidelines implemented by the Attorney General under subsection (g); and

“(3) whether judicial enforcement of any terrorism subpoena was pursued and the result of that litigation.”.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

“2332g. Terrorism subpoenas.”.

**SA 3968.** 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 2, strike line 19 and all that follows through page 3, line 9.

**SA 3969.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the 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 5, strike line 14 and all that follows through page 12, line 9, and insert the following:

**SEC. \_\_\_\_ PROVIDING MATERIAL SUPPORT TO TERRORISTS.**

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking “DEFINITION.—In this section, the term” and inserting the following: “DEFINITIONS.—In this section—

“(1) the term”;

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(2) the term ‘expert advice or assistance’ means any act, effort, or service—

“(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

“(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

“(3) the term ‘training’ means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

“(4) the term ‘personnel’ means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.”.

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “, within the United States or subject to the jurisdiction of the United States, knowingly”; and

(B) by inserting “with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization,” after “conspires to do so.”; and

(2) by adding at the end the following:

“(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

“(A) is designated a ‘foreign terrorist organization’ under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

“(B) has engaged or does engage in international or domestic terrorism.”.

**SA 3970.** Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the 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 1, strike lines 4 through 7, and insert the following:

(a) IN GENERAL.—Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

(b) PRESERVATION OF PRE-9/11 GRANT PROGRAMS.—This section shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (c), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(c) PROGRAMS INCLUDED.—The programs referred to in subsection (b) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

**SA 3971.** Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the 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 3, beginning with line 20, strike through line 3 on page 4, and insert the following:

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond (including in bond), remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being filed 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.

**SA 3972.** 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:

**SEC. 206. INFORMATION SHARING.**

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term “Advisory Board” means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term “Executive Council” means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term “homeland security information” means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities,



means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

(C) communications of or by such groups or individuals; or

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(4) NETWORK.—The term “Network” means the Information Sharing Network described under subsection (c).

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks upon the United States, Congress makes the following findings:

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of “connecting the dots”, is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

(3) In the period preceding September 11, 2001, there were instances of potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels, and information that was requested but could not be shared.

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated “need to know” before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current “need-to-know” culture of information protection needs to be replaced with a “need-to-share” culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new “trusted information network” is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner con-

sistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

(H) incorporating protections for individuals' privacy and civil liberties;

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act; and

(9) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

(g) **DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.**—

(1) **ADDITIONAL DUTIES AND RESPONSIBILITIES.**—

(A) **IN GENERAL.**—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Network; and

(iii) assist, monitor, and assess the implementation of the Network by Federal departments and agencies to ensure adequate progress, technological consistency and policy compliance; and regularly report the findings to the President and to Congress.

(B) **CONTENT OF POLICIES, PROCEDURES, GUIDELINES, RULES, AND STANDARDS.**—The policies, procedures, guidelines, rules, and standards under subparagraph (A)(ii) shall—

(i) take into account the varying missions and security requirements of agencies participating in the Network;

(ii) address development, implementation, and oversight of technical standards and requirements;

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

(iv) address and facilitate information sharing between Federal departments and agencies and State, tribal and local governments;

(v) address and facilitate, as appropriate, information sharing between Federal departments and agencies and the private sector;

(vi) address and facilitate, as appropriate, information sharing between Federal departments and agencies with foreign partners and allies; and

(vii) ensure the protection of privacy and civil liberties.

(2) **APPOINTMENT OF PRINCIPAL OFFICER.**—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid 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.

(h) **EXECUTIVE COUNCIL ON INFORMATION SHARING.**—

(1) **ESTABLISHMENT.**—There is established an Executive Council on Information Shar-

ing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) **MEMBERSHIP.**—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

(F) the Director of the Federal Bureau of Investigation or his designee;

(G) the National Intelligence Director or his designee;

(H) such other Federal officials as the President shall designate;

(I) representatives of State, tribal, and local governments, to be appointed by the President; and

(J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) **RESPONSIBILITIES.**—The Executive Council shall assist the Director of Management and Budget in—

(A) implementing and managing the Network;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;

(C) ensuring there is coordination among departments and agencies participating in the Network in the development and implementation of the Network;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;

(E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and

(F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).

(4) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(5) **REPORTS.**—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(6) **INFORMING THE PUBLIC.**—The Executive Council shall—

(A) make 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

(B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(i) **ADVISORY BOARD ON INFORMATION SHARING.**—

(1) **ESTABLISHMENT.**—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.

(2) **RESPONSIBILITIES.**—The Advisory Board shall advise the Executive Council on policy, technical, and management issues related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) **MEMBERSHIP AND QUALIFICATIONS.**—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) **CHAIR.**—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) **ADMINISTRATIVE SUPPORT.**—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) **REPORTS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

(2) **CONTENT.**—Each report under this subsection shall include—

(A) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the government-wide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;

(B) objective systemwide performance goals for the following year;

(C) an accounting of how much was spent on the Network in the preceding year;

(D) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

(E) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Network;

(ii) have systems which have become integrated into the Network;

(iii) are providing as well as receiving information; and

(iv) are using the Network to communicate with each other;

(J) the extent to which—



(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

(k) AGENCY RESPONSIBILITIES.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Network shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Network under subsections (c) and (g);

(2) ensure the provision of adequate resources for systems and activities supporting operation of and participation in the Network; and

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

(1) not later than 1 year after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Network in the year following the submission of the report.

(m) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act,

and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) INFORMATION AVAILABLE TO THE COMPTROLLER GENERAL.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses intelligence or homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) \$50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

**SA 3973.** Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, 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 "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004".

#### SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

#### SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—(1) Subsection (b) of section 7404 is amended—

(A) by striking "(1)" after "(b)";

(B) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

"Physician grade.

"Dentist grade."; and

(C) by striking paragraph (2).

(2) Subsection (a) of such section is amended by adding at the end the following: "The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order.".

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

#### "SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

##### "§ 7431. Pay

"(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

"(1) Base pay as provided for under subsection (b).

"(2) Market pay as provided for under subsection (c).

"(3) Performance pay as provided under subsection (d).

"(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

"(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

"(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

"(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

<b>For a physician or dentist with total service of:</b>	<b>The rate of base pay is the rate payable for:</b>
two years or less .....	step 1
more than 2 years and not more than 4 years .....	step 2
more than 4 years and not more than 6 years .....	step 3
more than 6 years and not more than 8 years .....	step 4
more than 8 years and not more than 10 years .....	step 5
more than 10 years and not more than 12 years .....	step 6
more than 12 years and not more than 14 years .....	step 7
more than 14 years and not more than 16 years .....	step 8
more than 16 years and not more than 18 years .....	step 9
more than 18 years and not more than 20 years .....	step 10
more than 20 years and not more than 22 years .....	step 11
more than 22 years and not more than 24 years .....	step 12
more than 24 years and not more than 26 years .....	step 13
more than 26 years and not more than 28 years .....	step 14
more than 28 years .....	step 15.

"(4) At the same time as rates of basic pay are increased for a year under section 5303 of

title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

“(C) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

“(1) Each physician and dentist is eligible for market pay.

“(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.

“(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.

“(4)(A) In determining the amount of market pay for physicians or dentists, the Secretary shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians or dentists, as applicable.

“(B)(i) In determining the amount of the market pay for a particular physician or dentist under this subsection, and in determining a tier (if any) to apply to a physician or dentist under subsection (e)(1)(B), the Secretary shall consult with and consider the recommendations of an appropriate panel or board composed of physicians or dentists (as applicable).

“(ii) A physician or dentist may not be a member of the panel or board that makes recommendations under clause (i) with respect to the market pay of such physician or dentist, as the case may be.

“(iii) The Secretary should, to the extent practicable, ensure that a panel or board consulted under this subparagraph includes physicians or dentists (as applicable) who are practicing clinicians and who do not hold management positions in the medical facility of the Department at which the physician or dentist subject to the consultation is employed.

“(5) The determination of the amount of market pay of a physician or dentist shall take into account—

“(A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;

“(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;

“(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;

“(D) the board certifications, if any, of the physician or dentist;

“(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

“(F) such other considerations as the Secretary considers appropriate.

“(6) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is evaluated under this paragraph shall receive written notice of the results of such evaluation in accordance with procedures prescribed under section 7433 of this title.

“(7) No adjustment of the amount of market pay of a physician or dentist under para-

graph (6) may result in a reduction of the amount of market pay of the physician or dentist while in the same position or assignment at the medical facility of the Department concerned.

“(d) PERFORMANCE PAY.—(1) One element of pay for physicians and dentists shall be performance pay.

“(2) Performance pay shall be paid to a physician or dentist on the basis of the physician's or dentist's achievement of specific goals and performance objectives prescribed by the Secretary.

“(3) The Secretary shall ensure that each physician and dentist of the Department is advised of the specific goals or objectives that are to be measured by the Secretary in determining the eligibility of that physician or dentist for performance pay.

“(4) The amount of the performance pay payable to a physician or dentist may vary annually on the basis of individual achievement or attainment of the goals or objectives applicable to the physician or dentist under paragraph (2).

“(5) The amount of performance pay payable to a physician or dentist in a fiscal year shall be determined in accordance with regulations prescribed by the Secretary, but may not exceed the lower of—

“(A) \$15,000; or

“(B) the amount equal to 7.5 percent of the sum of the base pay and the market pay payable to such physician or dentist in that fiscal year.

“(6) A failure to meet goals or objectives applicable to a physician or dentist under paragraph (2) may not be the sole basis for an adverse personnel action against that physician or dentist.

“(e) REQUIREMENTS AND LIMITATIONS ON TOTAL PAY.—(1)(A) Not less often than once every two years, the Secretary shall prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid under this section to physicians and the minimum and maximum amounts of annual pay that may be paid under this section to dentists.

“(B) The Secretary may prescribe for Department-wide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or assignment. If the Secretary prescribes separate minimum and maximum amounts for a specialty or assignment, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or assignment and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

“(C) Amounts prescribed under this paragraph shall be published in the Federal Register, and shall not take effect until at least 60 days after the date of publication.

“(2) Except as provided in paragraph (3) and subject to paragraph (4), the sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may not be less than the minimum amount, nor more than the maximum amount, applicable to specialty or assignment of the physician or dentist under paragraph (1).

“(3) The sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may exceed the maximum amount applicable to the specialty or assignment of the physician or dentist under paragraph (1) as a result of an ad-

justment under paragraph (3) or (4) of subsection (b).

“(4) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

“(f) TREATMENT OF PAY.—Pay under subsections (b) and (c) of this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

“(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—(1) A decrease in pay of a physician or dentist resulting from an adjustment in the amount of market pay of the physician or dentist under subsection (c) shall not be treated as an adverse action.

“(2) If the pay of a physician or dentist is reduced under this subchapter as a result of an involuntary reassignment in connection with a disciplinary action taken against the physician or dentist, the involuntary reassignment shall be subject to appeal under subchapter V of this chapter.

“(h) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c), (d), or (e) except for the responsibilities of the Secretary under subsection (e)(1).

#### “§ 7432. Pay of Under Secretary for Health

“(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

“(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

“(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

“(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

“(c) TREATMENT OF PAY.—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

#### “§ 7433. Administrative matters

“(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

“(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

“(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

“(2) Each report under this subsection shall include the following:

“(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

“(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

“(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

“(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

“(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.”

(C) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	Rate of Pay:
1 .....	\$90,000
2 .....	\$93,000
3 .....	\$96,000
4 .....	\$99,000
5 .....	\$102,000
6 .....	\$105,000
7 .....	\$108,000
8 .....	\$111,000
9 .....	\$114,000
10 .....	\$117,000
11 .....	\$120,000
12 .....	\$123,000
13 .....	\$126,000
14 .....	\$129,000
15 .....	\$132,000

(d) EFFECTIVE DATE.—(1) Notwithstanding the 60-day waiting requirement in section 7431(e)(1)(C) of title 38, United States Code (as amended by subsection (b)), pay provided for a physician or dentist under subchapter III of chapter 74 of such title, as amended by subsection (b), shall take effect on the first day of the first pay period applicable to such physician or dentist that begins on or after January 1, 2006.

(2) Pay provided for the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, as amended by this section shall take effect on the first day of the first pay period applicable to the Under Secretary that begins on or after January 1, 2006.

(e) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) The amount of the pay payable on and after the date of the enactment of this Act to a physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before such date shall continue to be determined under such section (as in effect on the day before such date) until the effective date that is applicable under subsection (d) to such physician or dentist, as the case may be.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in

accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

(ii) A physician or dentist described in subparagraph (A)(i) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid to a physician or dentist after the effective date of this Act shall not be less than the amount of pay paid to such physician or dentist on the day before the effective date of this Act while such physician or dentist remains in the same position or assignment.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapters I and III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to the Under Secretary.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date applicable under subsection (d) to the Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning on the date of the enactment of this Act and ending on the effective

date applicable under subsection (d) to the Under Secretary—

(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and

(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(f) CONFORMING AMENDMENTS.—Section 7404 is amended—

(1) in subsection (c), by striking “special pay” and inserting “pay”; and

(2) in subsection (d), by striking “pay may not be paid” and all that follows and inserting “pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.”

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

#### “SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

“Sec. 7431. Pay.

“Sec. 7432. Pay of Under Secretary for Health.

“Sec. 7433. Administrative matters.”

#### SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

##### “§ 7456A. Nurses: alternate work schedules

“(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

“(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a work week shall be considered for all purposes to have worked a full 40-hour basic work week.

“(B) A nurse who works under the authority in subparagraph (A) shall be considered a 0.90 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

“(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic work week shall be subject to subparagraphs (B) and (C).

“(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the work week shall be derived by dividing the nurse’s annual rate of basic pay by 1,872.

“(C) The Secretary shall pay overtime pay to a nurse covered by this paragraph who—

“(i) performs a period of service in excess of such nurse’s regularly scheduled 36-hour tour of duty within an administrative work week;

“(ii) for officially ordered or approved service, performs a period of service in excess of 8 hours on a day other than a day on which such nurse’s regularly scheduled 12-hour tour of duty falls;

“(iii) performs a period of service in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty work week; or

“(iv) performs a period of service in excess of 40 hours during an administrative work week.

“(D) The Secretary may provide a nurse to whom this subsection applies with additional pay under section 7453 of this title for any period included in a regularly scheduled 12-hour tour of duty.

“(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

“(c) HOLIDAY PAY.—A nurse working a work schedule under subsection (b) that includes a holiday designated by law or Executive order shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on such holiday under such section.

“(d) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full time for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year.

“(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

“(3) Work under this subsection shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

“(4) A nurse who works under the authority in paragraph (1) shall be considered a full-time employee for purposes of chapter 89 of title 5.

“(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each employee with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, that the alternate work schedule will have on the employee's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the employee consents to the alternate work schedule.

“(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.”.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

“Sec. 7456A. Nurses: alternate work schedules.”.

(b) POLICY AGAINST CERTAIN WORK HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work hours by nurses providing direct patient care in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period, except in the case of nurses providing emergency care.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work hours by nurses providing direct patient care (other than nurses providing emergency care) in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period.

#### SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

“(g)(1) In order to recruit and retain highly qualified Department nurse executives, the

Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

“(A) Each Department health care facility.

“(B) The Central Office.

“(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than \$10,000 or more than \$25,000.

“(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

“(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.”.

**SA 3974.** Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on intelligence; which was ordered to lie on the table; as follows:

At the end of the resolution, insert the following:

#### SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

#### TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

##### SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security except matters relating to the Coast Guard, to the Transportation Security Administration, and to the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

#### TITLE II—INTELLIGENCE OVERSIGHT REFORM

##### SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as “S. Res. 400”) is amended by—

(1) inserting “(A)” after “(3)”; and

(2) inserting at the end the following:

“(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.”.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting “not to exceed” before “fifteen members”;

(2) in paragraph (1)(E), by inserting “not to exceed” before “seven”; and

(3) in paragraph (2), by striking the second sentence and inserting “Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.”.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: “At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.”.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

“(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman

and Vice Chairman of the select Committee, respectively.”.

(f) **REPORTS.**—Section 4(a) of S. Res. 400 is amended by inserting “, but not less than quarterly,” after “periodic”.

(g) **STAFF.**—Section 15 of S. Res. 400 is amended to read as follows:

“SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member’s designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

“(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases.

“(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.”.

(h) **NOMINEES.**—S. Res. 400 is amended by adding at the end the following:

“SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

“(b) Other committees with jurisdiction over the nominees’ executive branch department may hold hearings and interviews with that person.”.

### TITLE III—COMMITTEE STATUS

#### SEC. 301. COMMITTEE STATUS.

(a) **HOMELAND SECURITY.**—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) **INTELLIGENCE.**—The select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

### TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

#### SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) **ESTABLISHMENT.**—There is established in the select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) **RESPONSIBILITY.**—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

#### SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) **ESTABLISHMENT.**—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) **JURISDICTION.**—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

### TITLE V—EFFECTIVE DATE

#### SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 5, 2004, at 2:30 p.m., to conduct a hearing on the nomination of Pamela Hughes Patenaude, of New Hampshire, to be Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development.

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

#### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, October 5, 2004, at 9:30 a.m., on E-Rate.

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

#### COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to hold a hearing on the Millennium Challenge Corporation: A Progress Report.

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

#### COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 5, 2004, at 10 a.m., in SD-342 to consider the nomination of Gregory Jackson to be an Associate Judge of Columbia Superior Court.

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

#### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled “Reducing Childhood Obesity: Public-Private Partnerships to Improve Nutrition and Increase Physical Activity in Children” during the session of the Senate on Tuesday, October 5, at 10 a.m., in SD-430.

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 conduct a markup on Tuesday, October 5, 2004, at 10 a.m., in SD-226.

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

#### COMMITTEE ON RULES AND ADMINISTRATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Com-

mittee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to conduct a special meeting of the committee to consider a resolution related to recommendations of the National Commission on Terrorist Attacks Upon the United States.

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

#### COMMITTEE ON VETERANS’ AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on October 5, 2004, for a markup on the nominations of Robert N. Davis, to be a Judge, U.S. Court of Appeals for Veterans Claims; Mary J. Schoelen, to be a Judge, U.S. Court of Appeals for Veterans Claims; William A. Moorman, to be a Judge, U.S. Court of Appeals for Veterans Claims; and Robert Allen Pittman, to be Assistant Secretary, Human Resources and Administration, U.S. Department of Veterans Affairs.

The meeting will take place in S-216 in the Capitol, immediately following the first rollcall vote of the Senate after 3 p.m.

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

### PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Nancy Faulk, who is a fellow in my office, be given the privilege of the floor today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

### VETERANS’ COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 705, S. 2483.

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

The legislative clerk read as follows:

A bill (S. 2483) to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

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

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on legislation which was reported, after a unanimous affirmative vote, by the Committee on Veterans’ Affairs on July 20, 2004, and which is the subject of my request today that the bill be unanimously approved by the Senate. S. 2483 would grant to nearly 3 million beneficiaries who receive certain “cash-transfer” payments from the Department of Veterans Affairs, VA, a cost-of-living adjustment, COLA, increase in their benefits effective with checks received on or after January 1, 2005, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans’ cash-