

laughter and life lessons into every episode of his programs. Time spent in “Mr. Rogers’ Neighborhood” taught children to share, care for others, and express their emotions during times of grief and trouble. Above all, he taught children how to be a good neighbor to those in their communities.

I commend the work of Fred McFeely Rogers, and I am privileged to introduce this measure on behalf of everyone who had the opportunity to watch and learn from Mr. Rogers—we were truly blessed to have such a compassionate and caring figure broadcast into our homes on a daily basis. He will be greatly missed, but his exemplary life of tireless service will not be forgotten.

#### AMENDMENTS SUBMITTED & PROPOSED

SA 3702. Mr. McCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3703. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3704. Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, Ms. SNOWE, and Mr. CORNYN) proposed an amendment to the bill S. 2845, supra.

SA 3705. Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3706. Mr. SPECTER (for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3707. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3708. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3702.** Mr. McCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

##### TITLE —TRANSPORTATION SECURITY

###### SEC. 01. DEFINITIONS.

In this title, the terms “air carrier”, “air transportation”, “aircraft”, “airport”, “cargo”, “foreign air carrier”, and “intra-state air transportation” have the meanings given such terms in section 40102 of title 49, United States Code.

###### SEC. 02. NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.

###### (a) REQUIREMENT FOR STRATEGY.—

(1) RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall—

(A) develop and implement a National Strategy for Transportation Security; and

(B) revise such strategy whenever necessary to improve or to maintain the cur-

rency of the strategy or whenever the Secretary otherwise considers it appropriate to do so.

(2) CONSULTATION WITH SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall consult with the Secretary of Transportation in developing and revising the National Strategy for Transportation Security under this section.

(b) CONTENT.—The National Strategy for Transportation Security shall include the following matters:

(1) An identification and evaluation of the transportation assets within the United States that, in the interests of national security, must be protected from attack or disruption by terrorist or other hostile forces, including aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, urban mass transit, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(2) The development of the risk-based priorities, and realistic deadlines, for addressing security needs associated with those assets.

(3) The most practical and cost-effective means of defending those assets against threats to their security.

(4) A forward-looking strategic plan that assigns transportation security roles and missions to departments and agencies of the Federal Government (including the Armed Forces), State governments (including the Army National Guard and Air National Guard), local governments, and public utilities, and establishes mechanisms for encouraging private sector cooperation and participation in the implementation of such plan.

(5) A comprehensive delineation of response and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States.

(6) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital assets.

(7) A budget and recommendations for appropriate levels and sources of funding to meet the objectives set forth in the strategy.

###### (c) SUBMISSIONS TO CONGRESS.—

###### (1) THE NATIONAL STRATEGY.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security developed under this section to Congress not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including any revisions, to Congress not less frequently than April 1 of each even-numbered year.

###### (2) PERIODIC PROGRESS REPORT.—

(A) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to Congress an assessment of the progress made on implementing the National Strategy for Transportation Security.

(B) CONTENT.—Each progress report under this paragraph shall include, at a minimum, the following matters:

(i) An assessment of the adequacy of the resources committed to meeting the objectives of the National Strategy for Transportation Security.

(ii) Any recommendations for improving and implementing that strategy that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.

(3) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security

that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

###### (d) PRIORITY STATUS.—

(1) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(2) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(A) the current National Maritime Transportation Security Plan under section 70103 of title 46, United States Code;

(B) the report required by section 44938 of title 49, United States Code; and

(C) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

###### SEC. 03. USE OF WATCHLISTS FOR PASSENGER AIR TRANSPORTATION SCREENING.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Transportation Security Administration, as soon as practicable after the date of the enactment of this Act but in no event later than 180 days after that date, shall—

(1) implement a procedure under which the Transportation Security Administration compares information about passengers who are to be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation for flights and flight segments originating in the United States with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such flights or flight segments or to subject them to specific additional security scrutiny, through the use of “no fly” and “automatic selectee” lists or other means.

(b) AIR CARRIER COOPERATION.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall by order require air carriers to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE “NO FLY” AND “AUTOMATIC SELECTEE” LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a) (1) that are designed to ensure the accuracy and integrity of the database.

(2) ACCURACY OF ENTRIES.—In developing the “no fly” and “automatic selectee” lists under sub-section (a) (2), the Secretary of Homeland Security shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide individuals whose names are confused with, or similar to, names in the database with a means of demonstrating that they are not a person named in the database.

###### SEC. 04. ENHANCED PASSENGER AND CARGO SCREENING.

(a) AIRCRAFT PASSENGER SCREENING AT CHECKPOINTS.—

## (1) DETECTION OF EXPLOSIVES.—

(A) IMPROVEMENT OF CAPABILITIES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Homeland Security shall take such action as is necessary to improve the capabilities at passenger screening checkpoints, especially at commercial airports, to detect explosives carried aboard aircraft by passengers or placed aboard aircraft by passengers.

(B) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Secretary shall take immediate measures to require Transportation Security Administration or other screeners to screen for explosives any individual identified for additional screening before that individual may board an aircraft.

## (2) IMPLEMENTATION REPORT.—

(A) REQUIREMENT FOR REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transmit to the Senate and the House of Representatives a report on how the Secretary intends to achieve the objectives of the actions required under paragraph (1). The report shall include an implementation schedule.

(B) CLASSIFIED INFORMATION.—The Secretary may submit separately in classified form any information in the report under subparagraph (A) that involves information that is properly classified under criteria established by Executive order.

## (b) ACCELERATION OF RESEARCH AND DEVELOPMENT ON, AND DEPLOYMENT OF, DETECTION OF EXPLOSIVES.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall take such action as may be necessary to accelerate research and development and deployment of technology for screening aircraft passengers for explosives during or before the aircraft boarding process.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for each of fiscal years 2005 through 2009.

## (c) IMPROVEMENT OF SCREENER JOB PERFORMANCE.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security shall take such action as may be necessary to improve the job performance of airport screening personnel.

(2) HUMAN FACTORS STUDY.—In carrying out this subsection, the Secretary shall, not later than 180 days after the date of the enactment of this Act, conduct a human factors study in order better to understand problems in screener performance and to set attainable objectives for individual screeners and screening checkpoints.

## (d) CHECKED BAGGAGE AND CARGO.—

(1) IN-LINE BAGGAGE SCREENING.—The Secretary of Homeland Security shall take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

(2) CARGO SECURITY.—The Secretary shall take such action as may be necessary to ensure that the Transportation Security Administration in creases and improves its efforts to screen potentially dangerous cargo.

## (e) BLAST-RESISTANT CARGO AND BAGGAGE CONTAINERS.—

(1) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation—

(A) shall assess the feasibility of requiring the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device; and

(B) may require their use on some or all flights on aircraft for which such containers are available.

(2) PILOT PROGRAM.—Before requiring the use of such containers on any such flights, the Secretary of Homeland Security shall conduct a pilot program to evaluate the use of currently available blast-resistant containers for cargo and baggage on passenger aircraft. In conducting the pilot program the Secretary—

(A) shall test the feasibility of using the containers by deploying them on participating air carrier flights; but

(B) may not disclose to the public the number of blast-resistant containers being used in the program or publicly identify the flights on which the containers are used.

## (3) ASSISTANCE FOR PARTICIPATION IN PILOT PROGRAM.—

(A) IN GENERAL.—As part of the pilot program, the Secretary may provide assistance to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(B) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires.

(C) TYPES OF ASSISTANCE.—Assistance provided by the Secretary to air carriers that volunteer to participate in the pilot program may include the use of blast-resistant containers and financial assistance to cover increased costs to the carriers associated with the use and maintenance of the containers, including increased fuel costs.

(4) TECHNOLOGICAL IMPROVEMENTS.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation, shall—

(A) support efforts to further the development and improvement of blast-resistant containers for potential use on aircraft, including designs that—

(i) will work on a variety of aircraft, including narrow body aircraft; and

(ii) minimize the weight of such containers without compromising their effectiveness; and

(B) explore alternative technologies for minimizing the potential effects of detonation of an explosive device on cargo and passenger aircraft.

(5) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the pilot program and on progress made in developing improved containers and equivalent technologies. The report may be submitted in classified and redacted formats.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this section. Such sums shall remain available until expended.

(f) COST-SHARING.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the Senate and the House of Representatives—

(1) a proposed formula for cost-sharing, for the advanced in-line baggage screening equipment required by this title, between and among the Federal Government, State and local governments, and the private sector that reflects proportionate national security benefits and private sector benefits for such enhancement; and

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the advanced in-line baggage screening equipment required by this title, which may be based on the formula proposed under paragraph (1).

## SEC. 05. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

**SA 3703.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

## SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—(1) The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

(2) Except as otherwise provided by law, the National Intelligence Coordinator shall not be accountable to Congress regarding the performance of the responsibility of the Coordinator.

**SA 3704.** Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, Ms. SNOWE, and Mr. CORNYN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of title II, add the following:

## Subtitle D—Classified Information

## SEC. 231. SHORT TITLE.

This subtitle may be cited as the “Independent National Security Classification Board Act of 2004”.

**SEC. 232. PURPOSE.**

The purpose of this subtitle is to establish in the executive branch an Independent National Security Classification Board—

(1) to review the standards and procedures used in the classification system for national security information;

(2) to propose and submit to Congress and the President for comment new standards and procedures to be used in the classification system for such information;

(3) to establish the new standards and procedures after Congress and the President have had the opportunity to comment; and

(4) to review, and make recommendations with respect to, classifications of current and new information made under the applicable classification system.

**SEC. 233. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.**

(a) **ESTABLISHMENT.**—The Independent National Security Classification Board (in this subtitle referred to as the “Board”) is established as an independent agency in the executive branch.

(b) **COMPOSITION.**—The Board shall be composed of one member appointed by the President, one member jointly recommended by the Majority Leader and the Minority Leader of the Senate and appointed by the President, and one member jointly recommended by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives and appointed by the President, each by and with the advice and consent of the Senate. Each member shall be knowledgeable on classification matters.

(c) **TERM OF MEMBERS.**—Each member of the Board shall be appointed for a term of 5 years. A member may be reappointed for one additional 5-year term. A member whose term has expired shall continue to serve on the Board until a replacement has been appointed.

(d) **VACANCIES.**—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) **SEPARATE OFFICE.**—The Board shall have its own office for carrying out its activities, and shall not share office space with any element of the intelligence community or with any other department, agency, or element of the United States Government.

(f) **CHAIRMAN.**—The Board shall select a Chairman from among its members.

(g) **MEETINGS.**—The Board shall meet at the call of the Chairman.

(h) **QUORUM.**—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(i) **AVAILABILITY OF INFORMATION.**—The decision-making process of the Board may be classified, but the final decisions of the Board and the reports submitted under this subtitle shall be made available to the public.

(j) **INITIAL APPOINTMENTS AND MEETING.**—

(1) **INITIAL APPOINTMENTS.**—Initial appointments of members of the Board shall be made not later than 90 days after the date of the enactment of this Act.

(2) **INITIAL MEETING.**—The Board shall hold its first meeting not later than 30 days after the date on which all members of the Board have been appointed.

(k) **WEBSITE.**—The Board shall establish a website not later than 90 days after the date on which all members of the Board have been appointed.

**SEC. 234. DUTIES OF BOARD.**

(a) **REVIEW OF CLASSIFICATION SYSTEM.**—

(1) **IN GENERAL.**—The Board shall conduct a thorough review of the classification system for national security information, including the policy, procedures, and practices of the

system. The Board shall recommend reforms of such system to ensure—

(A) the protection of the national security of the United States;

(B) the sharing of information among departments, agencies, and element of the United States Government; and

(C) an open and informed public discussion of national security issues.

(2) **SCOPE OF REVIEW.**—

(A) **CONSULTATION.**—The Board shall consult with the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives in determining the scope of its review of the classification system.

(B) **REVIEW.**—The Board shall submit a report describing the proposed scope of review to the President and the committees of Congress referred to in subparagraph (A) for comment.

(C) **REVISIONS.**—Not later than 30 days after receiving the report under subparagraph (B)—

(i) the President shall notify the Board in writing of any revisions to such scope of review; and

(ii) each committee of Congress referred to in subparagraph (A) may submit to the Board, in writing, any comments of the committee on the proposed scope of review.

(b) **ADOPTION OF NATIONAL SECURITY INFORMATION CLASSIFICATION SYSTEM.**—

(1) **AUTHORITY.**—The Board shall prescribe the classification system for national security information, which shall apply to all departments, agencies, and elements of the United States Government.

(2) **FINDINGS AND RECOMMENDATIONS.**—The Board shall, in accordance with the scope of review developed under subsection (a)(2), review the classification system for national security information and submit to the President and Congress its findings and recommendations for new procedures and standards to be used in such classification system.

(3) **CLASSIFICATION SYSTEM.**—Not later than 180 days after the date on which all members of the Board have been confirmed by the Senate, the Board shall adopt a classification system for national security information, incorporating any comments received from the President and considering any comments received from Congress. Upon the adoption of the classification system, the system shall be used for the classification of all national security information.

(c) **REVIEW OF CLASSIFICATION DECISIONS.**—

(1) **IN GENERAL.**—The Board shall, upon its own initiative or pursuant to a request under paragraph (3), review any classification decision made by an Executive agency with respect to national security information.

(2) **ACCESS.**—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) **REQUESTS FOR REVIEW.**—The Board shall review in a timely manner the existing or proposed classification of any document or other material the review of which is requested by—

(A) the head or Inspector General of an Executive agency who is an authorized holder of such document or material; or

(B) the chairman or ranking member of—

(i) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(ii) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) **RECOMMENDATIONS.**—

(A) **IN GENERAL.**—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) **IMPLEMENTATION.**—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress and have posted on the website of the Board a notification in unclassified form of the justification for the President's decision not to implement such recommendation.

(5) **EXEMPTION FROM FREEDOM OF INFORMATION ACT.**—The Board shall not be required to make documents or materials reviewed under this subsection available to the public under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

(6) **REGULATIONS.**—The Board shall prescribe regulations to carry out this subsection.

(7) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

**SEC. 235. POWERS OF BOARD.**

(a) **HEARINGS.**—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subtitle.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Board may secure directly from any department, agency, or element of the United States Government such information as the Board considers necessary to carry out this subtitle. Upon request of the Chairman of the Board, the head of such department, agency, or element shall furnish such information to the Board.

(c) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support necessary for the Board to carry out its duties under this subtitle.

(d) **POSTAL SERVICES.**—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) **GIFTS.**—The Board may accept, use, and dispose of gifts or donations of services or property.

**SEC. 236. BOARD PERSONNEL MATTERS.**

(a) **EXECUTIVE SCHEDULE LEVEL IV.**—Section 5315 of title 5, United States Code, is amended by adding at the end the following: “Members, Independent National Security Classification Board.”.

(b) **STAFF.**—

(1) **IN GENERAL.**—The Chairman of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties under this subtitle. The employment of an executive director shall be subject to confirmation by the Board.

(2) **COMPENSATION.**—The Chairman of the Board may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate

of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any employee of the United States Government may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

**SEC. 237. FUNDING.**

Of the amount authorized to be appropriated by section 352, \$2,000,000 shall be available for the Board for purposes of this section during fiscal year 2005.

**SA 3705.** Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of the bill, add the following:

**TITLE IV—HOMELAND SECURITY GRANTS**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Homeland Security Grant Enhancement Act of 2004”.

**SEC. 402. DEFINITIONS.**

In this title, the following definitions shall apply:

(1) **INSULAR AREA.**—The term “insular area” means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(2) **LARGE HIGH-THREAT STATE FUND.**—The term “Large High-Threat State Fund” means the fund containing amounts authorized to be appropriated for States that elect to receive Federal financial assistance through a per capita share of 38.625 percent of the amount appropriated for the State Homeland Security Grant Program.

(3) **LOCAL GOVERNMENT.**—The term “local government” has the same meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(4) **STATE.**—The term “State” means each of the several States of the United States and the District of Columbia.

(5) **STATE HOMELAND SECURITY GRANT PROGRAM.**—The term “State Homeland Security Grant Program” means the program receiving 75 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

(6) **THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.**—The term “Threat-Based Homeland Security Grant Program” means the program authorized under section 6.

(7) **URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.**—The term “Urban Area Security Initiative Grant Program” means the program receiving 25 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

**SEC. 403. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR TRADITIONAL FIRST RESPONDER MISSIONS.**

(a) **IN GENERAL.**—This title shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (b), 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.

(b) **PROGRAMS INCLUDED.**—The programs referred to in subsection (a) 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).

**SEC. 404. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.**

(a) **IN GENERAL.**—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 801 the following:

“**SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.**

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—The Secretary, in coordination with the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other agencies providing assistance for first responder preparedness, as identified by the President, shall establish the Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs (referred to in this subtitle as the ‘Interagency Committee’).

“(2) **COMPOSITION.**—The Interagency Committee shall be composed of—

“(A) a representative of the Department;

“(B) a representative of the Department of Health and Human Services;

“(C) a representative of the Department of Transportation;

“(D) a representative of the Department of Justice;

“(E) a representative of the Environmental Protection Agency; and

“(F) a representative of any other department or agency determined to be necessary by the President.

“(3) **RESPONSIBILITIES.**—The Interagency Committee shall—

“(A) report on findings to the Information Clearinghouse established under section 801(d);

“(B) consult with State and local governments and emergency response providers regarding their homeland security needs and capabilities;

“(C) advise the Secretary on the development of performance measures for homeland security grant programs and the national strategy for homeland security;

“(D) compile a list of homeland security assistance programs;

“(E) not later than 1 year after the effective date of the Homeland Security Grant Enhancement Act of 2004—

“(i) develop a proposal to coordinate, to the maximum extent practicable, the planning, reporting, application, and other guid-

ance documents contained in homeland security assistance programs to eliminate all redundant and duplicative requirements; and

“(ii) submit the proposal developed under clause (i) to Congress and the President.

“(b) **ADMINISTRATION.**—The Department shall provide administrative support to the Interagency Committee, which shall include—

“(1) scheduling meetings;

“(2) preparing agenda;

“(3) maintaining minutes and records; and

“(4) producing reports.

“(c) **CHAIRPERSON.**—The Secretary shall designate a chairperson of the Interagency Committee.

“(d) **MEETINGS.**—The Interagency Committee shall meet—

“(1) at the call of the Secretary; or

“(2) not less frequently than once every 1 month.”

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 801 the following:

“Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs.”

**SEC. 405. STREAMLINING FEDERAL HOMELAND SECURITY GRANTS.**

(a) **DIRECTOR OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.**—Section 801(a) of the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is amended to read as follows:

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—There is established within the Office of the Secretary the Office for State and Local Government Coordination and Preparedness, which shall oversee and coordinate departmental programs for, and relationships with, State and local governments.

“(2) **EXECUTIVE DIRECTOR.**—The Office established under paragraph (1) shall be headed by the Executive Director of State and Local Government Coordination and Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate.”

(b) **OFFICE FOR DOMESTIC PREPAREDNESS.**—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by redesignating section 430 as section 803 and transferring that section to the end of subtitle A of title VIII, as amended by section 4; and

(2) in section 803, as redesignated by paragraph (1)—

(A) in subsection (a), by striking “the Directorate of Border and Transportation Security” and inserting “the Office for State and Local Government Coordination and Preparedness”;

(B) in subsection (b), by striking “who shall be appointed by the President” and all that follows and inserting “who shall report directly to the Executive Director of State and Local Government Coordination and Preparedness.”;

(C) in subsection (c)—

(i) in paragraph (7)—

(I) by striking “other” and inserting “the”;

(II) by striking “consistent with the mission and functions of the Directorate”; and

(III) by striking “and” at the end; and

(ii) in paragraph (8)—

(I) by inserting “carrying out” before “those elements”;

(II) by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(9) managing the Homeland Security Information Clearinghouse established under section 801(d).”

(D) by redesignating subsection (d) as subsection (e); and

(E) by inserting after subsection (c) the following:

“(d) TRAINING AND EXERCISES OFFICE WITHIN THE OFFICE FOR DOMESTIC PREPAREDNESS.—

“(1) IN GENERAL.—The Secretary shall create within the Office for Domestic Preparedness an internal office that shall be the proponent for all national domestic preparedness, training, education, and exercises within the Office for State and Local Government Coordination.

“(2) OFFICE HEAD.—The Secretary shall select an individual with recognized expertise in first-responder training and exercises to head the office, and such person shall report directly to the Director of the Office of Domestic Preparedness.”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by striking the item relating to section 430;

(2) by amending section 801 to read as follows:

“Sec. 801. Office of State and Local Government Coordination and Preparedness.”; and

(3) by inserting after the item relating to section 802, as added by this Act, the following:

“Sec. 803. Office for Domestic Preparedness.”.

(d) ESTABLISHMENT OF HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), as amended by subsection (a), is further amended by adding at the end the following:

“(d) HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—

“(1) ESTABLISHMENT.—There is established within the Office for State and Local Government Coordination a Homeland Security Information Clearinghouse (referred to in this section as the ‘Clearinghouse’), which shall assist States, local governments, and first responders in accordance with paragraphs (2) through (5).

“(2) HOMELAND SECURITY GRANT INFORMATION.—The Clearinghouse shall create a new website or enhance an existing website, establish a toll-free number, and produce a single publication that each contain information regarding the homeland security grant programs identified under section 802(a)(4).

“(3) TECHNICAL ASSISTANCE.—The Clearinghouse, in consultation with the Interagency Committee established under section 802, shall provide information regarding—

“(A) technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments; and

“(B) templates for conducting threat analyses and vulnerability assessments.

“(4) BEST PRACTICES.—The Clearinghouse shall work with States, local governments, emergency response providers and the National Domestic Preparedness Consortium, and private organizations to gather, validate, and disseminate information regarding successful State and local homeland security programs and practices.

“(5) USE OF FEDERAL FUNDS.—The Clearinghouse shall compile information regarding equipment, training, and other services purchased with Federal funds provided under the homeland security grant programs identified under section 802(a)(4), and make such information, and information regarding voluntary standards of training, equipment, and exercises, available to States, local governments, and first responders.

“(6) OTHER INFORMATION.—The Clearinghouse shall provide States, local governments, and first responders with any other information that the Secretary determines necessary.”.

#### SEC. 406. THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security (referred to in this section as the ‘Secretary’) may award grants to States and local governments to enhance homeland security.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under subsection (a)—

(A) shall be used to address homeland security matters related to acts of terrorism or major disasters and related capacity building; and

(B) shall not be used to supplant ongoing first responder expenses or general protective measures.

(2) ALLOWABLE USES.—Grants awarded under subsection (a) may be used to—

(A) develop State plans or risk assessments (including the development of the homeland security plan) to respond to terrorist attacks and strengthen all hazards emergency planning and communitywide plans for responding to terrorist or all hazards emergency events that are coordinated with the capacities of applicable Federal, State, and local governments, first responders, and State and local government health agencies;

(B) develop State, regional, or local mutual aid agreements;

(C) purchase or upgrade equipment based on State and local needs as identified under a State homeland security plan;

(D) conduct exercises to strengthen emergency preparedness of State and local first responders including law enforcement, fire-fighting personnel, and emergency medical service workers, and other emergency responders identified in a State homeland security plan;

(E) pay for overtime expenses relating to—

(i) training activities consistent with the goals outlined in a State homeland security plan;

(ii) as determined by the Secretary, activities relating to an increase in the threat level under the Homeland Security Advisory System; and

(iii) any other activity relating to the State Homeland Security Strategy, and approved by the Secretary;

(F) promote training regarding homeland security preparedness including—

(i) emergency preparedness responses to a use or threatened use of a weapon of mass destruction; and

(ii) training in the use of equipment, including detection, monitoring, and decontamination equipment, and personal protective gear; and

(G) conduct any activity permitted under the Law Enforcement Terrorism Prevention Grant Program.

(3) PROHIBITED USES.—

(A) CONSTRUCTION.—Grants awarded under subsection (a) may not be used to construct buildings or other physical facilities, except those described in section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) and approved by the Secretary in the homeland security plan certified under subsection (d), or to acquire land.

(B) COST SHARING.—Grant funds provided under this section shall not be used for any State or local government cost sharing contribution request under this section.

(c) APPLICATION.—

(1) SUBMISSION.—A State may apply for a grant under this section by submitting to the Secretary an application at such time, and in such manner, and containing such in-

formation the Secretary may reasonably require.

(2) REVISIONS.—A State may revise a homeland security plan certified under subsection (d) at the time an application is submitted under paragraph (1) after receiving approval from the Secretary.

(3) APPROVAL.—The Secretary shall not award a grant under this section unless the application submitted by the State includes a homeland security plan meeting the requirements of subsection (d).

(4) RELEASE OF FUNDS.—The Secretary shall release grant funds to States with approved plans after the approval of an application submitted under this subsection.

(d) HOMELAND SECURITY PLAN.—

(1) IN GENERAL.—An application submitted under subsection (c) shall include a certification that the State has prepared a 3-year State homeland security plan (referred to in this subsection as the ‘plan’) to respond to terrorist attacks and strengthen all hazards emergency planning that has been approved by the Secretary.

(2) CONTENTS.—The plan shall contain measurable goals and objectives that—

(A) establish a 3-year strategy to set priorities for the allocation of funding to political subdivisions based on the risk, capabilities, and needs described under paragraph (3)(C);

(B) provide for interoperable communications;

(C) provide for local coordination of response and recovery efforts, including procedures for effective incident command in conformance with the National Incident Management System;

(D) ensure that first responders and other emergency personnel have adequate training and appropriate equipment for the threats that may occur;

(E) provide for improved coordination and collaboration among police, fire, and public health authorities at State and local levels;

(F) coordinate emergency response and public health plans;

(G) mitigate risks to critical infrastructure that may be vulnerable to terrorist attacks;

(H) promote regional coordination among contiguous local governments;

(I) identify necessary protective measures by private owners of critical infrastructure;

(J) promote orderly evacuation procedures when necessary;

(K) ensure support from the public health community for measures needed to prevent, detect and treat bioterrorism, and radiological and chemical incidents;

(L) increase the number of local jurisdictions participating in local and statewide exercises;

(M) meet preparedness goals as determined by the Secretary; and

(N) include a report from the relevant advisory committee established under paragraph (3)(D) that documents the areas of support, disagreement, or recommended changes to the plan before its submission to the Secretary.

(3) DEVELOPMENT PROCESS.—

(A) IN GENERAL.—In preparing the plan under this section, a State shall—

(i) provide for the consideration of all homeland security needs;

(ii) follow a process that is continuing, inclusive, cooperative, and comprehensive, as appropriate; and

(iii) coordinate the development of the plan with the homeland security planning activities of local governments.

(B) COORDINATION WITH LOCAL PLANNING ACTIVITIES.—The coordination under subparagraph (A)(iii) shall contain input from local stakeholders, including—

(i) local officials, including representatives of rural, high-population, and high-threat jurisdictions;

(ii) first responders and emergency response providers; and

(iii) private sector companies, such as railroads and chemical manufacturers.

(C) SCOPE OF PLANNING.—Each State preparing a plan under this section shall, in conjunction with the local stakeholders under subparagraph (B), address all the information requested by the Secretary, and complete a comprehensive assessment of—

(i) risk, including a—

(I) vulnerability assessment;

(II) threat assessment; and

(III) public health assessment, in coordination with the State bioterrorism plan; and

(ii) capabilities and needs, including—

(I) an evaluation of current preparedness, mitigation, and response capabilities based on such assessment mechanisms as shall be determined by the Secretary;

(II) an evaluation of capabilities needed to address the risks described under clause (i); and

(III) an assessment of the shortfall between the capabilities described under subclause (I) and the required capabilities described under subclause (II).

(D) ADVISORY COMMITTEE.—

(i) IN GENERAL.—Each State preparing a plan under this section shall establish an advisory committee to receive comments from the public and the local stakeholders identified under subparagraph (B).

(ii) COMPOSITION.—The Advisory Committee shall include local officials, local first responders, and emergency response providers that are representative of the counties, cities, and towns within the State, and which shall include representatives of rural, high-population, and high-threat jurisdictions.

(4) PLAN APPROVAL.—The Secretary shall approve a plan upon finding that the plan meets the requirements of—

(A) paragraphs (2) and (3);

(B) the interim performance measurements under subsection (g)(1), or the national performance standards under subsection (g)(2); and

(C) any other criteria the Secretary determines necessary to the approval of a State plan.

(5) REVIEW OF ADVISORY COMMITTEE REPORT.—The Secretary shall review the recommendations of the advisory committee report incorporated into a plan under subsection (d)(2)(N), including any dissenting views submitted by advisory committee members, to ensure cooperation and coordination between local and State jurisdictions in planning the use of grant funds under this section.

(e) TENTATIVE ALLOCATION.—

(1) URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall allocate 25 percent of the funds appropriated under the Threat-Based Homeland Security Grant Program for discretionary grants to be provided directly to local governments, including multistate entities established by a compact between 2 or more States, in high threat areas, as determined by the Secretary based on the criteria under subparagraph (B).

(B) CRITERIA.—The Secretary shall ensure that each local government receiving a grant under this paragraph—

(i) has a large population or high population density;

(ii) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(iii) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(iv) are subject to other threat factors specified in writing by the Secretary.

(C) CONSISTENCY.—Any grant awarded under this paragraph shall be used to supplement and support, in a consistent and coordinated manner, those activities and objectives described under subsection (b) or a State homeland security plan.

(D) COORDINATION.—The Secretary shall ensure that any grants made under this paragraph encourage multiple contiguous units of local government and mutual aid partners to coordinate any homeland security activities.

(2) STATE HOMELAND SECURITY GRANT PROGRAM.—

(A) STATES.—Each State whose application is approved under subsection (c) shall receive, for each fiscal year, the greater of—

(i) 0.75 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the State's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(B) INSULAR AREAS.—Each insular area shall receive, for each fiscal year, the greater of—

(i) 0.075 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the insular area's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(3) SECONDARY DISTRIBUTION.—After the distribution of funds under paragraph (2), the Secretary shall, from the remaining funds for the State Homeland Security Grant Program and 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), distribute amounts to each State that—

(A) has a substantial percentage of its population residing in Metropolitan Statistical Areas, as defined by the Office of Management and Budget;

(B) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(C) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(D) are subject to other threat factors specified in writing by the Secretary.

(4) DISTRIBUTION OF FUNDS.—If the amounts tentatively allocated under paragraphs (1) through (3) equal the sum of the amounts appropriated pursuant to subsection (j), the Secretary shall distribute the appropriated amounts based on the tentative allocation.

(5) PROPORTIONAL REDUCTION.—If the amount appropriated for the Large High-Threat State Fund pursuant to subsection (j)(2) is less than 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), the Secretary shall proportionately reduce the amounts tentatively allocated under paragraphs (1) through (3) so that the amount distributed is equal to the sum of the amounts appropriated for such programs.

(6) FUNDING FOR LOCAL ENTITIES AND FIRST RESPONDERS.—The Secretary shall require recipients of the State Homeland Security Grant to provide local governments and first

responders, consistent with the applicable State homeland security plan, with not less than 80 percent of the grant funds, the resources purchased with such grant funds, or a combination thereof, not later than 60 days after receiving grant funding.

(7) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this subsection shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this Act.

(8) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

(A) IN GENERAL.—The Secretary shall designate not more than 25 percent of the amounts allocated through the State Homeland Security Grant Program to be used for the Law Enforcement Terrorism Prevention Program to provide grants to law enforcement agencies to enhance capabilities for terrorism prevention.

(B) USE OF FUNDS.—Grants awarded under this paragraph may be used for—

(i) information sharing to preempt terrorist attacks;

(ii) target hardening to reduce the vulnerability of selected high value targets;

(iii) threat recognition to recognize the potential or development of a threat;

(iv) intervention activities to interdict terrorists before they can execute a threat;

(v) interoperable communication systems;

(vi) overtime expenses related to the State Homeland Security Strategy approved by the Secretary; and

(vii) any other terrorism prevention activity authorized by the Secretary.

(f) REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a grant under this section shall annually submit a report to the Secretary that contains—

(A) an accounting of the amount of State and local funds spent on homeland security activities under the applicable State homeland security plan; and

(B) information regarding the use of grant funds by units of local government as required by the Secretary.

(g) ACCOUNTABILITY.—

(1) INTERIM PERFORMANCE MEASURES.—

(A) IN GENERAL.—Before establishing performance standards under paragraph (2), the Secretary shall assist each State in establishing interim performance measures based upon—

(i) the goals and objectives under subsection (d)(2); and

(ii) any other factors determined by the Secretary.

(B) ANNUAL REPORT.—Before establishing performance measures under paragraph (2), each State with an approved State plan shall submit to the Secretary a report detailing the progress the State has made in meeting the interim performance measures established under subparagraph (A).

(2) NATIONAL PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall set national performance standards based in part on the goals and objectives under subsection (d)(2) and any other factors the Secretary determines relevant.

(B) COMPLIANCE.—The Secretary shall ensure that State plans are in conformance with the standards set under subparagraph (A).

(C) ANNUAL REPORT.—After the establishment of performance standards under subparagraph (A), each State with an approved State homeland security plan shall submit to the Secretary a report on the progress the State has made in meeting such standards.

(3) GENERAL ACCOUNTING OFFICE ACCESS TO INFORMATION.—Each recipient of a grant under this section and the Department of Homeland Security shall provide the General

Accounting Office with full access to information regarding the activities carried out under this section.

(4) **AUDIT.**—Grant recipients that expend \$500,000 or more in Federal funds during any fiscal year shall submit to the Secretary an organization wide financial and compliance audit report in conformance with the requirements of chapter 75 of title 31, United States Code.

(h) **REMEDIES FOR NON-COMPLIANCE.**—

(1) **IN GENERAL.**—If the Secretary finds, after reasonable notice and an opportunity for a hearing, that a recipient of a grant under this section has failed to substantially comply with any provision of this section, the Secretary shall—

(A) terminate any payment of grant funds to be made to the recipient under this section;

(B) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not expended by the recipient in accordance with this section; or

(C) limit the use of grant funds received under this section to programs, projects, or activities not affected by the failure to comply.

(2) **DURATION OF PENALTY.**—The Secretary shall apply an appropriate penalty under paragraph (1) until such time as the Secretary determines that the grant recipient is in full compliance with this section.

(3) **DIRECT FUNDING.**—If a State fails to substantially comply with any provision of this section, including failing to provide local governments with grant funds or resources purchased with grant funds in a timely fashion, a local government entitled to receive such grant funds or resources may petition the Secretary, at such time and in such manner as determined by the Secretary, to request that grant funds or resources be provided directly to the local government.

(i) **REPORTS TO CONGRESS.**—The Secretary shall submit an annual report to Congress that provides—

(1) findings relating to the performance standards established under subsection (g);

(2) the status of preparedness goals and objectives;

(3) an evaluation of how States and local governments are meeting preparedness goals and objectives;

(4) the total amount of resources provided to the States;

(5) the total amount of resources provided to units of local government; and

(6) a list of how these resources were expended.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) **LARGE HIGH-THREAT STATE FUND.**—There are authorized to be appropriated 10.8 percent of the funds appropriated in any fiscal year pursuant to paragraph (1), which shall be used to carry out the Large High-Threat State Fund.

**SEC. 407. ELIMINATING HOMELAND SECURITY FRAUD, WASTE, AND ABUSE.**

(a) **ANNUAL GENERAL ACCOUNTING OFFICE AUDIT AND REPORT.**—

(1) **AUDIT.**—The Comptroller General shall conduct an annual audit of the Threat Based Homeland Security Grant Program

(2) **REPORT.**—The Comptroller General shall provide a report to Congress on the results of the audit conducted under paragraph (1), which includes—

(A) an analysis of whether the grant recipients allocated funding consistent with the State homeland security plan and the guidelines established by the Department of Homeland Security; and

(B) the amount of funding devoted to overtime and administrative expenses.

(b) **REVIEWS OF THREAT-BASED HOMELAND SECURITY FUNDING.**—The Secretary, through the appropriate agency, shall conduct periodic reviews of grants made through the Threat Based Homeland Security Grant Program to ensure that recipients allocate funds consistent with the guidelines established by the Department of Homeland Security.

(c) **REMEDIES FOR NON-COMPLIANCE.**—If the Secretary determines, after reasonable notice and an opportunity for a hearing, that a recipient of a Threat Based Homeland Security Grant has failed to substantially comply with any regulations or guidelines issued by the Department regarding eligible expenditures, the Secretary shall—

(1) terminate any payment of grant funds scheduled to be made to the recipient;

(2) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grant funds that were not expended by the recipient in accordance with such guidelines; or

(3) limit the use of grant funds received under the Threat Based Homeland Security Grant Program to programs, projects, or activities not affected by the failure to comply.

(d) **DURATION OF PENALTY.**—The Secretary shall apply an appropriate penalty under subsection (c) until such time as the Secretary determines that the grant recipient is in full compliance with the guidelines established by the Department of Homeland Security.

**SEC. 408. FLEXIBILITY IN UNSPENT HOMELAND SECURITY FUNDS.**

(a) **REALLOCATION OF FUNDS.**—The Director of the Office for Domestic Preparedness, Department of Homeland Security, shall allow any State to request approval to reallocate funds received pursuant to appropriations for the State Homeland Security Grant Program under Public Laws 105-277 (112 Stat. 2681 et seq.), 106-113 (113 Stat. 1501A-3 et seq.), 106-553 (114 Stat. 2762A-3 et seq.), 107-77 (115 Stat. 78 et seq.), or the Consolidated Appropriations Resolution of 2003 (Public Law 108-7), among the 4 categories of equipment, training, exercises, and planning.

(b) **APPROVAL OF REALLOCATION REQUESTS.**—The Director shall approve reallocation requests under subsection (a) in accordance with the State plan and any other relevant factors that the Secretary of Homeland Security determines to be necessary.

(c) **LIMITATION.**—A waiver under this section shall not affect the obligation of a State to pass through 80 percent of the amount appropriated for equipment to units of local government.

**SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.**

(a) **IN GENERAL.**—The Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste unless and until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau of Customs and Border Protection of the Department of Homeland Security to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(b) **DEFINED TERM.**—In this section, the term “municipal solid waste” includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

**SA 3706.** Mr. SPECTER (for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

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

On page 10, line 26, strike “and”.

On page 11, strike line 1 and 2 and insert the following:

(4) direct, oversee, and execute the National Intelligence Program; and

(5) supervise, direct, and control the operations of the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the elements, components, and programs of the Defense Intelligence Agency (other than the defense attaches) engaged in the collection of national intelligence, with the head of each such agency, element, component, or program reporting directly to the National Intelligence Director.

On page 14, line 3, strike “issue” and insert “direct”.

On page 14, line 13, strike “manage and oversee” and insert “supervise, direct, and control”.

On page 15, line 10, strike “encourage and”.

On page 16, line 5, strike “condition of” and insert “requirement for”.

On page 19, line 6, strike “and”.

On page 19, between lines 6 and 7, insert the following:

(20) review, approve, and manage the research and development efforts of the intelligence community;

(21) review, approve, and manage the acquisition programs of the National Intelligence Program, including all acquisitions of major systems by the intelligence community covered by section 506A of the National Security Act of 1947 (50 U.S.C. 415a-1) or described in section 162 of this Act; and

On page 19, line 7, strike “(20)” and insert “(22)”.

On page 20, between lines 3 and 4, insert the following:

(d) **RESPONSIBILITY FOR PERFORMANCE OF SPECIFIC FUNCTIONS.**—In carrying out responsibilities under this section, the National Intelligence Director shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of human intelligence activities (other than activities of the defense attaches, which shall remain under the direction of the Secretary of Defense) and other national intelligence collection activities performed by the Defense Intelligence Agency;

(3) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law and consistent with the policies, procedures, standards, and other directives of the National Intelligence Director and the Chief Information Officer of the National Intelligence Authority, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information; and

(4) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research, development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community.

(e) NATIONAL INTELLIGENCE COLLECTION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence using technical means, human sources, and other lawful techniques;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 20, line 4, strike “(d)” and insert “(f)”.

On page 32, beginning on line 8, strike “oversee and direct” and all that follows through line 10 and insert “direct and coordinate”.

On page 109, line 12, strike “subject to paragraph (4).”

On page 109, line 13, strike “and”.

On page 109, line 19, strike the period and insert “; and”.

On page 109, between lines 19 and 20, insert the following:

(D) ensure compliance with section 506A of the National Security Act of 1947 (50 U.S.C. 415a-1).

On page 110, strike lines 4 through 19 and insert the following:

(3) With respect to the acquisition of a major system (as that term is defined in section 506A(e) of the National Security Act of 1947), the National Intelligence Director may delegate a duty, responsibility, or authority under this section or any other provision of law only to the Principal Deputy National Intelligence Director or to another Deputy National Intelligence Director specified by the Director.

(4) In this subsection:

On page 111, line 1, strike “whole” and insert “whole or in part”.

On page 111, line 3, strike “The term” and insert “Except for purposes of paragraph (3), the term”.

On page 179, strike lines 1 through 4 and insert the following:

“(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

“(2) The Director of the Central Intelligence Agency shall report directly to the

National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add “and” at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike “(4)” and insert “(3)”.

On page 181, strike lines 1 through 10.

On page 196, between lines 19 and 20, insert the following:

**SEC. 304. NATIONAL SECURITY AGENCY.**

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new sections:

“Sec. 2. There is a National Security Agency.

“Sec. 3. (a) The Director of the National Security Agency is the head of the National Security Agency.

“(b)(1) The Director of the National Security Agency shall be under the direction, supervision, and control of the National Intelligence Director.

“(2) The Director of the National Security Agency shall report directly to the National Intelligence Director regarding the activities of the National Security Agency.”.

**SEC. 305. DEFENSE INTELLIGENCE AGENCY.**

(a) SUPERVISION.—Except as provided in subsection (b), the Director of the Defense Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director regarding the national intelligence collection mission of the Defense Intelligence Agency.

(b) DEFENSE ATTACHES.—With respect to the activities of the defense attaches, the Director of the Defense Intelligence Agency shall be under the direction, supervision, and control of the Secretary of Defense.

(c) LINE OF AUTHORITY.—The Director of the Defense Intelligence Agency shall report directly to the National Intelligence Director with respect to any programs, operations, and elements of the Directorate for Human Intelligence and the Directorate for MASINT and Technical Collection of the Defense Intelligence Agency that carry out the national intelligence collection mission of the Defense Intelligence Agency, other than those specified in subsection (b).

**SEC. 306. NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.**

(a) SUPERVISION AND CONTROL BY NATIONAL INTELLIGENCE DIRECTOR.—(1) Section 441 of title 10, United States Code, is amended by striking subsection (c) and inserting the following new subsection (c):

“(c) SUPERVISION.—(1) The Director of the National Geospatial-Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

“(2) The Director of the National Geospatial-Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the National Geospatial-Intelligence Agency.”.

(2) Such title is further amended by striking “Secretary of Defense” each place it appears in the following provisions and inserting “National Intelligence Director”:

(A) Section 453(a).

(B) Section 453(b)(1).

(C) Section 454.

(D) Section 455(b)(1), both places it appears.

(E) Section 462, the first place it appears.

(b) SUPPORT.—Section 444 of such title is amended by striking “Director of Central Intelligence” each place it appears and inserting “Director of the Central Intelligence Agency”.

(c) OTHER AMENDMENTS.—(1) Subsection (d) of section 441 of such title is amended by striking “The Secretary of Defense, in con-

sultation with the Director of Central Intelligence,” and inserting “The National Intelligence Director”.

(2) Section 442(b) of such title is amended by striking “Secretary of Defense” and inserting “National Intelligence Director, in coordination with the Secretary of Defense”.

(3) Section 443(d) of such title is amended—

(A) in the subsection caption, by striking “CENTRAL INTELLIGENCE” and inserting “CENTRAL INTELLIGENCE AGENCY”; and

(B) by striking “of the Agency shall coordinate with the Director of Central Intelligence” and inserting “of the National Geospatial-Intelligence Agency shall coordinate with the Director of the Central Intelligence Agency”.

(4) Section 451 of such title is amended by striking “Secretary of Defense” and inserting “National Intelligence Director, in coordination with the Secretary of Defense.”.

(5) Section 452(a) of such title is amended—

(A) by striking “of the Department of Defense”; and

(B) by striking “Secretary of Defense” and inserting “National Intelligence Director”.

(6) Section 455(b)(1) of such title is amended by striking “Department of Defense” and inserting “United States Government”.

(7) Section 457(a) of such title is amended by striking “Secretary of Defense” and inserting “Director of the National Geospatial-Intelligence Agency, in coordination with the National Intelligence Director.”.

(8) Section 462 of such title is further amended by striking “by the Secretary of Defense”.

**SEC. 307. NATIONAL RECONNAISSANCE OFFICE.**

(a) SUPERVISION.—The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the National Intelligence Director.

(b) LINE OF AUTHORITY.—The Director of the National Reconnaissance Office shall report directly to the National Intelligence Director regarding the activities of the National Reconnaissance Office.

On page 196, line 20, strike “304.” and insert “308.”.

On page 197, line 8, strike “305.” and insert “309.”.

On page 198, line 19, strike “306.” and insert “310.”.

On page 200, line 5, strike “307.” and insert “311.”.

On page 200, strike lines 9 through 11 and insert the following:

(a) IN GENERAL.—Subsection (a) of section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

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

“(1) ensure that—

“(A) the budgets of the elements of the intelligence community within the Department of Defense relating to the tactical intelligence activities of such elements are adequate to satisfy the tactical intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands; and

“(B) the budgets of the elements of the intelligence community within the Department of Defense relating to the intelligence and intelligence-related activities of such elements—

“(i) comply with the requirements and priorities specified by the Director with respect to the National Intelligence Program; and

“(ii) conform, to the maximum extent, to the guidance provided by the Director to such elements on those portions of their budgets in the Joint Military Intelligence

Program and the Tactical Intelligence and Related Activities Program;

“(2) ensure that the national intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, are conveyed to the Director for purposes of setting requirements and priorities for national intelligence;”;

(3) in paragraph (3), as so redesignated, by striking “appropriate”; and

(4) in paragraph (5), as so redesignated, by inserting “and comply with the national intelligence decisions of the Director” before the semicolon.

(b) SPECIFIC FUNCTIONS.—Subsection (b) of such section is amended—

(1) by striking paragraphs (1), (2), and (3);

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3) respectively;

(3) in paragraph (1), as so redesignated, by striking “or the National Security Council” and inserting “, the National Security Council, or the National Intelligence Director (when exercising the responsibilities and authorities provided under this Act, the National Intelligence Reform Act of 2004, or any other provision of law)”; and

(4) in paragraph (2), as so redesignated, by striking “Department of Defense human intelligence activities, including”.

(c) ANNUAL EVALUATION OF PERFORMANCE OF CERTAIN OFFICIALS.—Such section is further amended by adding at the end the following new subsection:

“(d) ANNUAL EVALUATION OF PERFORMANCE OF CERTAIN OFFICIALS.—(1) The Secretary of Defense shall, in consultation with the Chairman of the Joint Chiefs of Staff, submit each year to the National Security Council, the National Intelligence Director, and the appropriate committees of Congress an evaluation of the performance and responsiveness to military intelligence requirements of the officials specified in paragraph (2).

“(2) The officials specified in this paragraph are as follows:

“(A) The Director of the Central Intelligence Agency.

“(B) The Director of the National Security Agency.

“(C) The Director of the Defense Intelligence Agency.

“(D) The Director of the National Geospatial-Intelligence Agency.

“(E) The Director of the National Reconnaissance Office.

On page 200, line 12, strike “308.” and insert “312.”.

On page 200, line 19, strike “309.” and insert “313.”.

On page 201, line 11, strike “310.” and insert “314.”.

On page 203, between lines 8 and 9, insert the following:

**SEC. 315. OVERSIGHT OF COMBAT SUPPORT AGENCIES OF THE INTELLIGENCE COMMUNITY.**

(a) OVERSIGHT.—(1) Chapter 8 of title 10, United States Code, is amended by inserting after section 193 the following new section:

**“§ 193a. Combat support agencies of the intelligence community: oversight**

“(a) COMBAT READINESS.—(1) Every two years (or sooner, if approved by the National Intelligence Director), the Chairman of the Joint Chiefs of Staff shall, in consultation with the Secretary of Defense, submit to the National Intelligence Director a report on the combat support agencies of the intelligence community. Each report shall include—

“(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

“(B) any recommendations that the Chairman considers appropriate.

“(2) In preparing each report, the Chairman shall review the plans of each combat support agency of the intelligence community with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, provide the National Intelligence Director any recommendations for modifications of such plans that the Chairman considers appropriate.

“(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall, with the cooperation of the National Intelligence Director—

“(1) provide for the participation of the combat support agencies of the intelligence community in joint training exercises to the extent necessary to ensure that such agencies are capable of performing their support missions with respect to a war or threat to national security; and

“(2) assess the performance in joint training exercises of each combat support agency of the intelligence community and, in accordance with guidelines established by the Secretary of Defense, take steps to provide the National Intelligence Director recommendations for any change that the Chairman considers appropriate to improve that performance.

“(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency of the intelligence community, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each combat support agency of the intelligence community to perform with respect to a war or threat to national security.

“(d) REVIEW OF NSA, NGA, AND NRO.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, but only with respect to combat support functions that such agencies perform for the Department of Defense.

“(2) The Secretary of Defense shall, in coordination with the National Intelligence Director, establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

“(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA, NGA, AND NRO.—The Secretary of Defense and the National Intelligence Director shall jointly develop and implement such policies and programs as they determine necessary to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office to accomplish assigned missions in support of military combat operations.

“(f) COMBAT SUPPORT AGENCY OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ‘combat support agency of the intelligence community’ means any of the following agencies:

“(1) The National Security Agency.

“(2) The Defense Intelligence Agency.

“(3) The National Geospatial-Intelligence Agency.

“(4) The National Reconnaissance Office.”.

(2) The table of sections at the beginning of subchapter I of chapter 8 of such title is amended by inserting after the item relating to section 193 the following new item:

“193a. Combat support agencies of the intelligence community: oversight.”.

(b) CONFORMING AMENDMENTS.—Section 193 of such title is amended—

(1) by striking subsections (d) and (e);

(2) by redesignating subsection (f) as subsection (d); and

(3) in subsection (d), as so redesignated—

(A) by striking paragraphs (2) and (4); and

(B) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

On page 203, line 9, strike “311.” and insert “316.”.

On page 204, line 1, strike “312.” and insert “317.”.

On page 209, line 4, strike “334.” and insert “333.”.

On page 209, line 15, strike “335.” and insert “334.”.

On page 210, line 23, strike “336.” and insert “315.”.

**SA 3707.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

(5) The individual serving as National Intelligence Director may be removed from service as National Intelligence Director only for good cause shown.

On page 10, line 17, strike “(d)” and insert “(e)”.

On page 11, line 3, strike “(e)” and insert “(f)”.

On page 11, line 5, strike “subsection (c)” and insert “subsection (e)”.

**SA 3708.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 13 after line 19 insert the following:

“(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:”