

basic pay is greater than the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at a rate equal to the lesser of—

“(i) the employee's former rate of basic pay; or
“(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved,
as adjusted by subparagraph (B).

“(B) A rate to which an employee is entitled under this paragraph shall be increased at the time of any increase in the maximum rate of basic pay payable for the grade of the employee's position by 50 percent of the dollar amount of each such increase.

“(3) For purposes of this subsection, the term ‘former rate of basic pay’, as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

“(c)(1) Notwithstanding any other provision of this section, in the case of an employee who—
“(A) moves to a new official duty station, and
“(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section,
this section shall be applied—

“(i) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the pay range) before the move, and

“(ii) then, by applying the provisions of this section that would apply (if any), treating the rate determined under clause (i) as if it were the rate last received by the employee before the application of this section.

“(2) A reduction in an employee's rate of basic pay resulting from a determination under paragraph (1)(ii) is not a basis for an entitlement under this section.

“(3) The rate of basic pay for an employee who is receiving a retained rate at the time of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

“(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

“(e) This section shall not apply, or shall cease to apply, to an employee who—

“(1) has a break in service of 1 workday or more;

“(2) is entitled, by operation of this subchapter, chapter 51 or 53, or any other provision of law, to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the retained rate to which the employee would otherwise be entitled; or

“(3) is demoted for personal cause or at the employee's request.”; and

(6) in section 5365(b), by inserting after “provisions of this subchapter” the following: “(subject to any conditions or limitations the Office may establish)”.

(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note) is amended by striking all after “provision of law)” and inserting “and shall be basic pay for all purposes. The rates shall be ad-

justed at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).”.

(c) REPEAL.—Section 4505a(a)(2) of title 5, United States Code, is amended—

(1) by striking “(2)(A)” and inserting “(2)”;

and

(2) by striking subparagraph (B).

(d) EFFECTIVE DATE; CONVERSION RULES.—

(1) EFFECTIVE DATE.—This section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) CONVERSION RULES.—

(A) INDIVIDUALS RECEIVING A RETAINED RATE OR A RATE GREATER THAN THE MAXIMUM RATE FOR THE GRADE.—Subject to any regulations the Office of Personnel Management may prescribe, an employee under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee's position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

(B) DEFINITION.—For purposes of this paragraph, the term “covered pay schedule” has the meaning given such term by section 5361 of title 5, United States Code.

SEC. 302. TECHNICAL CORRECTIONS.

(a)(1) Section 5304 of title 5, United States Code, as amended by section 1125 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136), is amended—

(A) in subsection (g)(2)(A), by striking “(A)–(D)” and inserting “(A)–(C)”;

(B) in subsection (h)(2)(B)(i), by striking “(or (vii))” and inserting “(or (vi))”.

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136).

(b) Section 5314 of title 5, United States Code, is amended by adding at the end the following: “Administrator of the Office of Electronic Government.”.

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

2004 DISTRICT OF COLUMBIA OMNIBUS AUTHORIZATION ACT

Mr. SESSIONS. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3797 and the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 3797) to authorize improvements in the operations of the government of the District of Columbia, and for other purposes.

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

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

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

The bill (H.R. 3797) was read the third time and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 2386, the intelligence authorization bill.

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

The assistant legislative clerk read as follows:

A bill (S. 2386) to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Intelligence and the Committee on Armed Services, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic]

S. 2386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2005”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

Sec. 105. Incorporation of reporting requirements.

Sec. 106. Specific authorization of funds for intelligence or intelligence-related activities for which fiscal year 2004 appropriations exceed amounts authorized.

Sec. 107. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense and Department of Energy.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DIS- ABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Modification of authority to obligate and expend certain funds for intelligence activities.

Sec. 304. Treatment as agent of a foreign power under the Foreign Intelligence Surveillance Act of 1978 of non-United States persons who engage in international terrorism without affiliation with international terrorist groups.

Sec. 305. Additional annual reporting requirements under the Foreign Intelligence Surveillance Act of 1978.

Sec. 306. Repeal of limitation on length of service as member of the Select Committee on Intelligence of the Senate.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Permanent extension of Central Intelligence Agency voluntary separation incentive program.

Sec. 402. Intelligence operations and cover enhancement authority.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

[Sec. 501. Repeal of sunset on authority to engage in commercial activities as security for intelligence collection activities.]

Sec. [502] 501. Defense intelligence exemption from certain Privacy Act requirements.

Sec. [503] 502. Use of funds for counterdrug and counterterrorism activities for Colombia.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Department of Justice.
- (10) The Federal Bureau of Investigation.
- (11) The National Reconnaissance Office.
- (12) The National Geospatial-Intelligence Agency.
- (13) The Coast Guard.
- (14) The Department of Homeland Security.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2005, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill ____ of the One Hundred Eighth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of

Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2005 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2005 the sum of \$342,995,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2006.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 310 full-time personnel as of September 30, 2005. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2005 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2006.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2005, there are also authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2005 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), \$34,911,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2006, and funds provided for procurement

purposes shall remain available until September 30, 2007.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. INCORPORATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill ____ of the One Hundred Eighth Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 106. SPECIFIC AUTHORIZATION OF FUNDS FOR INTELLIGENCE OR INTELLIGENCE-RELATED ACTIVITIES FOR WHICH FISCAL YEAR 2004 APPROPRIATIONS EXCEED AMOUNTS AUTHORIZED.

Funds appropriated for an intelligence or intelligence-related activity of the United States Government for fiscal year 2004 in excess of the amount specified for such activity in the classified Schedule of Authorizations prepared to accompany the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 117 Stat. 2599) shall be deemed to be specifically authorized by Congress for purposes of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)).

SEC. 107. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.

(a) CONSULTATION IN PREPARATION.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

(2) *The Committee on Armed Services, and the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.*

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2005 the sum of \$239,400,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. MODIFICATION OF AUTHORITY TO OBLIGATE AND EXPEND CERTAIN FUNDS FOR INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) in subparagraph (A), by inserting “and” at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 304. TREATMENT AS AGENT OF A FOREIGN POWER UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.

(a) **IN GENERAL.**—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

“(C) engages in international terrorism or activities in preparation therefor; or”.

(b) **SUNSET.**—The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of the USA PATRIOT Act of 2001 (Public Law 107-56; 115 Stat. 295), including the exception provided in subsection (b) of such section 224.

SEC. 305. ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) **ADDITIONAL REPORTING REQUIREMENTS.**—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title VI as title VII;

(2) by redesignating section 601 as section 701; and

(3) by inserting after title V the following new title VI:

“TITLE VI—REPORTING REQUIREMENT

“ANNUAL REPORT OF THE ATTORNEY GENERAL

“SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

“(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

“(A) electronic surveillance under section 105;

“(B) physical searches under section 304;

“(C) pen registers under section 402; and

“(D) access to records under section 501;

“(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

“(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

“(4) in a manner consistent with the protection of the national security of the United States—

“(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted; and

“(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

“(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Intelligence Authorization Act for Fiscal Year 2005. Subsequent reports under this section shall be submitted annually thereafter.

“(c) In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

“(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”.

(b) **CLERICAL AMENDMENT.**—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

“TITLE VI—REPORTING REQUIREMENT

“Sec. 601. Annual report of the Attorney General.

“TITLE VII—EFFECTIVE DATE

“Sec. 701. Effective date.”.

SEC. 306. REPEAL OF LIMITATION ON LENGTH OF SERVICE AS MEMBER OF THE SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE.

(a) **REPEAL.**—Section 2 of Senate Resolution 400 (94th Congress) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(b) **RULES OF THE SENATE.**—Subsection (a) is enacted—

(1) as an exercise of the rulemaking power of the Senate; and

(2) with full recognition of the constitutional right of the Senate to change the rules of the Senate at any time and to the same extent as in the case of any other rule of the Senate.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. PERMANENT EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION INCENTIVE PROGRAM.

(a) **IN GENERAL.**—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(b) **TERMINATION OF FUNDS REMITTANCE REQUIREMENT.**—(1) Section 2 of such Act is further amended by striking subsection (i).

(2) Section 4(a)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note) is amended by striking “, or section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103-36; 107 Stat. 104)”.

SEC. 402. INTELLIGENCE OPERATIONS AND COVER ENHANCEMENT AUTHORITY.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

“INTELLIGENCE OPERATIONS AND COVER ENHANCEMENT AUTHORITY

“SEC. 23. (a) **DEFINITIONS.**—In this section—
“(1) the term ‘designated employee’ means an employee designated by the Director under subsection (b); and

“(2) the term ‘Federal retirement system’ includes the Central Intelligence Agency Retirement and Disability System, and the Federal Employees Retirement System (including the Thrift Savings Plan).

“(b) IN GENERAL.—

“(1) **AUTHORITY.**—Notwithstanding any other provision of law, the Director may exercise the authorities under this section in order to—

“(A) protect from unauthorized disclosure—

“(i) intelligence operations;

“(ii) the identities of undercover intelligence officers;

“(iii) intelligence source and methods; or

“(iv) intelligence cover mechanisms; or

“(B) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency.

“(2) **DESIGNATION OF EMPLOYEES.**—The Director may designate any employee of the Agency who is under nonofficial cover to be an employee to whom this section applies. Such designation may be made with respect to any or all authorities exercised under this section.

“(c) **COMPENSATION.**—The Director may pay a designated employee salary, allowances, and other benefits in an amount and in a manner consistent with the nonofficial cover of that employee, without regard to any limitation that is otherwise applicable to a Federal employee. A designated employee may accept, utilize, and, to the extent authorized by regulations prescribed under subsection (i), retain any salary, allowances, and other benefits provided under this section.

“(d) RETIREMENT BENEFITS.—

“(1) **IN GENERAL.**—The Director may establish and administer a nonofficial cover employee retirement system under which a designated employee (and the spouse, former spouses, and survivors of such designated employee) shall receive treatment in the same manner and to the same extent as the Federal retirement system that would otherwise apply to such employee (and the spouse, former spouses, and survivors of that employee). A designated employee may not participate in the retirement system established under this paragraph and another Federal retirement system at the same time.

“(2) **CONVERSION TO OTHER FEDERAL RETIREMENT SYSTEM.—**

“(A) **IN GENERAL.**—A designated employee participating in the retirement system established under paragraph (1) may convert to coverage under the Federal retirement system which would otherwise apply to that employee at any appropriate time determined by the Director (including at the time of separation of service by reason of retirement), if the Director determines that the employee’s participation in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

“(i) intelligence operations;

“(ii) the identities of undercover intelligence officers;

“(iii) intelligence sources and methods; or
 “(iv) intelligence cover mechanisms.

“(B) CONVERSION TREATMENT.—Upon a conversion under this paragraph—

“(i) all periods of service under the retirement system established under this subsection shall be deemed periods of creditable service under the applicable Federal retirement system;

“(ii) the Director shall transmit an amount for deposit in any applicable fund of that Federal retirement system that—

“(I) is necessary to cover all employee and agency contributions including—

“(aa) interest as determined by the head of the agency administering the Federal retirement system into which the employee is converting; or

“(bb) in the case of an employee converting into the Federal Employee's Retirement System, interest as determined under section 8334(e) of title 5, United States Code; and

“(II) ensures that such conversion does not result in any unfunded liability to that fund; and

“(iii) in the case of a designated employee who participated in a retirement system established under paragraph (1) similar to subchapter III of chapter 84 of title 5, United States Code, and is converting to coverage under subchapter III of that chapter, the Director shall transmit all amounts of that designated employee in that similar retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

“(C) TRANSMITTED AMOUNTS.—

“(i) IN GENERAL.—Amounts described under subparagraph (B)(ii) shall be paid from the fund or appropriation used to pay the designated employee.

“(ii) OFFSET.—The Director may use amounts contributed by the designated employee to a retirement system established under paragraph (1) to offset amounts paid under clause (i).

“(D) RECORDS.—The Director shall transmit all necessary records relating to a designated employee who converts to a Federal retirement system under this paragraph (including records relating to periods of service which are deemed to be periods of creditable service under subparagraph (B)) to the head of the agency administering that Federal retirement system.

“(e) HEALTH INSURANCE BENEFITS.—

“(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee health insurance program under which a designated employee (and the family of such designated employee) shall receive treatment in the same manner and to the same extent as provided under chapter 89 of title 5, United States Code. A designated employee may not participate in the health insurance program established under this paragraph and the program under chapter 89 of title 5, United States Code, at the same time.

“(2) CONVERSION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—

“(A) IN GENERAL.—A designated employee participating in the health insurance program established under paragraph (1) may convert to coverage under the program under chapter 89 of title 5, United States Code, at any appropriate time determined by the Director (including at the time of separation of service by reason of retirement), if the Director determines that the employee's participation in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

“(i) intelligence operations;

“(ii) the identities of undercover intelligence officers;

“(iii) intelligence sources and methods; or

“(iv) intelligence cover mechanisms.

“(B) CONVERSION TREATMENT.—Upon a conversion under this paragraph—

“(i) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5, United States Code;

“(ii) any requirement of prior enrollment in a health benefits plan under chapter 89 of that title for continuation of coverage purposes shall not apply;

“(iii) the employee shall be deemed to have had coverage under chapter 89 of that title from the first opportunity to enroll for purposes of continuing coverage as an annuitant; and

“(iv) the Director shall transmit an amount for deposit in the Employees Health Benefits Fund that is necessary to cover any costs of such conversion.

“(C) TRANSMITTED AMOUNTS.—Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

“(f) LIFE INSURANCE BENEFITS.—

“(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee life insurance program under which a designated employee (and the family of such designated employee) shall receive treatment in the same manner and to the same extent as provided under chapter 87 of title 5, United States Code. A designated employee may not participate in the life insurance program established under this paragraph and the program under chapter 87 of title 5, United States Code, at the same time.

“(2) CONVERSION TO FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM.—

“(A) IN GENERAL.—A designated employee participating in the life insurance program established under paragraph (1) may convert to coverage under the program under chapter 87 of title 5, United States Code, at any appropriate time determined by the Director (including at the time of separation of service by reason of retirement), if the Director determines that the employee's participation in the life insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

“(i) intelligence operations;

“(ii) the identities of undercover intelligence officers;

“(iii) intelligence sources and methods; or

“(iv) intelligence cover mechanisms.

“(B) CONVERSION TREATMENT.—Upon a conversion under this paragraph—

“(i) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5, United States Code;

“(ii) any requirement of prior enrollment in a life insurance program under chapter 87 of that title for continuation of coverage purposes shall not apply;

“(iii) the employee shall be deemed to have had coverage under chapter 87 of that title for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage as an annuitant; and

“(iv) the Director shall transmit an amount for deposit in the Employees Life Insurance Fund that is necessary to cover any costs of such conversion.

“(C) TRANSMITTED AMOUNTS.—Any amount described under subparagraph (B)(iii) shall be paid from the fund or appropriation used to pay the designated employee.

“(g) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Director may exempt a designated employee from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Director determines—

“(1) would be inconsistent with the non-official cover of that employee; and

“(2) could expose that employee to detection as a Federal employee.

“(h) TAXATION AND SOCIAL SECURITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a designated employee—

“(A) shall file a Federal or State tax return as if that employee is not a Federal employee and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that employee was not a Federal employee, if the Director determines that taking any action under this paragraph is necessary to—

“(i) protect from unauthorized disclosure—

“(I) intelligence operations;

“(II) the identities of undercover intelligence officers;

“(III) intelligence source and methods; or

“(IV) intelligence cover mechanisms; and

“(ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

“(B) shall receive social security benefits based on the social security contributions made.

“(2) IRS REVIEW.—The Director shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

“(i) REGULATIONS.—The Director shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director to be necessary to exercise the authority in subsection (b), the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

“(j) FINALITY OF DECISIONS.—Any determinations authorized by this section made by the Director or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

“(k) SUBSEQUENTLY ENACTED LAWS.—No law enacted after the effective date of this section shall affect the authorities and provisions of this section unless such law specifically refers to this section.”

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

[SEC. 501. REPEAL OF SUNSET ON AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.]

[Section 431(a) of title 10, United States Code, is amended by striking the second sentence.]

SEC. [502] 501. DEFENSE INTELLIGENCE EXEMPTION FROM CERTAIN PRIVACY ACT REQUIREMENTS.

Section 552a(e)(3) of title 5, United States Code, shall not apply with respect to the collection of information by intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources.

SEC. [503] 502. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

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

(1) to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations

(such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

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

(b) **APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.**—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107-115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8077 of the Department of Defense Appropriations Act, 2004 (Public Law 108-87; 117 Stat. 1090).

(3) The numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106-246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (115 Stat. 2131).

(c) **LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.**—No United States Armed Forces personnel or United States civilian contractor employed by the United States Armed Forces will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or during the course of search and rescue operations for United States citizens.

Mr. SESSIONS. Madam President, I ask unanimous consent that the committee amendments be agreed to, that the amendments that are at the desk be agreed to, that the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The amendments (Nos. 4059 and 4060) were agreed to, as follows:

AMENDMENT NO. 4059

(Purpose: To strike section 306, relating to a repeal of the limitation on the length of service as a member of the Select Committee on Intelligence of the Senate)

On page 16, strike lines 1 through 16.

AMENDMENT NO. 4060

On page 9, line 16, add at the end the following: "Such funds shall remain available until September 30, 2005."

On page 16, between lines 16 and 17, insert the following:

SEC. 307. INTELLIGENCE ASSESSMENT ON SANCTUARIES FOR TERRORISTS.

(a) **ASSESSMENT REQUIRED.**—Not later than the date specified in subsection (b), the Director of Central Intelligence shall submit to Congress an intelligence assessment that identifies and describes each country or region that is a sanctuary for terrorists or terrorist organizations. The assessment shall be based on current all-source intelligence.

(b) **SUBMITTAL DATE.**—The date of the submittal of the intelligence assessment required by subsection (a) shall be the earlier of—

(1) the date that is six months after the date of the enactment of this Act; or

(2) June 1, 2005.

SEC. 308. ADDITIONAL EXTENSION OF DEADLINE FOR FINAL REPORT OF THE NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 50 U.S.C. 401 note) is amended by striking "September 1, 2004" and inserting "September 1, 2005".

SEC. 309. FOUR-YEAR EXTENSION OF PUBLIC INTEREST DECLASSIFICATION BOARD.

Section 710(b) of the Public Interest Declassification Act of 2000 (title VII of Public Law 106-567; 114 Stat. 2856; 50 U.S.C. 435 note) is amended by striking "4 years" and inserting "8 years".

On page 19, strike lines 7 through 15 and insert the following:

"(1) **IN GENERAL.**—The Director may establish and administer a nonofficial cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A des—

On page 21, strike line 18 and all that follows through page 22, line 1, and insert the following:

"(iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, United States Code, the Director may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar

On page 22, strike line 24 and all that follows through page 23, line 5, and insert the following:

"(1) **IN GENERAL.**—The Director may establish and administer a nonofficial cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee

On page 25, strike lines 6 through 12 and insert the following:

"(1) **IN GENERAL.**—The Director may establish and administer a nonofficial cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not

On page 27, line 8, strike "(B)(iii)" and insert "(B)(iv)".

On page 30, strike lines 10 through 16.

The bill (S. 2386), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

AMENDING SECTION OF IMMIGRATION AND NATIONALITY ACT

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4306, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 4306) to amend Section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

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

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be

laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4306) was read the third time and passed.

AMENDING AND AUTHORIZING JOHN F. KENNEDY CENTER ACT AND JOHN F. KENNEDY CENTER FOR PERFORMING ARTS

Mr. SESSIONS. I ask unanimous consent that the Senate now proceed to consideration of H.R. 5294, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 5294) to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

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

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

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

The bill (H.R. 5294) was read the third time and passed.

IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 775, S. 2302.

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

The assistant legislative clerk read as follows:

A bill (S. 2302) to improve access to physicians in medically underserved areas.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following: [Strike the part in black brackets and insert in lieu thereof the part printed in italic.]

S. 2302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

[(a) **EXTENSION OF DEADLINE.**—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107-273) is amended by striking "2004." and inserting "2009."]

[(b) **DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS BY STATE AGENCIES.**—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended—