

SA 3710. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3711. Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, supra.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3713. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3714. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3715. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3716. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3717. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3718. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3719. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3720. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3722. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3725. Mr. INHOFE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3726. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3727. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr.

Frist to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra.

SA 3733. 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 3734. 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 3735. 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 3736. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3737. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3738. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3739. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3740. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3741. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3742. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3743. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3744. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3745. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3746. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3747. Mr. ROBERTS submitted an amendment intended to be proposed by him

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

SA 3748. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3749. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3750. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3751. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3752. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3753. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3754. Mr. ROBERTS 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 3709.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### TITLE —AIR CARGO SAFETY

#### SEC.—01. SHORT TITLE.

This title may be cited as the “Air Cargo Security Improvement Act”.

#### SEC.—02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

“(f) CARGO.—

“(1) IN GENERAL.—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

“(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

“(B) all-cargo aircraft in air transportation and intrastate air transportation.

“(2) STRATEGIC PLAN.—The Under Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

“(3) PILOT PROGRAM.—The Under Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Under Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.”.

#### SEC.—03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

#### “§44923. Regular inspections of air cargo shipping facilities

“The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for

shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.”.

(b) **ADDITIONAL INSPECTORS.**—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“44923. Regular inspections of air cargo shipping facilities”.

**SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

(a) **IN GENERAL.**—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

**“§ 44924. Air cargo security**

“(a) **DATABASE.**—The Under Secretary of Transportation for Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

“(b) **INDIRECT AIR CARRIERS.**—

“(1) **RANDOM INSPECTIONS.**—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

“(2) **ENSURING COMPLIANCE.**—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

“(3) **NOTICE OF FAILURES.**—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

“(4) **WITHDRAWAL OF SECURITY PROGRAM APPROVAL.**—The Under Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Under Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Under Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Under Secretary under this title.

“(5) **INDIRECT AIR CARRIER.**—In this subsection, the term ‘indirect air carrier’ has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

“(c) **CONSIDERATION OF COMMUNITY NEEDS.**—In implementing air cargo security requirements under this title, the Under Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.”.

(b) **ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.**—The Under Secretary of Transportation for Security shall assess the secu-

rity aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) **REPORT TO CONGRESS ON RANDOM AUDITS.**—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

“44924. Air cargo security”.

**SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.**

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

**SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.**

(a) **IN GENERAL.**—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) **PLAN REQUIREMENTS.**—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Under Secretary.

(c) **CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.**—

(1) **CIRCULATION OF PROPOSED PROGRAM.**—The Under Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) **COMMENT PERIOD.**—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Under Secretary not more than 60 days after it was received.

(3) **FINAL PROGRAM.**—The Under Secretary of Transportation shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the

plans to be implemented by each air carrier or employer to which it applies.

(4) **SUSPENSION OF PROCEDURAL NORMS.**—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

**SEC. —07. PASSENGER IDENTIFICATION.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Under Secretary of Transportation for Security, in consultation with the Administrator of the Federal Aviation Administration, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop guidelines to provide air carriers guidance for detecting false or fraudulent passenger identification. The guidelines may take into account new technology, current identification measures, training of personnel, and issues related to the types of identification available to the public. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any meeting held pursuant to this subsection.

(b) **AIR CARRIER PROGRAMS.**—Within 60 days after the Under Secretary issues the guidelines under subsection (a) in final form, the Under Secretary shall provide the guidelines to each air carrier and establish a joint government and industry council to develop recommendations on how to implement the guidelines.

(c) **REPORT.**—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act on the actions taken under this section.

**SEC. —08. PASSENGER IDENTIFICATION VERIFICATION.**

(a) **PROGRAM REQUIRED.**—The Under Secretary of Transportation for Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Under Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) **TECHNOLOGIES EMPLOYED.**—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Under Secretary considers appropriate for purposes of the program.

(c) **COMMENCEMENT.**—If the Under Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

**SA 3710.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 207. UNITED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.**

(a) **IN GENERAL.**—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

**“§ 167b. Unified combatant command for military intelligence**

“(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the ‘military intelligence command’).

“(2) The principle functions of the military intelligence command are—

“(A) to coordinate all military intelligence activities;

“(B) to develop new military intelligence collection capabilities; and

“(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

“(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

“(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

“(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

“(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

“(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

“(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

“(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

“(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

“(A) Developing strategy, doctrine, and tactics.

“(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

“(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

“(D) Training military and civilian personnel assigned to or under the command.

“(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

“(F) Validating requirements.

“(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

“(H) Ensuring the interoperability of intelligence sharing within the Department of

Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

“(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

“(J) Recommending to the Secretary of Defense individuals to head the components of the command.

“(3) The commander of the military intelligence command shall be responsible for—

“(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

“(B) responding to intelligence requirements levied by the National Intelligence Director.

“(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

“(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

“(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

“(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

“(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

“(A) development and acquisition of military intelligence collection systems; and

“(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

“(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

“(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

“(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

“(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

“(2) The elements of the Department of Defense referred to in this paragraph are as follows:

“(A) The Defense Intelligence Agency.

“(B) The National Security Agency.

“(C) The National Geospatial-Intelligence Agency.

“(D) The National Reconnaissance Office.

“(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

“(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

“(1) Intelligence collection.

“(2) Intelligence analysis.

“(3) Intelligence information management.

“(4) Intelligence workforce planning.

“(5) Such other activities as may be specified by the President or the Secretary of Defense.”

“(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ‘intelligence community’ means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

“167b. Unified combatant command for military intelligence.”

**SA 3711.** Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **TITLE —AIR CARGO SAFETY**

##### **SEC. —01. SHORT TITLE.**

This title may be cited as the “Air Cargo Security Improvement Act”.

##### **SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

Section 44901(f) of title 49, United States Code, is amended to read as follows:

“(f) CARGO.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

“(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

“(B) all-cargo aircraft in air transportation and intrastate air transportation.

“(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

“(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.”

##### **SEC. —03. AIR CARGO SHIPPING.**

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

##### **“§ 44925. Regular inspections of air cargo shipping facilities**

“The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping

facilities for cargo transported in air transportation to the United States.”.

(b) **ADDITIONAL INSPECTORS.**—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“44925. Regular inspections of air cargo shipping facilities”.

**SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

(a) **IN GENERAL.**—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

“§ 44926. Air cargo security

“(a) **DATABASE.**—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

“(b) **INDIRECT AIR CARRIERS.**—

“(1) **RANDOM INSPECTIONS.**—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

“(2) **ENSURING COMPLIANCE.**—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

“(3) **NOTICE OF FAILURES.**—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

“(4) **WITHDRAWAL OF SECURITY PROGRAM APPROVAL.**—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

“(5) **INDIRECT AIR CARRIER.**—In this subsection, the term ‘indirect air carrier’ has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

“(c) **CONSIDERATION OF COMMUNITY NEEDS.**—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.”.

(b) **ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.**—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may

submit the report and recommendations in classified form.

(c) **REPORT TO CONGRESS ON RANDOM AUDITS.**—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following: “44926. Air cargo security”.

**SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.**

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

**SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.**

(a) **IN GENERAL.**—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) **PLAN REQUIREMENTS.**—The plan shall include provisions for—

(1) security of each carrier’s air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) **CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.**—

(1) **CIRCULATION OF PROPOSED PROGRAM.**—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) **COMMENT PERIOD.**—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) **FINAL PROGRAM.**—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) **SUSPENSION OF PROCEDURAL NORMS.**—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

**SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.**

(a) **PROGRAM REQUIRED.**—The Secretary of Homeland Security may establish and carry

out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) **TECHNOLOGIES EMPLOYED.**—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) **COMMENCEMENT.**—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

**SA 3712.** Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —AVIATION SECURITY**

**SEC. 01. IMPROVED PILOT LICENSES.**

(a) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator shall develop a system for the issuance of any pilot’s license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) **USE OF DESIGNEES.**—The Administrator of the Federal Aviation Administration shall use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator for fiscal year 2005, \$50,000,000 to carry out subsection (a).

**SEC. 02. AIRCRAFT CHARTER CUSTOMER SCREENING.**

(a) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of chartering fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting passengers to board the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to charter an aircraft and any passengers proposed to be transported onboard the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) control of the aircraft will not be relinquished if the Transportation Security Agency determines that such individual, pilot, or

passenger is identified as a flight security or terrorism risk.

(b) **PRIVACY SAFEGUARDS.**—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to charter the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

### **SEC. 03. AIRCRAFT RENTAL CUSTOMER SCREENING.**

(a) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of renting fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting an individual seeking to rent an aircraft to have access to the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to rent the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) the individual will not be permitted to take control of the aircraft if the Transportation Security Agency determines that the individual is a flight security or terrorism risk.

(b) **PILOT PROGRAM.**—Before fully implementing the program under subsection (a), the Secretary shall test the program through a demonstration project.

(c) **PRIVACY SAFEGUARDS.**—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to rent the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

### **SEC. 04. AVIATION SECURITY STAFFING.**

(a) **STAFFING LEVEL STANDARDS.**—

(1) **DEVELOPMENT OF STANDARDS.**—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) **GAO ANALYSIS.**—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) **REPORT TO CONGRESS.**—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process.

(b) **INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.**—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

### **SEC. 05. IMPROVED AIR CARGO AND AIRPORT SECURITY.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) \$200,000,000 for fiscal year 2005;

(2) \$200,000,000 for fiscal year 2006; and

(3) \$200,000,000 for fiscal year 2007.

(b) **NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) **RESEARCH AND DEVELOPMENT; DEPLOYMENT.**—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums as to remain available until expended—

(A) \$100,000,000 for fiscal year 2005;

(B) \$100,000,000 for fiscal year 2006; and

(C) \$100,000,000 for fiscal year 2007.

(c) **AUTHORIZATION FOR EXPIRING AND NEW LOIS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary \$150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) **PERIOD OF REIMBURSEMENT.**—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may

extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) **REPORTS.**—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

### **SEC. 06. AIR CARGO SECURITY MEASURES.**

(a) **ENHANCEMENT OF AIR CARGO SECURITY.**—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) **SUPPLY CHAIN SECURITY.**—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft.

(c) **INCREASED CARGO INSPECTIONS.**—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the volume of property screened or inspected is at least two-fold the volume that is screened or inspected on the date of enactment of this Act. For purposes of the preceding sentence, the term “property” means mail, cargo, and other articles carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation.

(c) **ALL-CARGO AIRCRAFT SECURITY.**—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

#### **“§ 44925. All-cargo aircraft security**

“(a) **ACCESS TO FLIGHT DECK.**—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

“(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

“(A) requiring, to the extent consistent with engineering and safety standards, that all cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

“(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

“(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

“(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

“(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

“(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

“(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

“(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.”.

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

“44925. All-cargo aircraft security.”.

#### SEC. 07. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Com-

mittee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

#### SEC. 08. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, \$83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

#### SEC. 09. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system,

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

#### SEC. 10. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled “Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened” (GAO-03-760), August, 2003.

#### SEC. 11. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$20,000,000, in addition to any amounts otherwise authorized by law, for research and development of biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

#### SEC. 12. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security \$100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

#### SEC. 13. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

##### “§ 41512. Bereavement fares.

“Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

“41512. Bereavement fares”.

#### SEC. 14. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised rule that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

#### SEC. 15. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as “MANPADS”).

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—



(A) either active or passive;  
 (B) employed by the Armed Forces; or  
 (C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(C) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

#### SEC. 16. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect chemical and plastic explosives. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

#### SEC. 17. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving as Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the

Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

#### SEC. 18. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

#### SEC. 19. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

#### SEC. 20. EFFECTIVE DATE.

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

**SA. 3713.** Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 13 after line 9, 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:”

**SA 3714.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, strike lines 1 through 10 and insert the following:

(6) The Officer for Civil Rights and Civil Liberties of the Intelligence Community.

(7) The Privacy Officer of the Intelligence Community.

(8) The Chief Information Officer of the Intelligence Community.

(9) The Chief Human Capital Officer of the Intelligence Community.

(10) The Chief Financial Officer of the Intelligence Community.

On page 52, strike line 21 and all that follows through page 53, line 7, and insert the following:

#### SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE INTELLIGENCE COMMUNITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF INTELLIGENCE COMMUNITY.—There is an Officer for Civil Rights and Civil Liberties of the Intelligence Community who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall—

On page 53, beginning on line 14, strike “National Intelligence Authority;” and insert “elements of the intelligence community; and”.

On page 53, beginning on line 18, strike “within the National Intelligence Program”.

On page 54, line 1, strike “the Authority” and insert “the elements of the intelligence community”.

On page 54, line 11, strike “the Authority” and insert “the elements of the intelligence community”.

On page 55, strike lines 1 through 15 and insert the following:

#### SEC. 127. PRIVACY OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) PRIVACY OFFICER OF INTELLIGENCE COMMUNITY.—There is a Privacy Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the Intelligence Community shall have primary responsibility for the privacy policy of the intelligence community, including in the relationships among the elements of the intelligence community.

On page 56, strike lines 9 through 16 and insert the following:

#### SEC. 128. CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Information Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the Intelligence Community shall—

On page 57, strike line 1 and all that follows through page 59, line 7, and insert the following:

#### SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Human Capital Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the Intelligence Community shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the elements of the intelligence community; and

(2) otherwise advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community.

#### SEC. 130. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF FINANCIAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Financial Officer of the Intelligence Community who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the Intelligence Community shall

be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) **AUTHORITIES AND FUNCTIONS.**—The Chief Financial Officer of the Intelligence Community shall have such authorities, and carry out such functions, with respect to the elements of the intelligence community as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) **COORDINATION WITH NIA COMPTROLLER.**—(1) The Chief Financial Officer of the Intelligence Community shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the Intelligence Community and the Comptroller of the National Intelligence Authority.

(e) **INTEGRATION OF FINANCIAL SYSTEMS.**—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the Intelligence Community shall take appropriate actions to ensure the timely and effective integration of the financial systems of the elements of the intelligence community as soon as possible after the date of the enactment of this Act.

On page 60, strike lines 5 through 13 and insert the following:

**SEC. 141. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.**

(a) **OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.**—There is within the National Intelligence Authority an Office of the Inspector General of the Intelligence Community.

(b) **PURPOSE.**—The purpose of the Office of the Inspector General of the Intelligence Community is to—

On page 60, line 19, insert “and” at the end.

On page 60, line 22, strike “and” at the end.

On page 60, strike line 23 and all that follows through page 61, line 2.

On page 62, strike lines 1 through 7 and insert the following:

(c) **INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.**—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

On page 62, beginning on line 12 strike “National Intelligence Authority” and insert “intelligence community”.

On page 63, beginning on line 2, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 63, beginning on line 8, strike “the relationships among” and all that follows through “the other elements of the intelligence community” and insert “and the relationships among the elements of the intelligence community”.

On page 64, line 11, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 65, line 7, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 65, beginning on line 12, strike “the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program,” and insert “any element of the intelligence community”.

On page 66, line 2, strike “the National Intelligence Authority” and insert “an element of the intelligence community”.

On page 67, beginning on line 9, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 68, line 9, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 69, line 3, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 69, line 22, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 70, line 1, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 70, beginning on line 12, strike “National Intelligence Authority” and insert “elements of the intelligence community”.

On page 71, beginning on line 16, strike “the Authority” and insert “any element of the intelligence community”.

On page 72, beginning on line 3, strike “the Authority” and all that follows through line 8 and insert “an element of the intelligence community or in a relationship between the elements of the intelligence community”.

On page 72, beginning on line 21, strike “Authority official who holds or held a position in the Authority” and insert “an official of an element of the intelligence community who holds or held in such element a position”.

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee of any entity other than an element of the intelligence community who is assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

On page 77, beginning on line 17, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 77, strike line 19 and all that follows through page 78, line 2, and insert the following:

**SEC. 142. OMBUDSMAN OF THE INTELLIGENCE COMMUNITY.**

(a) **OMBUDSMAN OF INTELLIGENCE COMMUNITY.**—There is within the National Intelligence Authority an Ombudsman of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) **DUTIES.**—The Ombudsman of the Intelligence Community shall—

On page 78, beginning on line 6, strike “the National Intelligence Authority” and all that follows through “National Intelligence Program,” and insert “any element of the intelligence community”.

On page 78, beginning on line 14, strike “the Authority” and all that follows through “National Intelligence Program,” and insert “any element of the intelligence community”.

On page 78, beginning on line 20, strike “the Authority” and all that follows through “National Intelligence Program,” and insert “any element of the intelligence community”.

On page 79, beginning on line 4, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 79, line 7, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 79, strike lines 18 through 25 and insert the following:

(B) The elements of the intelligence community, including the divisions, offices, programs, officers, and employees of such elements.

On page 80, line 8, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 80, beginning on line 14, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 80, beginning on line 20, strike “the National Intelligence Authority” and all that follows through “National Intelligence Program,” and insert “any element of the intelligence community”.

On page 81, beginning on line 9, strike “National Intelligence Authority” and insert “Intelligence Community”.

On page 204, strike lines 1 through 3 and insert the following:

**SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.**

**SA 3715.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, strike lines 6 through 10.

**SA 3716.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 22, strike “and” at the end.

On page 11, between lines 22 and 23, insert the following:

(5) to such officials of State and local governments having homeland security responsibilities as the President shall direct; and

On page 11, line 23, strike “(5)” and insert “(6)”.

**SA 3717.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 8 through 11 and insert the following:

(c) **PERSONNEL STRENGTH LEVEL.**—Congress shall authorize the personnel strength level for the National Intelligence Reserve Corps for each fiscal year.

**SA 3718.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 4, insert “foreign intelligence” after “means”.

On page 4, strike lines 5 through 16 and insert the following:

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

(3) The term “counterintelligence” means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage,



or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

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

On page 7, beginning on line 5, strike “the Office of Intelligence of the Federal Bureau of Investigation” and insert “the Directorate of Intelligence of the Federal Bureau of Investigation”.

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

(8) The term “counterespionage” means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities through identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term “intelligence operation” means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e))).

(10) The term “collection and analysis requirements” means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term “collection and analysis tasking” means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term “certified intelligence officer” means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

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

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

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

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

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

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

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

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The ele-

ment of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

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

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

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

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

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

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

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

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

**SA 3719.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 23, insert “tactical military” before “intelligence”.

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

(8) The term “tactical military intelligence” means foreign intelligence produced by an element of the Department of Defense and intended primarily to be responsive to the needs of military commanders in the field to maintain the readiness of operating forces for combat operations and to support the planning and conduct of combat operations.

On page 13, line 9, strike “military intelligence” and insert “tactical military intelligence”.

On page 21, beginning on line 20, strike “military intelligence” and insert “tactical military intelligence”.

On page 52, line 14, strike “military intelligence” and insert “tactical military intelligence”.

**SA 3720.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 8 and 9, insert the following:

**SEC. 153. NATIONAL INTELLIGENCE UNIVERSITY.**

(a) NATIONAL INTELLIGENCE UNIVERSITY.—The National Intelligence Director shall es-

tablish within the intelligence community an institution of higher education to be known as the National Intelligence University.

(b) PURPOSE.—The purpose of the National Intelligence University shall be to provide such higher education and training in matters relating to intelligence for personnel of the elements of the intelligence community as the National Intelligence Director shall prescribe.

(c) COMPONENT INSTITUTIONS.—The National Intelligence University shall consist of such component institutions as the National Intelligence Director shall prescribe.

(d) AUTHORITY TO AWARD DEGREES.—Each component institution of the National Intelligence University shall be authorized, upon the recommendation of the faculty of such institution, to award a degree in such fields as the National Intelligence Director shall prescribe to graduates of such institution who have fulfilled the requirements for such a degree.

(e) MODEL.—(1) In establishing the National Intelligence University, the National Intelligence Director shall adapt for use in the National Intelligence University such mechanisms and requirements with respect to the National Defense University under chapter 108 of title 10, United States Code, as the Director considers appropriate.

(2) The Director shall consult with the Secretary of Defense regarding the adaptation to the National Intelligence University of mechanisms and requirements of the National Defense University under paragraph (1).

(f) REGULATIONS.—The National Intelligence Director shall prescribe regulations for purposes of carrying out this section.

(g) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to the congressional intelligence committees a report on the progress made as of the date of the report in the establishment of the National Intelligence University.

(2) The report shall include—

(A) a description of the progress made in the establishment of the University; and

(B) a proposal for such additional legislative actions, if any, as the Director considers appropriate to further the establishment of the University.

**SA 3721.** Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

**TITLE —PRESIDENTIAL APPOINTMENTS IMPROVEMENT ACT OF 2004**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Presidential Appointments Improvement Act of 2004”.

**SEC. 02. PURPOSES.**

The purposes of this title are to—

(1) improve the Presidential appointment process without violating the spirit and letter of conflict of interest laws; and

(2) provide a newly elected President the ability to submit all nominations to the Senate for all Presidential appointments as expeditiously as possible after the President takes office.

**SEC. \_\_\_\_ 03. PUBLIC FINANCIAL DISCLOSURE FOR JUDICIAL AND LEGISLATIVE PERSONNEL.**

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended to read as follows:

**“TITLE I—JUDICIAL AND LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS**

**“SEC. 101. PERSONS REQUIRED TO FILE.**

“(a) Within 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) or section 201(f) within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

“(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual to a position in the legislative or judicial branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

“(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

“(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

“(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

“(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termi-

nation occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f) or section 201(f).

“(f) The officers and employees referred to in subsections (a), (d), and (e) are—

“(1) a Member of Congress as defined under section 109(10);

“(2) an officer or employee of the Congress as defined under section 109(11);

“(3) a judicial officer as defined under section 109(8); and

“(4) a judicial employee as defined under section 109(6).

“(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed 90 days.

“(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the congressional ethics committees or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

“(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

“(2) the report required by subsection (e) shall be filed as provided in such subsection.

“(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the supervising ethics office determines that—

“(1) such individual is not a full-time employee of the Government,

“(2) such individual is able to provide services specially needed by the Government,

“(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

“(4) public financial disclosure by such individual is not necessary in the circumstances.

**“SEC. 102. CONTENTS OF REPORTS.**

“(a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

“(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating \$200 or more in value and the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

“(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds \$200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

“(i) Not more than \$1,000.

“(ii) Greater than \$1,000 but not more than \$2,500.

“(iii) Greater than \$2,500 but not more than \$5,000.

“(iv) Greater than \$5,000 but not more than \$15,000.

“(v) Greater than \$15,000 but not more than \$50,000.

“(vi) Greater than \$50,000 but not more than \$100,000.

“(vii) Greater than \$100,000 but not more than \$1,000,000.

“(viii) Greater than \$1,000,000 but not more than \$5,000,000.

“(ix) Greater than \$5,000,000.

“(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of \$100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

“(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater and received during the preceding calendar year.

“(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

“(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating \$5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

“(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed \$10,000 at any time during the preceding calendar year, excluding—

“(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

“(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$10,000 as of the close of the preceding calendar year need be reported under this paragraph.

“(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds \$1,000—

“(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

“(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

“(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 2-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

“(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of \$5,000 in any of the 2 calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

“(i) the identity of each source of such compensation; and

“(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

“(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to—

“(A) future employment;

“(B) a leave of absence during the period of the reporting individual's Government service;

“(C) continuation of payments by a former employer other than the United States Government; and

“(D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

“(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995, and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

“(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

“(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

“(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

“(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

“(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

“(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

“(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

“(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are—

“(A) not more than \$15,000;

“(B) greater than \$15,000 but not more than \$50,000;

“(C) greater than \$50,000 but not more than \$100,000;

“(D) greater than \$100,000 but not more than \$250,000;

“(E) greater than \$250,000 but not more than \$500,000;

“(F) greater than \$500,000 but not more than \$1,000,000;

“(G) greater than \$1,000,000 but not more than \$5,000,000;

“(H) greater than \$5,000,000 but not more than \$25,000,000;

“(I) greater than \$25,000,000 but not more than \$50,000,000; and

“(J) greater than \$50,000,000.

“(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list

(A) the date of purchase and the purchase price of the interest in the real property, or

(B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value,

but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection.

If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value.

In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

“(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

“(A) The source of items of earned income earned by a spouse from any person which exceed \$1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

“(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

“(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

“(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

“(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

“(F) For purposes of this section, categories with amounts or values greater than \$1,000,000 set forth in sections 102 (a)(1)(B) and (d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than \$1,000,000 shall be categorized only as an amount or value greater than \$1,000,000.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

“(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

“(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

“(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

“(A) any qualified blind trust (as defined in paragraph (3));

“(B) a trust—

“(i) which was not created directly by such individual, his spouse, or any dependent child, and

“(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

“(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

“(3) For purposes of this subsection, the term ‘qualified blind trust’ includes any

“(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

“(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

“(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

“(F) For purposes of this section, categories with amounts or values greater than \$1,000,000 set forth in sections 102 (a)(1)(B) and (d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than \$1,000,000 shall be categorized only as an amount or value greater than \$1,000,000.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

“(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

“(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

“(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

“(A) any qualified blind trust (as defined in paragraph (3));

“(B) a trust—

“(i) which was not created directly by such individual, his spouse, or any dependent child, and

“(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

“(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

“(3) For purposes of this subsection, the term ‘qualified blind trust’ includes any

trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

“(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

“(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

“(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

“(C) The trust instrument which establishes the trust provides that—

“(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

“(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

“(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$1,000;

“(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

“(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

“(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in

maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

“(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

“(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

“(E) For purposes of this subsection, ‘interested party’ means a reporting individual, his spouse, and any minor or dependent child; ‘broker’ has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘investment adviser’ includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

“(F) Any trust qualified by a supervising ethics office before January 1, 1991, shall continue to be governed by the law and regulations in effect immediately before such effective date.

“(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$1,000.

“(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

“(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

“(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

“(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

“(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

“(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to January 1, 1991, which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trust-

ee of such trust meets the requirements of paragraph (3)(A).

“(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

“(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

“(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

“(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

“(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

“(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

“(i) notify his supervising ethics office of such dissolution, and

“(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

“(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

“(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within 5 days of the date of the communication.

“(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

“(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

“(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is

brought may assess against such individual a civil penalty in any amount not to exceed \$10,000.

“(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,000.

“(7) Any trust may be considered to be a qualified blind trust if—

“(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

“(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

“(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

“(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

“(A)(i) the fund is publicly traded; or

“(ii) the assets of the fund are widely diversified; and

“(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

“(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

“(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

“(i) A reporting individual shall not be required under this title to report—

“(1) financial interests in or income derived from—

“(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

“(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

“(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

#### **“SEC. 103. FILING OF REPORTS.**

“(a) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

“(b)(1) The reports required under this title shall be filed by a reporting individual with—

“(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

“(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

“(ii) in the case of an officer or employee of the Congress as described under section 101(f)(2) who is employed by an agency or commission established in the legislative branch after November 30, 1989—

“(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

“(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

“(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (3) and (4) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

“(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

“(c) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 312(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

“(d)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

“(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

“(e) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

#### **“SEC. 104. FAILURE TO FILE OR FILING FALSE REPORTS.**

“(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$10,000.

“(b) Each congressional ethics committee or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

“(c) A congressional ethics committee and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

“(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

“(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

“(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of \$200. All such fees shall be deposited in the miscellaneous receipts of the Treasury.

“(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

#### **“SEC. 105. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

“(a) The supervising ethics office of the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such office or with the Clerk or the Secretary of the Senate.

“(b)(1) Except as provided in the second sentence of this subsection, the supervising ethics office in the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within 30 days after any report is received under this title by such office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for

public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

“(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

“(A) that person's name, occupation, and address;

“(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

“(C) that such person is aware of the prohibitions on the obtaining or use of the report. Any such application shall be made available to the public throughout the period during which the report is made available to the public.

“(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109 (6) or (8) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshal Service, that revealing personal and sensitive information could endanger that individual.

“(B) A report may be redacted pursuant to this paragraph only—

“(i) to the extent necessary to protect the individual who filed the report; and

“(ii) for as long as the danger to such individual exists.

“(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

“(i) the total number of reports redacted pursuant to this paragraph;

“(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

“(iii) the types of threats against individuals whose reports are redacted, if appropriate.

“(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

“(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

“(c)(1) It shall be unlawful for any person to obtain or use a report—

“(A) for any unlawful purpose;

“(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

“(C) for determining or establishing the credit rating of any individual; or

“(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

“(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be

in addition to any other remedy available under statutory or common law.

“(d) Any report filed with or transmitted to a supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

#### “SEC. 106. REVIEW OF REPORTS.

“(a) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within 60 days after the date of such filing.

“(b)(1) If after reviewing any report under subsection (a), a person designated by the congressional ethics committee or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

“(2) If a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

“(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

“(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

“(3) If a person designated by a congressional ethics committee or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

“(A) divestiture,

“(B) restitution,

“(C) the establishment of a blind trust,

“(D) request for an exemption under section 208(b) of title 18, United States Code, or

“(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

“(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position appointment to which requires the advice and consent of the Senate but removal authority resides in the President, the matter shall be referred to the President for appropriate action.

“(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the congressional ethics committee or the Judicial Conference, for appropriate action.

“(6) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

#### “SEC. 107. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

“(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of the legislative or judicial branch shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, official codes of conduct or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

“(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

“(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

“(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

“(c) Nothing in this Act requiring reporting of information shall be deemed to authorize—

“(1) the receipt of income, gifts, or reimbursements;

“(2) the holding of assets, liabilities, or positions; or

“(3) the participation in transactions that are prohibited by law, rule, or regulation.



**"SEC. 108. AUTHORITY OF COMPTROLLER GENERAL.**

"(a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

"(b) Not later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

**"SEC. 109. DEFINITIONS.**

"For the purposes of this title, the term—  
 "(1) 'congressional ethics committees' means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

"(2) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

"(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

"(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

"(3) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

"(A) bequest and other forms of inheritance;

"(B) suitable mementos of a function honoring the reporting individual;

"(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

"(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

"(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

"(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

"(4) 'honoraria' has the meaning given such term in section 505 of this Act;

"(5) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

"(6) 'judicial employee' means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

"(7) 'Judicial Conference' means the Judicial Conference of the United States;

"(8) 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

"(9) 'legislative branch' includes—

"(A) the Architect of the Capitol;

"(B) the Botanic Gardens;

"(C) the Congressional Budget Office;

"(D) the General Accounting Office;

"(E) the Government Printing Office;

"(F) the Library of Congress;

"(G) the United States Capitol Police;

"(H) the Office of Compliance; and

"(I) any other agency, entity, office, or commission established in the legislative branch;

"(10) 'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

"(11) 'officer or employee of the Congress' means—

"(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

"(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

"(ii) at least 1 principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

"(12) 'personal hospitality of any individual' means hospitality extended for a non-business purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

"(13) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

"(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

"(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

"(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

"(14) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiancé or fiancée of the reporting individual;

"(15) 'supervising ethics office' means—

"(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers, or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

"(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers, and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title; and

"(C) the Judicial Conference for judicial officers and judicial employees; and

"(16) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

**"SEC. 110. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.**

"(a) In any case in which an individual agrees with a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

"(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

**"SEC. 111. ADMINISTRATION OF PROVISIONS.**

"The provisions of this title shall be administered by—

"(1) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (1) and (2) of section 101(f); and

"(2) the Judicial Conference in the case of an officer or employee described in paragraphs (3) and (4) of section 101(f). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference."

**SEC. 404. PUBLIC FINANCIAL DISCLOSURE FOR THE EXECUTIVE BRANCH.**

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting after title I the following:

**"TITLE II—EXECUTIVE PERSONNEL  
FINANCIAL DISCLOSURE REQUIREMENTS****"SEC. 201. PERSONS REQUIRED TO FILE.**

"(a) Within 30 days of assuming the position of an officer or employee described in

subsection (f), an individual shall file a report containing the information described in section 202(b) unless the individual has left another position described in subsection (f) of this section or section 101(f) of this Act within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

“(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 or below) to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 202(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 202(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

“(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

“(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President or Vice President or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President or Vice President shall file a report containing the information described in section 202(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

“(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 202(a).

“(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 202(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (f) or section 101(f).

“(f) The officers and employees referred to in subsections (a), (d), and (e) are—

“(1) the President;

“(2) the Vice President;

“(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

“(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

“(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

“(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service, each officer or employee of the United States Postal Service who is designated as a member of the Postal Career Executive Service (PCES I or II), and each officer or employee of the Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

“(7) the Director of the Office of Government Ethics and each designated agency ethics official; and

“(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President.

“(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

“(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

“(i) the last day of the individual's service in such area during such designated period; or

“(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

“(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

“(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, ex-

cept that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

“(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

“(2) the report required by subsection (e) shall be filed as provided in such subsection.

“(i) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the Director determines that—

“(1) such individual is not a full-time employee of the Government,

“(2) such individual is able to provide services specially needed by the Government,

“(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

“(4) public financial disclosure by such individual is not necessary in the circumstances.

#### “SEC. 202. CONTENTS OF REPORTS.

“(a) Each report filed pursuant to section 201 (d) and (e) shall include a full and complete statement with respect to the following:

“(1)(A) The source, description, and category of amount of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than \$500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

“(B) The source, description, and category of amount or value of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds \$500 in amount or value.

“(C) The categories for reporting the amount or value for income covered in subparagraphs (A) and (B) of this paragraph are—

“(i) greater than \$500 but not more than \$20,000;

“(ii) greater than \$20,000 but not more than \$100,000;

“(iii) greater than \$100,000 but not more than \$1,000,000;

“(iv) greater than \$1,000,000 but not more than \$2,500,000; and

“(v) greater than \$2,500,000.

“(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of \$100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

“(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater and received during the preceding calendar year.

“(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

“(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating \$100,000 or less in a financial institution, or any Federal Government securities aggregating \$100,000 or less.

“(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed \$20,000 at any time during the preceding calendar year, excluding—

“(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

“(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$20,000 as of the close of the preceding calendar year need be reported under this paragraph.

“(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, and stocks, bonds, commodities futures, and other forms of securities, if—

“(A) purchased, sold, or exchanged during the preceding calendar year;

“(B) the value of the transaction exceeded \$5,000; and

“(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3) of this section. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

“(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

“(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of \$25,000 in the calendar year prior to or the calendar year in which the individual files his first report under this title, the individual shall include in the report—

“(i) the identity of each source of such compensation; and

“(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

“(C) Subparagraph (B) shall not require any individual to include in such report any information—

“(i) with respect to a person for whom services were provided by any firm or association of which such individual was a mem-

ber, partner, or employee unless the individual was directly involved in the provision of such services;

“(ii) that is protected by a court order or is under seal; or

“(iii) that is considered confidential as a result of—

“(I) a privileged relationship established by a confidentiality agreement entered into at the time the person retained the services of the individual;

“(II) a grand jury proceeding or a non-public investigation, if there are no public filings, statements, appearances, or reports that identify the person for whom such individual is providing services; or

“(III) an applicable rule of professional conduct that prohibits disclosure of the information and that can be enforced by a professional licensing body.

“(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date of that agreement.

“(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

“(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 201 shall include a full and complete statement with respect to the information required by—

“(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

“(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

“(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

“(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director for a reporting individual.

“(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

“(c) In the case of any individual referred to in section 201(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

“(d)(1) The categories for reporting the amount or value of the items covered in paragraph (3) of subsection (a) are—

“(A) greater than \$5,000 but not more than \$15,000;

“(B) greater than \$15,000 but not more than \$100,000;

“(C) greater than \$100,000 but not more than \$1,000,000;

“(D) greater than \$1,000,000 but not more than \$2,500,000; and

“(E) greater than \$2,500,000.

“(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property

for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

“(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—

“(A) greater than \$20,000 but not more than \$100,000;

“(B) greater than \$100,000 but not more than \$500,000;

“(C) greater than \$500,000 but not more than \$1,000,000; and

“(D) greater than \$1,000,000.

“(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 201 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

“(A) The sources of earned income earned by a spouse, including honoraria, which exceed \$500, except that, with respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

“(B) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.

“(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

“(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

“(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) are ones from which he neither derives, nor expects to derive, any financial or economic benefit.

“(F) Reports required by subsections (a), (b), and (c) of section 201 shall, with respect

to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

“(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

“(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

“(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

“(A) any qualified blind trust (as defined in paragraph (3));

“(B) a trust—

“(i) which was not created directly by such individual, his spouse, or any dependent child, and

“(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

“(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

“(3) For purposes of this subsection, the term ‘qualified blind trust’ includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

“(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

“(I) is independent of and not affiliated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

“(I) is independent of and not affiliated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

“(C) The trust instrument which establishes the trust provides that—

“(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee

in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

“(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

“(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$1,000;

“(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

“(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

“(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

“(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

“(D) The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.

“(E) For purposes of this subsection, ‘interested party’ means a reporting individual, his spouse, and any minor or dependent child; ‘broker’ has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘investment adviser’ includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

“(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$1,000.

“(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

“(I) the assets placed in the trust consist of a widely-diversified portfolio of readily marketable securities;

“(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

“(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

“(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

“(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

“(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

“(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

“(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

“(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

“(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

“(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

“(i) notify the Office of Government Ethics of such dissolution; and

“(ii) file with such office and his Designated Agency Ethics Official a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

“(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 205 and the provisions of that section shall apply with respect to such documents and lists.

“(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

“(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

“(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

“(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$11,000.

“(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,500.

“(7) Any trust may be considered to be a qualified blind trust if—

“(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

“(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

“(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

“(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

“(A)(i) the fund is publicly traded; or  
“(ii) the assets of the fund are widely diversified; and

“(B) the reporting individual neither exercises control over nor has the ability to exer-

cise control over the financial interests held by the fund.

“(9)(A) A reporting individual described in subsection (a), (b), or (c) of section 201 shall not be required to report the assets or sources of income of any publicly available investment fund if—

“(i) the identity of such assets and sources of income is not provided to investors;

“(ii) the reporting individual neither exercises control over nor has the ability to exercise control over the fund; and

“(iii) the reporting individual—

“(I) does not otherwise have knowledge of the individual assets of the fund and provides written certification by the fund manager that individual assets of the fund are not disclosed to investors; or

“(II) has executed a written ethics agreement that contains a commitment to divest the interest in the investment fund no later than 90 days after the date of the agreement.

The reporting individual shall file the written certification by the fund manager as an attachment to the report filed pursuant to section 201.

“(B)(i) The provisions of subparagraph (A) shall apply to an individual described in subsection (d) or (e) of section 201 if—

“(I) the interest in the trust or investment fund is acquired involuntarily during the period to be covered by the report, such as through marriage or inheritance, and

“(II) for an individual described in subsection (d), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date on which the report is due.

“(ii) An agreement described under clause (I)(II) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

“(iii) Failure to divest within the time specified or within an extension period granted by the Director of the Office of Government Ethics for good cause shown shall result in an immediate requirement to report as specified in paragraph (1) of this subsection.

“(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

“(h) A report filed pursuant to subsection (a), (d), or (e) of section 201 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

“(i) A reporting individual shall not be required under this title to report—

“(1) financial interests in or income derived from—

“(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

“(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

“(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

“(j)(1) Every month each designated agency ethics officer shall submit to the Office of Government Ethics notification of any waiver of criminal conflict of interest laws granted to any individual in the preceding month with respect to a filing under this title that is not confidential.

“(2) Every month the Office of Government Ethics shall make publicly available on the Internet—

“(A) all notifications of waivers submitted under paragraph (1) in the preceding month; and

“(B) notification of all waivers granted by the Office of Government Ethics in the preceding month.

“(k) A full copy of any waiver of criminal conflict of interest laws granted shall be included with any filing required under this title with respect to the year in which the waiver is granted.

“(l) The Office of Government Ethics shall provide upon request any waiver on file for which notice has been published.

#### “SEC. 203. FILING OF REPORTS.

“(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 201(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

“(b) The President, the Vice President and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code shall file reports required under this title with the Director of the Office of Government Ethics.

“(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2) (A) or (B), 106(a)(1) (A) or (B), or 107 (a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions within the executive branch which require confirmation by the Senate shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

“(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

“(e) Each individual identified in section 201(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

“(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

“(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

#### “SEC. 204. FAILURE TO FILE OR FILING FALSE REPORTS.

“(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 202. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$11,000 or order the individual to file or report any information required by section 202 or both.

“(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual which such official

has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

“(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

“(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

“(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

“(B) if a filing extension is granted to such individual under section 201(g), the last day of the filing extension period,

shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of \$500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

“(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

#### **“SEC. 205. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

“(a) Each agency and the Office of Government Ethics shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or Office except that this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest.

“(b)(1) Except as provided in the second sentence of this subsection, each agency and the Office of Government Ethics shall, within 30 days after any report is received under this title by such agency or Office, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 201(g). The agency or the Office of Government Ethics may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

“(2) Notwithstanding paragraph (1), a report may not be made available under this

section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

“(A) that person's name, occupation, and address;

“(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

“(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

“(c)(1) It shall be unlawful for any person to obtain or use a report—

“(A) for any unlawful purpose;

“(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

“(C) for determining or establishing the credit rating of any individual; or

“(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

“(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

“(d) Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be retained by such agency or Office, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President unless needed in an ongoing investigation.

#### **“SEC. 206. REVIEW OF REPORTS.**

“(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

“(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

“(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

“(A) believes additional information is required to be submitted to complete the report or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

“(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

“(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

“(A) divestiture,

“(B) restitution,

“(C) the establishment of a blind trust,

“(D) request for an exemption under section 208(b) of title 18, United States Code, or

“(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

“(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

“(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

“(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the designated agency ethics official of the United States Postal Service shall notify the Director of the Office of Government Ethics, who then shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

“(7) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

#### **“SEC. 207. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.**

“(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection



by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 205 shall not apply with respect to any such report.

“(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

“(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

“(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

“(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

#### **“SEC. 208. AUTHORITY OF COMPTROLLER GENERAL.**

“The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

#### **“SEC. 209. DEFINITIONS.**

“For the purposes of this title, the term—  
“(1) ‘dependent child’ means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

“(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

“(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

“(2) ‘designated agency ethics official’ means an officer or employee who is designated to administer the provisions of this title within an agency;

“(3) ‘executive branch’ includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

“(4) ‘gift’ means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

“(A) bequest and other forms of inheritance;

“(B) suitable mementos of a function honoring the reporting individual;

“(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the

United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

“(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

“(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

“(F) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.

“(5) ‘honoraria’ means a payment of money or anything of value for an appearance, speech, or article;

“(6) ‘income’ means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

“(7) ‘personal hospitality of any individual’ means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

“(8) ‘reimbursement’ means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

“(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

“(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

“(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

“(9) ‘relative’ means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiancé or fiancée of the reporting individual;

“(10) ‘Secretary concerned’ has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—

“(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;

“(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

“(C) the Secretary of State, with respect to matters concerning the Foreign Service; and

“(11) ‘value’ means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

#### **“SEC. 210. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.**

“(a) In any case in which an individual agrees with that individual’s designated agency ethics official, the Office of Govern-

ment Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.

“(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual’s designated agency ethics official or the Office of Government Ethics not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

#### **“SEC. 211. ADMINISTRATION OF PROVISIONS.**

“The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.”

#### **SEC. 05. TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.**

(a) DEFINITION.—In this section, the term “major party” has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

##### **(b) TRANSMITTAL.—**

(1) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(2) OTHER CANDIDATES.—After making transmittals under paragraph (1), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(c) CONTENT.—The record transmitted under this section shall provide—

(1) all positions which are appointed by the President, including the title and description of the duties of each position;

(2) the name of each person holding a position described under paragraph (1);

(3) any vacancy in the positions described under paragraph (1), and the period of time any such position has been vacant;

(4) the date on which an appointment made after the applicable Presidential election for any position described under paragraph (1) is necessary to ensure effective operation of the Government; and

(5) any other information that the Office of Personnel Management determines is useful in making appointments.

**SEC. \_\_\_\_ 06. REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.**

(a) **DEFINITION.**—In this section, the term “agency” means an Executive agency as defined under section 105 of title 5, United States Code.

(b) **REDUCTION PLAN.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

- (A) the President;
- (B) the Committee on Governmental Affairs of the Senate; and
- (C) the Committee on Government Reform of the House of Representatives.

(2) **CONTENT.**—The plan under this subsection shall provide for the reduction of—

(A) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(B) the number of levels of such positions within that agency.

**SEC. \_\_\_\_ 07. OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

- (1) the President;
- (2) the Committee on Governmental Affairs of the Senate;
- (3) the Committee on the Judiciary of the Senate;
- (4) the Committee on Government Reform of the House of Representatives; and
- (5) the Committee on the Judiciary of the House of Representatives.

(b) **CONTENT.**—The report under this section shall—

(1) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(2) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

**SEC. \_\_\_\_ 08. EFFECTIVE DATE.**

(a) **AMENDMENTS TO ETHICS IN GOVERNMENT ACT OF 1978.**—

(1) **IN GENERAL.**—Subject to subsection (b), the amendments made by sections \_\_\_\_ 03 and \_\_\_\_ 04 shall take effect on January 1 of the year following the date of enactment of this title.

(2) **LATER DATE.**—If the date of enactment of this title is on or after July 1 of any calendar year, the amendments made by sections \_\_\_\_ 03 and \_\_\_\_ 04 shall take effect on July 1 in the year following the date of enactment of this title.

(b) **OTHER PROVISIONS.**—Sections \_\_\_\_ 01, \_\_\_\_ 02, \_\_\_\_ 05, \_\_\_\_ 06, and \_\_\_\_ 07 shall take effect on the date of enactment of this title.

**SA 3722.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

**SEC. \_\_\_\_ USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.**

(a) **IN GENERAL.**—The National Intelligence Director shall take appropriate actions to ensure, to the maximum extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) **PROCEDURES FOR UTILIZATION.**—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) **DEFINITIONS.**—In this section, the terms “imagery” and “geospatial information” have the meanings given such terms in section 467 of title 10, United States Code.

**SA 3723.** Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, between lines 17 and 18, insert the following:

(4) The Director shall establish a national intelligence center under this section to be known as the Center for Alternative Intelligence Analysis. The Center for Alternative Intelligence Analysis shall have the mission specified in subsection (e).

On page 97, between lines 4 and 5, insert the following:

(e) **MISSION OF CENTER FOR ALTERNATIVE INTELLIGENCE ANALYSIS.**—(1) Notwithstanding subsection (d), the mission of the Center for Alternative Intelligence Analysis under subsection (a)(4) shall be to subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts and assumptions utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Center may also subject each document referred to in subparagraph (B), before the completion of such document, to a thorough examination as described in paragraph (1).

(B) The documents referred to in this subparagraph are as follows:

(i) A Senior Executive Intelligence Brief (SEIB).

(ii) An Indications and Warning (I&W) report.

(iii) Any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director for purposes of this subsection.

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Center shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a “CAIA analysis” of such estimate or document.

(5) The result of each examination of an estimate or document under this subsection shall be submitted to the following:

- (A) The National Intelligence Director.
- (B) The heads of other departments, agencies, and elements of the intelligence community designated by the President or the National Intelligence Director for purposes of this subsection.
- (C) The congressional intelligence committees.

(6)(A) An examination under this subsection shall accompany each National Intelligence Estimate and any other document, report, assessment, or survey designated by the Director for purposes of this subsection.

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the documents, reports, assessments, and surveys, if any, designated by the Director under subparagraph (A).

On page 97, line 5, strike “(e)” and insert “(f)”.

On page 97, line 19, strike “(f)” and insert “(g)”.

On page 99, line 21, strike “(g)” and insert “(h)”.

On page 99, line 22, insert “(other than the Center for Alternative Intelligence Analysis)” after “a national intelligence center”.

**SA 3724.** Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE IV—TOOLS TO FIGHT TERRORISM ACT OF 2004**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Tools to Fight Terrorism Act of 2004”.

**Subtitle A—Anti-Terrorism Investigative Tools Improvement Act**

**SEC. 411. SHORT TITLE.**

This subtitle may be cited as the “Anti-terrorism Investigative Tools Improvement Act of 2004”.

**SEC. 412. FISA WARRANTS FOR LONE-WOLF TERRORISTS.**

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:

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

**SEC. 413. ADDING TERRORIST OFFENSES TO STATUTORY PRESUMPTION OF NO BAIL.**

Section 3142 of title 18, United States Code, is amended—

(1) in the flush language at the end of subsection (e) by inserting before the period at the end the following: “, or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code”; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after “violence” the following: “or

an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code.”.

**SEC. 414. MAKING TERRORISTS ELIGIBLE FOR LIFETIME POST-RELEASE SUPERVISION.**

Section 3583(j) of title 18, United States Code, is amended by striking “, the commission” and all that follows through “person.”.

**SEC. 415. JUDICIALLY ENFORCEABLE SUBPOENAS IN TERRORISM INVESTIGATIONS.**

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

**“§ 2332g. Judicially enforceable terrorism subpoenas**

“(a) AUTHORIZATION OF USE.—

“(1) IN GENERAL.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

“(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

“(3) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

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

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

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

“(b) SERVICE.—

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

“(2) SERVICE OF SUBPOENA.—

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

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

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

“(c) ENFORCEMENT.—

“(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena

issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

“(2) ORDER.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to produce records or other materials, or to give testimony concerning the production and authenticity of those materials. Any failure to obey the order of the court may be punished by the court as contempt thereof.

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

“(d) NONDISCLOSURE REQUIREMENT.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, if the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

“(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

“(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

“(C) other persons as permitted by the Attorney General.

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

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

“(4) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Whoever knowingly violates paragraph (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

“(5) TERMINATION OF NONDISCLOSURE REQUIREMENT.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

“(e) JUDICIAL REVIEW.—

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

“(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

“(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

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

“(g) REPORTING REQUIREMENT.—The Attorney General shall submit to the Select Committee on Intelligence of the Senate and the permanent Select Committee on Intelligence of the House of Representatives each year a report setting forth with respect to the 1-year period ending on the date of such report—

“(1) the aggregate number of subpoenas issued under this section; and

“(2) the circumstances under which each such subpoena was issued.

“(h) GUIDELINES.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.”.

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

“2332g. Judicially enforceable terrorism subpoenas.”.

**SEC. 416. HOAXES RELATING TO TERRORIST OFFENSES.**

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

**“§ 1038. False information and hoaxes**

“(a) CRIMINAL VIOLATION.—

“(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed, and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under section 2332b(g)(5)(B) of this title—

“(A) be fined under this title or imprisoned not more than 5 years, or both;

“(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

“(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

“(2) ARMED FORCES.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

“(A) be fined under this title or imprisoned not more than 5 years, or both;

“(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

“(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

“(b) CIVIL ACTION.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken,

is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

**“(c) REIMBURSEMENT.—**

**“(1) IN GENERAL.—**The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

**“(2) LIABILITY.—**A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

**“(3) CIVIL JUDGMENT.—**An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

**“(d) ACTIVITIES OF LAW ENFORCEMENT.—**This section shall not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.”

**(b) CLERICAL AMENDMENT.—**The table of sections of chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1037 the following: “1038. False information and hoaxes.”

**SEC. 417. INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.**

**(a) ENHANCED PENALTY.—**Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking “be fined under this title or imprisoned not more than 5 years, or both” and inserting “be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both”.

**(b) SENTENCING GUIDELINES.—**Not later than 30 days after the date of enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

**SEC. 418. AUTOMATIC PERMISSION FOR EX PARTE REQUESTS FOR PROTECTION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.**

The second sentence of section 4 of the Classified Information Procedures Act (18 U.S.C. App. 3) is amended—

(1) by striking “may” and inserting “shall”; and

(2) by striking “a written statement to be inspected” and inserting “a statement to be considered”.

**SEC. 419. USE OF FISA INFORMATION IN IMMIGRATION PROCEEDINGS.**

The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting “(other than in proceedings or other civil matters under the immigration laws (as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))” after “authority of the United States”:

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

**SEC. 420. EXPANDED DEATH PENALTY FOR TERRORIST MURDERS.**

**(a) IN GENERAL.—**Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

**“§ 2339D. Terrorist offenses resulting in death**

**“(a) PENALTY.—**A person who, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death, or imprisoned for any term of years or for life.

**“(b) TERRORIST OFFENSE DEFINED.—**In this section, the term ‘terrorist offense’ means—

“(1) international or domestic terrorism as defined in section 2331;

“(2) a Federal crime of terrorism as defined in section 2332b(g);

“(3) an offense under—

“(A) this chapter;

“(B) section 175, 175b, 229, or 831; or

“(C) section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

“(4) an attempt or conspiracy to commit an offense described in paragraph (1), (2), or (3).”

**(b) CHAPTER ANALYSIS.—**The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

“2339D. Terrorist offenses resulting in death.”

**(c) AGGRAVATING FACTORS.—**

**(1) IN GENERAL.—**Section 3591(a)(1) of title 18, United States Code, is amended by striking “or section 2381” and inserting “, 2339D, or 2381”.

**(2) CONFORMING AMENDMENT.—**Section 3592(b) of title 18, United States Code, is amended—

(A) in the section heading, by striking “AND TREASON” and inserting “, TREASON, AND TERRORISM”; and

(B) in paragraph (1)—

(i) in the section heading, by striking “OR TREASON” and inserting “, TREASON, OR TERRORISM”; and

(ii) by striking “or treason” and inserting “, treason, or terrorism”.

**(d) DEATH PENALTY IN CERTAIN AIR PIRACY CASES.—**Section 60003(b) of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103-322), is amended, as of the time of its enactment, by adding at the end the following:

**“(2) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—**An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93-366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term ‘especially heinous, cruel, or depraved’, as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its prede-

cessor, shall be narrowed by adding the limiting language ‘in that it involved torture or serious physical abuse to the victim’, and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.”

**SEC. 421. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.**

**(a) IN GENERAL.—**Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

**“§ 2339E. Denial of Federal benefits to terrorists**

**“(a) IN GENERAL.—**Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

**“(b) FEDERAL BENEFIT DEFINED.—**As used in this section, ‘Federal benefit’ has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).”

**(b) CHAPTER ANALYSIS.—**The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

“2339E. Denial of Federal benefits to terrorists.”

**SEC. 422. UNIFORM STANDARDS FOR INFORMATION SHARING ACROSS FEDERAL AGENCIES.**

**(a) TELEPHONE RECORDS.—**Section 2709(d) of title 18, United States Code, is amended by striking “for foreign” and all that follows through “such agency”.

**(b) CONSUMER INFORMATION UNDER 15 U.S.C. 1681u.—**Section 625(f) of the Fair Credit Reporting Act (15 U.S.C. 1681u(f)) is amended to read as follows:

**“(f) DISSEMINATION OF INFORMATION.—**The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.”

**(c) CONSUMER INFORMATION UNDER 15 U.S.C. 1681v.—**Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

**“(d) DISSEMINATION OF INFORMATION.—**The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.”

**(d) FINANCIAL RECORDS.—**Section 1114(a)(5)(B) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(B)) is amended by striking “for foreign” and all that follows through “such agency”.

**(e) RECORDS CONCERNING CERTAIN GOVERNMENT EMPLOYEES.—**Section 802(e) of the National Security Act of 1947 (50 U.S.C. 436(e)) is amended—

(1) by striking “An agency” and inserting the following: “The Federal Bureau of Investigation may disseminate records or information received pursuant to a request under this section only as provided in guidelines approved by the Attorney General. Any other agency”; and

(2) in paragraph (3), by striking “clearly”.

**SEC. 423. AUTHORIZATION TO SHARE NATIONAL SECURITY AND GRAND-JURY INFORMATION WITH STATE AND LOCAL GOVERNMENTS.**

**(a) INFORMATION OBTAINED IN NATIONAL SECURITY INVESTIGATIONS.—**Section 203(d) of the USA PATRIOT ACT (50 U.S.C. 403-5d) is amended—

(1) in paragraph (1), by striking “criminal investigation” each place it appears and inserting “criminal or national security investigation”; and

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

“(2) DEFINITIONS.—As used in this subsection—

“(A) the term ‘foreign intelligence information’ means—

“(i) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

“(I) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(II) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

“(III) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

“(ii) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

“(I) the national defense or the security of the United States; or

“(II) the conduct of the foreign affairs of the United States; and

“(B) the term ‘national security investigation’—

“(i) means any investigative activity to protect the national security; and

“(ii) includes—

“(I) counterintelligence and the collection of intelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)); and

“(II) the collection of foreign intelligence information.”.

(b) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking “or state subdivision or of an Indian tribe” and inserting “, state subdivision, Indian tribe, or foreign government”;

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: “An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat.”; and

(ii) in clause (i)—

(I) by striking “federal”; and

(II) by adding at the end the following: “Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.”; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

“(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation.”; and

(iii) in clause (iv), as redesignated—

(I) by striking “state or Indian tribal” and inserting “State, Indian tribal, or foreign”; and

(II) by striking “or Indian tribal official” and inserting “Indian tribal, or foreign government official”; and

(2) in paragraph (7), by inserting “, or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,” after “Rule 6”.

(c) CONFORMING AMENDMENT.—Section 203(c) of the USA PATRIOT ACT (18 U.S.C. 2517 note) is amended by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting “Rule 6(e)(3)(D)”.

#### SEC. 424. PROVIDING MATERIAL SUPPORT TO TERRORISM.

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

(1) by striking “Whoever” and inserting the following:

“(1) IN GENERAL.—Any person who”; and

(2) by striking “A violation” and inserting the following:

“(3) PROSECUTION.—A violation”; and

(3) by inserting after paragraph (1) the following:

“(2) ADDITIONAL OFFENSE.—

“(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

“(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

“(i) the offense occurs in or affects interstate or foreign commerce;

“(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

“(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

“(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

“(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

“(III) a stateless person whose habitual residence is in the United States;

“(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

“(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

“(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.”; and

(4) by inserting “act or” after “underlying”.

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘material support or resources’ means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

“(2) the term ‘training’ means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

“(3) the term ‘expert advice or assistance’ means advice or assistance derived from scientific, technical, or other specialized knowledge.”.

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking “Whoever, within the United States or subject to the jurisdiction of the United States,” and inserting the following:

“(A) IN GENERAL.—Any person who”; and

(2) by adding at the end the following:

“(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

“(i) is a terrorist organization;

“(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

“(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).”.

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

“(d) JURISDICTION.—

“(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

“(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

“(B) an offender is a stateless person whose habitual residence is in the United States;

“(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

“(D) the offense occurs in whole or in part within the United States;

“(E) the offense occurs in or affects interstate or foreign commerce; or

“(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

“(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.”.

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

“(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term ‘personnel’ unless that

person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control."

**SEC. 425. RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.**

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

**"§ 2339F. Receiving military-type training from a foreign terrorist organization**

"(a) OFFENSE.—

"(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

"(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

"(b) JURISDICTION.—

"(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

"(B) an offender is a stateless person whose habitual residence is in the United States;

"(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; and

"(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) DEFINITIONS.—In this section:

"(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

"(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

"(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

"(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"2339F. Receiving military-type training from a foreign terrorist organization."

(b) INADMISSIBILITY OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking "is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity."; and

(2) by inserting after subclause (VII) the following:

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity."

(c) INADMISSIBILITY OF REPRESENTATIVES AND MEMBERS OF TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or"; and

(2) by striking subclause (V) and inserting the following:

"(V) is a member of—

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

"(bb) an organization which the alien knows or should have known is a terrorist organization."

(d) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a

terrorist organization under section 212(a)(3)(B)(vi), is deportable."

(e) RETROACTIVE APPLICATION.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occurring before, on, or after the date of enactment of this Act.

**SEC. 426. WEAPONS OF MASS DESTRUCTION.**

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2)(A) against any person or property within the United States; and

"(B)(i) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

"(ii) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

"(iii) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

"(iv) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;"

(B) in paragraph (3), by striking the comma at the end and inserting "; or"; and

(C) by adding at the end the following:

"(4) against any property within the United States that is owned, leased, or used by a foreign government;"

(2) in subsection (c)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) the term 'property' includes all real and personal property."

(b) RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.—

(1) IN GENERAL.—Section 2332a of title 18, United States Code, as amended by this Act, is further amended by—

(A) in the section heading, by striking "CERTAIN";

(B) in subsection (a), by striking "(other than a chemical weapon as that term is defined in section 229F)"; and

(C) in subsection (b), by striking "(other than a chemical weapon (as that term is defined in section 229F))".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended in the matter relating to section 2332a by striking "certain".

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting "(i)" after "(G)";

(B) by striking "or" after the semicolon; and

(C) by adding at the end the following:

"(ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;"

(2) in subparagraph (H), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization (as that term is defined under section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)))."

(d) CONFORMING AMENDMENT TO REGULATIONS.—



(1) IN GENERAL.—Section 175b(a)(1) of title 18, United States Code, is amended by striking “as a select agent in Appendix A” and all that follows through the period and inserting “as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

#### **SEC. 427. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.**

(a) ATOMIC ENERGY ACT.—Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking “in the production of any special nuclear material” and inserting “or participate in the development or production of any special nuclear material or atomic weapon”.

(b) NUCLEAR WEAPON AND WMD THREATS.—

(1) IN GENERAL.—Chapter 39 of title 18, United States Code, is amended by adding at the end the following:

#### **“§ 838. Participation in nuclear and weapons of mass destruction threats to the United States**

“(a) IN GENERAL.—Whoever, within the United States, or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as that term is defined under section 2339A) to a nuclear weapons program, or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

“(b) JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

“(c) DEFINITIONS.—As used in this section—

“(1) FOREIGN TERRORIST POWER.—The term ‘foreign terrorist power’ means a terrorist organization designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

“(2) NUCLEAR WEAPON.—The term ‘nuclear weapon’ means any weapon that contains or uses nuclear material (as that term is defined under section 831(f)(1)).

“(3) NUCLEAR WEAPONS PROGRAM.—The term ‘nuclear weapons program’ means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons.

“(4) WEAPONS OF MASS DESTRUCTION PROGRAM.—The term ‘weapons of mass destruction program’ means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as that term is defined in section 2332a(c)).”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 39 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 838. Participation in nuclear and weapons of mass destruction threats to the United States.”.

(c) ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting “832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)” after “nuclear materials”).”.

#### **Subtitle B—Prevention of Terrorist Access to Special Weapons Act**

##### **SEC. 431. SHORT TITLE.**

This subtitle may be cited as the “Prevention of Terrorist Access to Special Weapons Act of 2004”.

##### **SEC. 432. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332g, as added by this Act, the following:

#### **“§ 2332h. Missile systems designed to destroy aircraft**

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

“(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

“(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

“(ii) otherwise direct or guide the rocket or missile to an aircraft;

“(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

“(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

“(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

“(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

“(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

“(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for life.

“(3) DEATH PENALTY.—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.

“(d) DEFINITION.—As used in this section, the term ‘aircraft’ has the definition set forth in section 40102(a)(6) of title 49, United States Code.”.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

“2332h. Missile systems designed to destroy aircraft.”.

##### **SEC. 433. ATOMIC WEAPONS.**

(a) PROHIBITIONS.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

(1) inserting at the beginning “a.” before “It”;

(2) inserting “knowingly” after “for any person to”;

(3) striking “or” before “export”;

(4) striking “transfer or receive in interstate or foreign commerce,” before “manufacture”;

(5) inserting “receive,” after “acquire,”;

(6) inserting “, or use, or possess and threaten to use,” before “any atomic weapon”;

(7) inserting at the end the following:

“b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

“(2) the offense is committed against a national of the United States while the national is outside the United States;

“(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.”.

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning “a.” before “Whoever”;

(2) striking “, 92.”; and

(3) inserting at the end the following:

“b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than \$2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than \$2,000,000 and imprisoned for life. If the death of another results from a person’s violation of section 92, the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.”.

##### **SEC. 434. RADIOLOGICAL DISPERSAL DEVICES.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h, as added by this Act, the following:

#### **“§ 2332i. Radiological dispersal devices**

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any

person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

“(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

“(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

“(2) EXCEPTION.—This subsection does not apply with respect to—

“(A) conduct by or under the authority of the United States or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

“(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for life.

“(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.”

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

“2332i. Radiological dispersal devices.”

#### SEC. 435. VARIOLA VIRUS.

(a) IN GENERAL.—Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

##### “§ 175c. Variola virus

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

“(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

“(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for life.

“(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.

“(d) DEFINITION.—As used in this section, the term “variola virus” means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.”

(b) CHAPTER ANALYSIS.—The table of sections of chapter 10 of title 18, United States Code, is amended by inserting at the end the following:

“175c. Variola virus.”

#### SEC. 436. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting “2122 and” after “sections”;

(2) in paragraph (c), by inserting “section 175c (relating to variola virus),” after “section 175 (relating to biological weapons).”;

(3) in paragraph (q), by inserting “2332h, 2332i,” after “2332f.”; and

(4) in paragraph (q), by striking “or 2339C” and inserting “2339C, or 2339E”.

#### SEC. 437. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before “2339 (relating to harboring terrorists)” the following: “2332h (relating to missile systems designed to destroy aircraft), 2332i (relating to radiological dispersal devices).”;

(B) by inserting “175c (relating to variola virus),” after “175 or 175b (relating to biological weapons).”;

(C) by inserting “2339E (receiving military-type training from a foreign terrorist organization),” after “2339C (relating to financing of terrorism).”;

(2) in clause (ii)—

(A) by striking “section” and inserting “sections 92 (relating to prohibitions governing atomic weapons) or”;

(B) by inserting “2122 or” before “2284”.

#### SEC. 438. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after “section 152 (relating to concealment of assets; false oaths and claims; bribery),” the following: “section 175c (relating to the variola virus).”;

(2) by inserting after “section 2332(b) (relating to international terrorist acts transcending national boundaries),” the following: “section 2332h (relating to missile systems designed to destroy aircraft), section 2332i (relating to radiological dispersal devices).”;

(3) striking “or” after “any felony violation of the Foreign Agents Registration Act of 1938,” and after “any felony violation of the Foreign Corrupt Practices Act”, striking “;” and inserting “; or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons).”

#### SEC. 439. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking “or” before “(xi).”;

(2) by inserting after clause (xi) the following: “or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b).”

#### Subtitle C—Railroad Carriers and Mass Transportation Protection Act

#### SEC. 441. SHORT TITLE.

This subtitle may be cited as the “Railroad Carriers and Mass Transportation Protection Act of 2004”.

#### SEC. 442. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

“§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

“(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

“(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

“(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

“(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

“(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

“(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

“(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance

used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

“(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

“(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

“(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

“(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

“(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

“(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

“(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7); shall be fined under this title or imprisoned not more than 20 years, or both.

“(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

“(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

“(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

“(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

“(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

“(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

“(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

“(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

“(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

“(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

“(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

“(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

“(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

“(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘biological agent’ has the meaning given to that term in section 178(1);

“(2) the term ‘dangerous weapon’ means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

“(3) the term ‘destructive device’ has the meaning given to that term in section 921(a)(4);

“(4) the term ‘destructive substance’ means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term ‘radioactive device’ does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

“(5) the term ‘hazardous material’ has the meaning given to that term in chapter 51 of title 49;

“(6) the term ‘high-level radioactive waste’ has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

“(7) the term ‘mass transportation’ has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

“(8) the term ‘on-track equipment’ means a carriage or other contrivance that runs on rails or electromagnetic guideways;

“(9) the term ‘public safety officer’ has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

“(10) the term ‘railroad on-track equipment’ means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

“(11) the term ‘railroad’ has the meaning given to that term in chapter 201 of title 49;

“(12) the term ‘railroad carrier’ has the meaning given to that term in chapter 201 of title 49;

“(13) the term ‘serious bodily injury’ has the meaning given to that term in section 1365;

“(14) the term ‘spent nuclear fuel’ has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

“(15) the term ‘State’ has the meaning given to that term in section 2266;

“(16) the term ‘toxin’ has the meaning given to that term in section 178(2);

“(17) the term ‘vehicle’ means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

“(18) the term ‘passenger vessel’ has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.”.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking “**RAILROADS**” in the chapter heading and inserting “**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**”;

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

“1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.”.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

“**97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991**”.

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking “1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),” and inserting “1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),”;

(B) in section 2339A, by striking “1993,”; and

(C) in section 2516(1)(c) by striking “1992 (relating to wrecking trains),” and inserting “1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),”.

#### Subtitle D—Reducing Crime and Terrorism at America's Seaports Act

##### SEC. 451. SHORT TITLE.

This subtitle may be cited as the “Reducing Crime and Terrorism at America's Seaports Act of 2004”.

**SEC. 452. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—  
(A) in paragraph (2), by striking “or” at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

“(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or”;

(2) in subsection (b)(1), by striking “5” and inserting “10”;

(3) in subsection (c)(1), by inserting “, captain of the seaport,” after “airport authority”; and

(4) in the section heading, by inserting “or seaport” after “airport”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

“1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.”.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

**“§ 26. Definition of seaport**

“As used in this title, the term ‘seaport’ means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, and buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.”.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

“26. Definition of seaport.”.

**SEC. 453. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.**

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

**“§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information**

“(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

“(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

“(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

“(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel’s destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

“(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Home-

land Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

“(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

“(d) In this section—

“(1) the term ‘Federal law enforcement officer’ has the meaning given the term in section 115(c);

“(2) the term ‘heave to’ means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

“(3) the term ‘vessel subject to the jurisdiction of the United States’ has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

“(4) the term ‘vessel of the United States’ has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

“(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

“2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.”.

**SEC. 454. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.**

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking “(G)” and inserting “(H)”;

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

“(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;”;

(2) in paragraph (2) by striking “(C) or (E)” and inserting “(C), (E), or (F)”.

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

**“§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce**

“(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime com-

merce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

“(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

“2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.”.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

**“§ 2282. Knowing discharge or release**

“(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

“(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

“(c) DEFINITIONS.—In this section:

“(1) DISCHARGE.—The term ‘discharge’ means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

“(2) HAZARDOUS MATERIAL.—The term ‘hazardous material’ has the meaning given the term in section 2101(14) of title 46, United States Code.

“(3) MARINE ENVIRONMENT.—The term ‘marine environment’ has the meaning given the term in section 2101(15) of title 46, United States Code.

“(4) NAVIGABLE WATERS.—The term ‘navigable waters’ has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

“(5) NOXIOUS LIQUID SUBSTANCE.—The term ‘noxious liquid substance’ has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

“2282. Knowing discharge or release.”.

**SEC. 455. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.**

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this Act, is amended by adding at the end the following:

**“§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials**

“(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any

vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

“(b) DEFINITIONS.—In this section:

“(1) BIOLOGICAL AGENT.—The term ‘biological agent’ means any biological agent, toxin, or vector (as those terms are defined in section 178).

“(2) BY-PRODUCT MATERIAL.—The term ‘by-product material’ has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

“(3) CHEMICAL WEAPON.—The term ‘chemical weapon’ has the meaning given that term in section 229F.

“(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term ‘explosive or incendiary device’ has the meaning given the term in section 232(5).

“(5) NUCLEAR MATERIAL.—The term ‘nuclear material’ has the meaning given that term in section 831(f)(1).

“(6) RADIOACTIVE MATERIAL.—The term ‘radioactive material’ means—

“(A) source material and special nuclear material, but does not include natural or depleted uranium;

“(B) nuclear by-product material;

“(C) material made radioactive by bombardment in an accelerator; or

“(D) all refined isotopes of radium.

“(7) SOURCE MATERIAL.—The term ‘source material’ has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

“(8) SPECIAL NUCLEAR MATERIAL.—The term ‘special nuclear material’ has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

#### “§ 2284. Transportation of terrorists

“(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

“(b) DEFINED TERM.—In this section, the term ‘terrorist’ means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

“2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

“2284. Transportation of terrorists.”.

#### SEC. 456. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 111 the following:

#### “CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

“Sec.

“2290. Jurisdiction and scope.

“2291. Destruction of vessel or maritime facility.

“2292. Imparting or conveying false information.

“2293. Bar to prosecution.

#### “§ 2290. Jurisdiction and scope

“(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

“(1) within the United States or within waters subject to the jurisdiction of the United States; or

“(2) outside United States and—

“(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(B) the activity involves a vessel in which a national of the United States was on board; or

“(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

“(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

#### “§ 2291. Destruction of vessel or maritime facility

“(a) OFFENSE.—Whoever willfully—

“(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

“(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

“(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

“(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

“(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

“(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

“(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

“(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7): shall be fined under this title or imprisoned not more than 20 years, or both.

“(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

“(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

“(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

“(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

#### “§ 2292. Imparting or conveying false information

“(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than \$5,000, which shall be recoverable in a civil action brought in the name of the United States.

“(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) JURISDICTION.—

“(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

“(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

#### “§ 2293. Bar to prosecution

“(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

“(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

“(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

“(b) DEFINITIONS.—In this section:

“(1) LABOR DISPUTE.—The term ‘labor dispute’ has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

“(2) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

“111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290”.

**SEC. 457. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.**

(a) **THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.**—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “trailer,” after “motortruck,”;

(B) by inserting “air cargo container,” after “aircraft,”; and

(C) by inserting “, or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,” after “air navigation facility”;

(2) in the fifth undesignated paragraph, by striking “one year” and inserting “3 years”;

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: “For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.”.

(b) **STOLEN VESSELS.**—

(1) **IN GENERAL.**—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

“‘Vessel’ means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.”.

(2) **TRANSPORTATION AND SALE OF STOLEN VESSELS.**—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking “motor vehicle or aircraft” and inserting “motor vehicle, vessel, or aircraft”.

(c) **REVIEW OF SENTENCING GUIDELINES.**—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) **ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.**—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) **REPORTING OF CARGO THEFT.**—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

**SEC. 458. INCREASED PENALTIES FOR NON-COMPLIANCE WITH MANIFEST REQUIREMENTS.**

(a) **REPORTING, ENTRY, CLEARANCE REQUIREMENTS.**—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking “or aircraft pilot” and inserting “, aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)”;

(2) striking “\$5,000” and inserting “\$10,000”; and

(3) striking “\$10,000” and inserting “\$25,000”.

(b) **CRIMINAL PENALTY.**—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking “\$2,000” and inserting “\$10,000”.

(c) **FALSITY OR LACK OF MANIFEST.**—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking “\$1,000” in each place it occurs and inserting “\$10,000”.

**SEC. 459. STOWAWAYS ON VESSELS OR AIRCRAFT.**

Section 2199 of title 18, United States Code, is amended by striking “Shall be fined under this title or imprisoned not more than one year, or both,” and inserting the following:

“(1) shall be fined under this title, imprisoned not more than 5 years, or both;

“(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

“(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.”.

**SEC. 460. BRIBERY AFFECTING PORT SECURITY.**

(a) **IN GENERAL.**—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

**“§ 226. Bribery affecting port security**

“(a) **IN GENERAL.**—Whoever knowingly—

“(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

“(A) to commit international or domestic terrorism (as that term is defined under section 2331);

“(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

“(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

“(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

“(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

“(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism;

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) **DEFINITION.**—In this section, the term ‘secure or restricted area’ has the meaning given that term in section 2285(c).”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“226. Bribery affecting port security.”.

**Subtitle E—Combating Money Laundering and Terrorist Financing Act****SEC. 471. SHORT TITLE.**

This subtitle may be cited as the “Combating Money Laundering and Terrorist Financing Act of 2004”.

**SEC. 472. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.**

(a) **RICO DEFINITIONS.**—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “burglary, embezzlement,” after “robbery,”;

(2) in subparagraph (B), by—

(A) inserting “section 1960 (relating to illegal money transmitters),” before “sections 2251”;

(B) striking “1591” and inserting “1592”;

(C) inserting “and 1470” after “1461–1465”; and

(D) inserting “2252A,” after “2252.”;

(3) in subparagraph (D), by striking “fraud in the sale of securities” and inserting “fraud in the purchase or sale of securities”; and

(4) in subparagraph (F), by inserting “and 274A” after “274”.

(b) **MONETARY INVESTMENTS.**—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting “, or section 2339C (relating to financing of terrorism)” before “of this title”; and

(2) striking “or any felony violation of the Foreign Corrupt Practices Act” and inserting “any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)”.

(c) **CONFORMING AMENDMENTS.**—

(1) **MONETARY INSTRUMENTS.**—Section 1956(e) of title 18, United States Code, is amended to read as follows:

“(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.”.

(2) **PROPERTY FROM UNLAWFUL ACTIVITY.**—Section 1957(e) of title 18, United States Code, is amended to read as follows:

“(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.”.

**SEC. 473. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

(a) **TECHNICAL AMENDMENTS.**—Section 1960 of title 18, United States Code, is amended—



(1) in the caption by striking “unlicensed” and inserting “illegal”;

(2) in subsection (a), by striking “unlicensed” and inserting “illegal”;

(3) in subsection (b)(1), by striking “unlicensed” and inserting “illegal”; and

(4) in subsection (b)(1)(C), by striking “to be used to be used” and inserting “to be used”.

(b) **PROHIBITION OF UNLICENSED MONEY TRANSMITTING BUSINESSES.**—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: “, whether or not the defendant knew that the operation was required to comply with such registration requirements”.

(c) **AUTHORITY TO INVESTIGATE.**—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

“(c) Violations of this section may be investigated by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.”.

**SEC. 474. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.**

Section 981(a)(1)(G) of title 18, United States Code, is amended by—

(1) striking “or” at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting “; or”; and

(3) inserting after clause (iii) the following:

“(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.”.

**SEC. 475. MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.**

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

“(4) A transaction described in paragraph (1), or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.”.

**SEC. 476. FINANCING OF TERRORISM.**

(a) **CONCEALMENT.**—Section 2339C(c)(2) of title 18, United States Code, is amended to read as follows:

“(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, or resources, or any funds or proceeds of such funds—

“(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B; or

“(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a), shall be punished as prescribed in subsection (d)(2).”.

(b) **DEFINITION.**—Section 2339C(e) of title 18, United States Code, is amended—

(1) in paragraph (12), by striking “and” at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

“(13) the term ‘material support or resources’ has the same meaning as in section 2339B(g)(4); and”.

**SEC. 477. MISCELLANEOUS AND TECHNICAL AMENDMENTS.**

(a) **CRIMINAL FORFEITURE.**—Section 982(b)(2) of title 18, United States Code, is amended, by striking “The substitution” and inserting “With respect to a forfeiture under subsection (a)(1), the substitution”.

(b) **TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.**—

(1) **UNLAWFUL ACTIVITY.**—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting “, as defined in section 24” before the period.

(2) **PROPERTY FROM UNLAWFUL ACTIVITY.**—Section 1957 of title 18, United States Code, is amended—

(A) in subsection (a), by striking “engages or attempts to engage in” and inserting “conducts or attempts to conduct”; and

(B) in subsection (f), by inserting the following after paragraph (3):

“(4) the term ‘conducts’ has the same meaning as it does for purposes of section 1956 of this title.”.

(c) **OBSTRUCTION OF JUSTICE.**—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking “or” the first time it appears and inserting “, a subpoena issued pursuant to section 1782 of title 28, or”.

(d) **INTERNATIONAL TERRORISM.**—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting “)” after “2339C (relating to financing of terrorism”.

**Subtitle F—Effective Date**

**SEC. 481. EFFECTIVE DATE.**

Notwithstanding section 341, this title shall take effect on the date of enactment of this Act.

**SA 3725.** Mr. INHOFE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) **PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.**—

(1) **PARTICIPATION.**—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) **REPORTS.**—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SA 3726.** Mr. COLEMAN submitted an amendment intended to be proposed by

him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, strike line 21 and all that follows through page 137, line 23, and insert the following:

(6) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

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

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

(c) **INFORMATION SHARING NETWORK.**—

(1) **ESTABLISHMENT.**—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

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

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

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

(C) enabling connectivity between Federal and State agencies and civilian authorities and local first responders in the event of a terrorist attack or significant national disaster;

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

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

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

(G) facilitating the sharing of information at and across all levels of security by using

policy guidelines and technologies that support writing information that can be broadly shared;

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

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

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

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

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

(vi) uniform classification and handling procedures;

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

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

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

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

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

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

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

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

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

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

(1) in consultation with the Executive Council—

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

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

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

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

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

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

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

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance meas-

ures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

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

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

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

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

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

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

(4) an enterprise architecture that—

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

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

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

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

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

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

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

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and properly utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

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

**SA 3727.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.**

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting “security,” after “use,”;

(2) in section 11302(c), by inserting “, including information security risks,” after “risks” both places it appears;

(3) in section 11312(b)(1), by striking “information technology investments” and inserting “investments in information technology (including information security needs)”;

(4) in section 11315(b)(2), by inserting “, secure,” after “sound”.

**SA 3728.** Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “North Korean Human Rights Act of 2004”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.
- Sec. 4. Purposes.
- Sec. 5. Definitions.

**TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS**

- Sec. 101. Sense of Congress regarding negotiations with North Korea.
- Sec. 102. Support for human rights and democracy programs.
- Sec. 103. Radio broadcasting to North Korea.
- Sec. 104. Actions to promote freedom of information.
- Sec. 105. United Nations Commission on Human Rights.
- Sec. 106. Establishment of regional framework.
- Sec. 107. Special Envoy on Human Rights in North Korea.

**TITLE II—ASSISTING NORTH KOREANS IN NEED**

- Sec. 201. Report on United States humanitarian assistance.
- Sec. 202. Assistance provided inside North Korea.
- Sec. 203. Assistance provided outside of North Korea.

**TITLE III—PROTECTING NORTH KOREAN REFUGEES**

- Sec. 301. United States policy toward refugees and defectors.
- Sec. 302. Eligibility for refugee or asylum consideration.
- Sec. 303. Facilitating submission of applications for admission as a refugee.
- Sec. 304. United Nations High Commissioner for Refugees.
- Sec. 305. Annual reports.

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is “a dictatorship under the absolute rule of Kim Jong Il” that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

#### SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

#### SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term "China" means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term "South Korea" means the Republic of Korea.

#### TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

##### SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

##### SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President \$2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

##### SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

##### SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of

receiving broadcasting from outside North Korea.

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

(1) **IN GENERAL.**—There are authorized to be appropriated to the President \$2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

**SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.**

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

**SEC. 106. ESTABLISHMENT OF REGIONAL FRAMEWORK.**

(a) **FINDINGS.**—The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

**SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.**

(a) **SPECIAL ENVOY.**—The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the “Special Envoy”). The Special Envoy should be a person of recognized distinction in the field of human rights.

(b) **CENTRAL OBJECTIVE.**—The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

(c) **DUTIES AND RESPONSIBILITIES.**—The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dia-

logue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 102;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) **REPORT ON ACTIVITIES.**—Not later than 180 days after the date of the enactment of this Act, and annually for the subsequent 5 year-period, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

**TITLE II—ASSISTING NORTH KOREANS IN NEED**

**SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.**

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) **FORM.**—The information required by subsection (a)(1) may be provided in classified form if necessary.

**SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.**

(a) **HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.**—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) **UNITED STATES ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.**—It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(F) decriminalizing political expression and activity.

(c) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

**SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.**

(a) **ASSISTANCE.**—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) **TYPES OF ASSISTANCE.**—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

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

(1) **IN GENERAL.**—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President \$20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

**TITLE III—PROTECTING NORTH KOREAN REFUGEES**

**SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.**

(a) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that

describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) **CONTENTS.**—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) **FORM.**—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

#### **SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.**

(a) **PURPOSE.**—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) **TREATMENT OF NATIONALS OF NORTH KOREA.**—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

#### **SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.**

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42))).

#### **SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.**

(a) **ACTIONS IN CHINA.**—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the

Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) **ARBITRATION PROCEEDINGS.**—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

#### **SEC. 305. ANNUAL REPORTS.**

(a) **IMMIGRATION INFORMATION.**—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) **COUNTRIES OF PARTICULAR CONCERN.**—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Free-

dom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

**SA 3729.** Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court; as follows:

On page 2, lines 22 and 23, strike "for the purpose of aiding or facilitating the work of the United States Supreme Court," and insert "pertaining to the history of the United States Supreme Court or its justices,".

**SA 3730.** Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table; as follows:

In the table of contents, insert after the item relating to section 402 the following:

Sec. 403. Authorization of appropriations.

In section 2(26)(B)(ii), insert "consistent with section 203(a) or as approved by the Secretary" before the period at the end.

In section 3, strike subsections (a) and (b) and insert the following:

(a) **NO PARTICIPATION BY THE UNITED STATES.**—

(1) **IN GENERAL.**—No arbitration decision rendered pursuant to subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River agreement (including the joint control board agreement attached to exhibit 20.1) shall be considered invalid solely because the United States failed or refused to participate in such arbitration proceedings that resulted in such arbitration decision, so long as the matters in arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement concern aspects of the water rights of the Community, the San Carlos Irrigation Project, or the Miscellaneous Flow Lands (as defined in subparagraph 2.18A of the UVD agreement) and not the water rights of the United States in its own right, any other rights of the United States, or the water rights or any other rights of the United States acting on behalf of or for the benefit of another tribe.

(2) **ARBITRATION INEFFECTIVE.**—If an issue otherwise subject to arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement cannot be arbitrated or if an arbitration decision will not be effective because the United States cannot or will not participate in the arbitration, then the issue shall be submitted for decision to a court of competent jurisdiction, but not a court of the Community.

(b) PARTICIPATION BY THE SECRETARY.—Notwithstanding any provision of any agreement, exhibit, attachment, or other document ratified by this Act, if the Secretary is required to enter arbitration pursuant to this Act or any such document, the Secretary shall follow the procedures for arbitration established by chapter 5 of title 5, United States Code.

In section 403(f)(2)(A) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), insert “in accordance with clause 8(d)(i)(1)(i) of the Repayment Stipulation (as defined in section 2 of the Arizona Water Settlements Act)” before the semicolon at the end;

In section 403(f)(2)(D) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), strike clauses (vi) and (vii) and insert the following:

“(vi) to pay a total of not more than \$250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of this Act, subject to the requirement that, notwithstanding any other provision of this Act, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this Act, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section;

“(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed \$500,000; and

“(viii) to pay the Secretary’s costs of implementing the Central Arizona Project Settlement Act of 2004;

In section 107(c), strike paragraphs (1) through (4) and insert the following:

(1) in section 403(g), by striking “clause (c)(2)” and inserting “subsection (c)(2)”; and

(2) in section 403(e), by deleting the first word and inserting “Except as provided in subsection (f), revenues”.

In section 203(c), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Gila River agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE GILA RIVER AGREEMENT.—Execution of the Gila River agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Gila River agreement.

In section 203(d)(4)(B), strike clause (i) and insert the following:

(i) in accomplishing the work under the supplemental repayment contract—

(I) the San Carlos Irrigation and Drainage District—

(aa) may use locally accepted engineering standards and the labor and contracting authorities that are available to the District under State law; and

(bb) shall be subject to the value engineering program of the Bureau of Reclamation established pursuant to OMB Circular A-131; and

(II) in accordance with FAR Part 48.101(b), the incentive returned to the contractor through this “Incentive Clause” shall be 55 percent after the Contractor is reimbursed for the allowable costs of developing and implementing the proposal and the Government shall retain 45 percent of such savings in the form of reduced expenditures;

In section 204(a)(4)(B), strike “or the United States”.

In section 207(a)(4)(A), strike clauses (iv) and (v) and insert the following:

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law;

(v) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002; and

(vi) past, present, and future claims relating to failure to assert any claims expressly waived pursuant to section 207(a)(1) (C) through (E).

In section 207(a)(5)(A)(ii)(I), insert “injuries to” after “claims for”.

In section 207(a)(5)(A)(iii)(I), insert “for injuries to water rights” after “claims”.

In section 207(a)(5)(B)(iii)(I), insert “for injuries to water rights” after “claims”.

In the matter preceding clause (i) of section 207(a)(5)(C), strike “and the extent” and all that follows through “Globe Equity Decree” and insert the following: “and to the extent the United States holds legal title to (but not the beneficial interest in) the water rights as described in article V or VI of the Globe Equity Decree (but not on behalf of the San Carlos Apache Tribe pursuant to article VI(2) of the Globe Equity Decree)”.

In section 207(a)(5)(C)(iii)(I), insert “for injuries to water rights” after “claims”.

In section 212(h), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—Upon execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT AND THE NEW MEXICO UNIT AGREEMENT.—Execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement.

In section 309(h)(3) of the Southern Arizona Water Rights Settlement Act of 1982 (as amended by section 301 of the Committee amendment), strike subparagraphs (A) and (B) and insert the following:

“(A) ENVIRONMENTAL COMPLIANCE.—In implementing an agreement described in paragraph (2), the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

“(B) EXECUTION OF AGREEMENT.—Execution of an agreement described in paragraph (2) by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing an agreement described in paragraph (2).

Strike section 401 and insert the following:

#### SEC. 401. EFFECT OF TITLES I, II, AND III.

None of the provisions of title I, II, or III or the agreements, attachments, exhibits, or stipulations referenced in those titles shall be construed to—

(1) amend, alter, or limit the authority of—

(A) the United States to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its capacity as trustee for the San Carlos Apache Tribe, its members and allottees, or in any other capacity on behalf of the San Carlos Apache Tribe, its members, and allottees, in any judicial, administrative, or legislative proceeding; or

(B) the San Carlos Apache Tribe to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its own behalf or on behalf of its members and allottees in any judicial, administrative, or legislative proceeding consistent with title XXXVII of Public Law 102-575 (106 Stat. 4600, 4740); or

(2) amend or alter the CAP Contract for the San Carlos Apache Tribe dated December 11, 1980, as amended April 29, 1999.

At the end, add the following:

#### SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) SAN CARLOS APACHE TRIBE.—There is authorized to be appropriated to assist the San Carlos Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive Gila River water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, \$150,000 for fiscal year 2006.

(b) WHITE MOUNTAIN APACHE TRIBE.—There is authorized to be appropriated to assist the White Mountain Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, \$150,000 for fiscal year 2006.

(c) OTHER ARIZONA INDIAN TRIBES.—There is authorized to be appropriated to the Secretary to assist Arizona Indian tribes (other than those specified in subsections (a) and (b)) in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Arizona Indian tribes, including soil and water technical analyses, legal, paralegal, and other related efforts, \$300,000 for fiscal year 2006.

(d) NO LIMITATION ON OTHER FUNDING.—Amounts made available under subsections (a), (b), and (c) shall not limit, and shall be in addition to, other amounts available for Arizona tribal water rights negotiations leading to comprehensive water settlements.

**SA 3731.** Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr.



LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SA 3732.** Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 36, strike lines 3 through 21, and insert the following:

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

(a) 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)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid 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; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the

earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, 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 until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau 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.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section shall take effect on the date of enactment of this Act.

**SA 3733.** 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:

At the end of subtitle B of title II, add the following:

**SEC. 213. UTILIZATION OF COMMERCIAL AND OTHER DATABASES.**

(a) LIMITATION.—(1) Notwithstanding any other provision of law, no element of the intelligence community may conduct a search or other analysis for national security or intelligence purposes of a database based solely on a hypothetical scenario or hypothetical supposition of who may pose a threat to national security.

(2) The limitation in paragraph (1) shall not be construed to endorse or allow any other activity that involves use or access of databases referred to in subsection (b)(2)(A).

(b) REPORT ON USE OF DATABASES.—(1) The National Intelligence Director shall prepare, submit to the appropriate committees of Congress, and make available to the public a report, in writing, containing a detailed description of any use by any element of the intelligence community of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes, regardless of whether any compensation was paid for such database.

(2) The report under paragraph (1) shall include—

(A) a list of all contracts, memoranda of understanding, or other agreements entered into by element of the intelligence community for the use of, access to, or analysis of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes;

(B) the duration and dollar amount of such contracts;

(C) the types of data contained in each database referred to in subparagraph (A);

(D) the purposes for which each such database is used, analyzed, or accessed;

(E) the extent to which each such database is used, analyzed, or accessed;

(F) the extent to which information from each such database is retained by any element of the intelligence community, including how long the information is retained and for what purpose;

(G) a thorough description, in unclassified form, of any methodologies being used or developed by the element of the intelligence community concerned, to search, access, or analyze any such database;

(H) an assessment of the likely efficacy of such methodologies in identifying or locating criminals, terrorists, or terrorist groups, and in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists, or terrorist groups;

(I) a thorough discussion of the plans for the use of such methodologies;

(J) a thorough discussion of the activities of the personnel, if any, of the department, agency, or element concerned while assigned to the National Counterterrorism Center; and

(K) a thorough discussion of the policies, procedures, guidelines, regulations, and laws, if any, that have been or will be applied in the access, analysis, or other use of the databases referred to in subparagraph (A), including—

(i) the personnel permitted to access, analyze, or otherwise use such databases;

(ii) standards governing the access, analysis, or use of such databases;

(iii) any standards used to ensure that the personal information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate Government purpose;

(iv) standards limiting the retention and redisclosure of information obtained from such databases;

(v) procedures ensuring that such data meets standards of accuracy, relevance, completeness, and timeliness;

(vi) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(vii) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongfully incurred due to the access, analysis, or use of such databases;

(viii) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(ix) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases.

(c) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

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

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The term “database” means any collection or grouping of information about individuals that contains personally identifiable information about individuals, such as individual’s names, or identifying numbers, symbols, or other identifying particulars associated with individuals, such as fingerprints, voice prints, photographs, or other biometrics. The term does not include telephone directories or information publicly available on the Internet without fee.

**SA 3734.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

# TITLE

## SECTION 1. SHORT TITLE.

This title may be cited as the "Terrorism Victim Compensation Equity Act".

## SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107-42; 49 U.S.C. 40101 note).

## SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.

(a) **DEFINITIONS.**—Section 402(4) is amended by inserting " , related to the bombings of United States embassies in East Africa on August 7, 1998, related to the attack on the U.S.S. Cole on October 12, 2000, or related to the attack on the World Trade Center on February 26, 1993" before the period.

(b) **PURPOSE.**—Section 403 is amended by inserting " or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993" before the period.

(c) **DETERMINATION OF ELIGIBILITY FOR COMPENSATION.**—

(1) **CLAIM FORM CONTENTS.**—Section 405(a)(2)(B) is amended—

(A) in clause (i), by inserting " , the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993" before the semicolon;

(B) in clause (ii), by inserting "or bombings" before the semicolon; and

(C) in clause (iii), by inserting "or bombings" before the period.

(2) **LIMITATION.**—Section 405(a)(3) is amended by striking "2 years" and inserting "4 years".

(3) **COLLATERAL COMPENSATION.**—Section 405(b)(6) is amended by inserting " , the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993" before the period.

(4) **ELIGIBILITY.**—

(A) **INDIVIDUALS.**—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting " , was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998, was on the U.S.S. Cole on October 12, 2000, or was present at the World Trade Center on February 26, 1993 at the time of the bombings of that building" before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

"(ii) suffered death as a result of such an air crash or suffered death as a result of such a bombing;"

(B) **REQUIREMENTS.**—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting "RELATING TO SEPTEMBER 11TH TERRORIST ACTS" before the period; and

(ii) by adding at the end the following:

"(C) **LIMITATION ON CIVIL ACTION RELATING TO OTHER TERRORIST ACTS.**—

"(i) **IN GENERAL.**—Upon the submission of a claim under this title, the claimant involved waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained by the

claimant as a result of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(ii) **PENDING ACTIONS.**—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Terrorism Victim Compensation Equity Act.

"(D) **INDIVIDUALS WITH PRIOR COMPENSATION.**—

"(i) **IN GENERAL.**—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if the individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993.

"(ii) **EXCEPTION.**—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(E) **VICTIMS OF BOMBINGS OF UNITED STATES EMBASSIES IN EAST AFRICA.**—An individual who suffered death as a result of a bombing or attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that bombing or attack, unless that individual is or was a United States citizen."

(C) **INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.**—Section 405(c) is amended by adding at the end the following:

"(4) **INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.**—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993."

(D) **ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.**—Section 405(c) (as amended by subparagraph (C)) is further amended by adding at the end the following:

"(5) **ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.**—An individual who is a member of the uniformed services shall not be excluded from being an eligible individual by reason of being such a member."

## SEC. 4. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

## SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if enacted as part of the Sep-

tember 11th Victims Compensation Fund of 2001 (Public Law 107-42; 49 U.S.C. 40101 note).

**SA 3735.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

## SEC. —. NATIONWIDE INTEROPERABLE BROADBAND MOBILE COMMUNICATIONS NETWORK.

(a) **IN GENERAL.**—Not later than June 1, 2005, the Secretary of Homeland Security shall develop technical and operational specifications and protocols for a nationwide interoperable broadband mobile communications network (referred to in this section as the "Network") to be used by Federal, State, and local public safety and homeland security personnel.

(b) **CONSULTATION AND USE OF EXISTING TECHNOLOGIES.**—In developing the Network, the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) make use of existing commercial wireless technologies to the greatest extent practicable.

(c) **SPECTRUM ALLOCATION.**—

(1) **PLAN.**—The Assistant Secretary for Communications and Information, acting as the Administrator of the National Telecommunications and Information Administration (referred to in this section as the "Administrator"), in cooperation with the Federal Communications Commission, other Federal agencies with responsibility for managing radio frequency spectrum, and the Secretary of Homeland Security, shall develop, not later than June 1, 2005, a plan to dedicate sufficient radio frequency spectrum for the Network.

(2) **SOURCE OF SPECTRUM.**—The spectrum dedicated under paragraph (1)—

(A) may be reclaimed from existing Federal, State, or local public safety users;

(B) may be comprised of spectrum which is not currently being utilized; or

(C) may be comprised of any combination of spectrum described in subparagraphs (A) and (B).

(d) **REPORTING REQUIREMENT.**—Not later than January 31, 2005, the Administrator, in consultation with the Secretary of Homeland Security, shall submit a report to Congress that—

(1) describes any statutory changes that are necessary to deploy the Network;

(2) identifies the required spectrum allocation for the Network; and

(3) describes the progress made in carrying out the provisions of this section.

**SA 3736.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 10 through 16 and insert the following:

(3) The term "counterintelligence" means information gathered, and activities conducted to protect against—

(A) international terrorist activities;

(B) espionage, economic espionage, other intelligence activities, the proliferation of

weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

(C) any other criminal activities involved in or related to such threats to the national security.

On page 6, strike lines 7 through 18 and insert the following:

(5) The terms "national intelligence" and "intelligence related to the national security" each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

(A) threats to the United States, its people, property, or interests;

(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

(C) any other matter bearing on the national security or homeland security of the United States.

On page 196, beginning on line 20, strike "**FOREIGN INTELLIGENCE AND COUNTER-INTELLIGENCE**" and insert "**FOREIGN INTELLIGENCE, COUNTERINTELLIGENCE, AND NATIONAL INTELLIGENCE**".

On page 197, strike lines 4 through 7 and insert the following:

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

"(3) The term 'counterintelligence' means information gathered, and activities conducted to protect against—

"(A) international terrorist activities;

"(B) espionage, economic espionage, other intelligence activities, the proliferation of weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

"(C) any other criminal activities involved in or related to such threats to the national security.";

(3) by striking paragraph (5) and insert the following new paragraph (5):

"(5) The terms 'national intelligence' and 'intelligence related to the national security' each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

"(A) threats to the United States, its people, property, or interests;

"(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

"(C) any other matter bearing on the national security or homeland security of the United States.".

**SA 3737.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike lines 21 through 23 and insert the following:

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community, including (but not limited to) all programs, projects, and activities of the elements of the intelligence community that are within

the National Foreign Intelligence Program as of the date of the enactment of this Act;

**SA 3738.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, beginning on line 18, strike "including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act,".

**SA 3739.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic productions, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike "(11)" and insert "(13)".

On page 17, line 22, strike "(12)" and insert "(14)".

On page 18, line 1, strike "(13)" and insert "(15)".

On page 18, between lines 3 and 4, insert the following:

(16) ensure that intelligence (including unevaluated intelligence), the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

On page 18, line 4, strike "(14)" and insert "(17)".

On page 18, line 7, strike "(15)" and insert "(18)".

On page 18, line 14, strike "(16)" and insert "(19)".

On page 18, line 17, strike "(17)" and insert "(20)".

On page 18, line 20, strike "(18)" and insert "(21)".

On page 19, line 5, strike "(19)" and insert "(22)".

On page 19, line 7, strike "(20)" and insert "(23)".

On page 20, strike lines 12 through 14 and insert the following:

shall have access to all intelligence and, consistent with subsection (k), any other information which is collected by, possessed by, or under the control of any department, agency, or other element of the United States Government when necessary to carry out the duties and responsibilities of the Director under this Act or any other provision of law.

On page 31, line 1, strike "112(a)(16)" and insert "112(a)(19)".

On page 31, strike line 22 and insert the following:

ensures information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.

On page 32, beginning on line 3, strike "information-sharing" and all that follows through line 4 and insert "information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.".

On page 32, line 16, insert "AND ANALYSIS" after "COLLECTION".

On page 32, line 19, insert "and analysis" after "collection".

On page 32, beginning on line 21, strike "the head of each element of the intelligence community" and insert "the head of any department, agency, or element of the United States Government, and the components and programs thereof,".

On page 56, line 20, strike "(15) and (16)" and insert "(18) and (19)".

On page 194, line 9, strike "112(a)(11)" and insert "112(a)(13)".

On page 195, line 16, strike "112(a)(11)" and insert "112(a)(13)".

On page 195, line 23, strike "112(a)(11)" and insert "112(a)(13)".

On page 196, line 7, strike "112(a)(11)" and insert "112(a)(13)".

**SA 3740.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 9 line 13, insert "and intelligence" after "counterterrorism".

**SA 3741.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 23, line 1, strike "may require modifications" and insert "may require modifications,".

**SA 3742.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike "or" and insert "and".

On page 33, between lines 2 and 3, insert the following:

#### **SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.**

(a) **FUNDING OF ACTIVITIES.**—(1) Notwithstanding any other provision of law, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the

provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) **APPLICABILITY OF OTHER AUTHORITIES.**—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) **DEFINITIONS.**—In this section:

(1) The term “intelligence agency” means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term “appropriate congressional committees” means—

(A) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(3) The term “specifically authorized by the Congress” means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike “114.” and insert “115.”

On page 35, line 1, strike “115.” and insert “116.”

On page 38, line 21, strike “116.” and insert “117.”

On page 40, line 10, strike “117.” and insert “118.”

On page 43, line 1, strike “118.” and insert “119.”

On page 200, between line 18 and 19, insert the following:

**SEC. 309. CONFORMING AMENDMENT ON FUNDING OF 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 adding “and” at the end;

(2) by striking subparagraph (B); and

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

On page 200, line 19, strike “309.” and insert “310.”

On page 201, line 11, strike “310.” and insert “311.”

On page 203, line 9, strike “311.” and insert “312.”

On page 204, line 1, strike “312.” and insert “313.”

**SA 3743.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 32, beginning on line 8, strike “oversee and direct” and all that follows through line 10 and insert “direct and coordinate”.

On page 32, between lines 19 and 20, insert the following:

(K) **HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.**—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(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 32, line 20, strike “(k)” and insert “(1)”.

On page 43, after line 20, add the following:

(e) **TERMINATION.**—Upon the transfer under subsection (d) of all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency, the Reserve for Contingencies of the Central Intelligence Agency shall be terminated.

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.

**SA 3744.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

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

On page 112, beginning on line 12, strike “Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives” and insert “Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives”.

On page 172, strike line 18 and all that follows through page 174, line 23, and insert the following:

**SEC. 224. COMMUNICATIONS WITH CONGRESS.**

**SA 3745.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 42, strike lines 4 through 9 and insert the following:

(B) The Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(C) The Assistant Secretary of State for Intelligence and Research.

(D) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(E) The Assistant Secretary for Terrorist Financing of the Department of the Treasury.

(F) The Director of the Defense Intelligence Agency.

(G) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(H) The Executive Assistant Director for Counterterrorism and Counterintelligence of the Federal Bureau of Investigation.

(I) The Director of the Office of Intelligence of the Department of Energy.

(J) The Director of the Office of Counterintelligence of the Department of Energy.

(K) The Assistant Commandant of the Coast Guard for Intelligence.

**SA 3746.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 32, between lines 19 and 20, insert the following:

(k) **TERMINATION OR REASSIGNMENT OF OFFICERS AND EMPLOYEES WITHIN NATIONAL INTELLIGENCE PROGRAM.**—(1)(A) Notwithstanding any other provision of law, the National Intelligence Director may, at the discretion of the Director, terminate the employment of any civilian officer or employee of any element of the intelligence community within the National Intelligence Program whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(B) Any termination of employment of an officer or employee under subparagraph (A) shall not affect the right of the officer or employee to seek or accept employment in any department or agency of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(2) The Secretary of Defense shall, upon the request of the Director, reassign any member of the Armed Forces serving in a position in an element of the intelligence community within the National Intelligence Program to a position outside the National Intelligence Program whenever the Director considers the reassignment of such member necessary or advisable in the interests of the United States.

(3) Before taking any action under paragraph (1) or (2), the Director shall provide reasonable notice to the head of the element

of the intelligence community to which the civilian officer or employee concerned, or member of the Armed Forces concerned, is assigned. The head of the element of the intelligence community concerned may recommend alternative actions to termination or reassignment, and the Director may take such recommendations into account in taking any such action.

(4) The Director may delegate an authority of the Director under this subsection only to the Principal Deputy National Intelligence Director.

(5) Any action of the Director, or the delegate of the Director, under this subsection shall not be subject to judicial review.

On page 32, line 20, strike “(k)” and insert “(1)”.

**SA 3747.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 43, after line 20, add the following:  
**SEC. 119. ADMINISTRATIVE AUTHORITIES.**

(a) **EXERCISE OF ADMINISTRATIVE AUTHORITIES.**—Notwithstanding any other provision of law, the National Intelligence Director may exercise with respect to the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(b) **DELEGATION OF ADMINISTRATIVE AUTHORITIES.**—Notwithstanding any other provision of law, the National Intelligence Director may delegate to the head of any other element of the intelligence community with a program, project, or activity within the National Intelligence Program for purposes of such program, project or activity any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(c) **SPECIFIED AUTHORITIES.**—The authorities of the Director of the Central Intelligence Agency specified in this subsection are the authorities under the Central Intelligence Agency Act of 1949 as follows:

(1) Section 3 (50 U.S.C. 403c), relating to procurement.

(2) Section 4 (50 U.S.C. 403e), relating to travel allowances and related expenses.

(3) Section 5 (50 U.S.C. 403f), relating to administration of funds.

(4) Section 6 (50 U.S.C. 403g), relating to exemptions from certain information disclosure requirements.

(5) Section 8 (50 U.S.C. 403j), relating to availability of appropriations.

(6) Section 11 (50 U.S.C. 403k), relating to payment of death gratuities.

(7) Section 12 (50 U.S.C. 403l), relating to acceptance of gifts, devises, and bequests.

(8) Section 21 (50 U.S.C. 403u), relating to operation of a central services program.

(d) **EXERCISE OF DELEGATED AUTHORITY.**—Notwithstanding any other provision of law, the head of an element of the intelligence community delegated an authority under subsection (b) with respect to a program, project, or activity may exercise such authority with respect to such program, project, or activity to the same extent that the Director of the Central Intelligence Agency may exercise such authority with respect to the Central Intelligence Agency.

On page 108, line 12, strike “(1)”.

On page 108, line 19, strike “(2)” and insert “(b) DEPOSIT OF PROCEEDS.—”.

On page 108, strike line 23 and all that follows through page 109, line 3.

**SA 3748.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 19, insert “regular and detailed” before “reviews”.

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert “(A)” after “(5)”.

On page 80, line 3, strike “, upon request,”.

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Ombudsman may make recommendations to the National Intelligence Director, and to the heads of the elements of the intelligence community, for such personnel actions as the Ombudsman considers appropriate in light of the evaluations, including awards, commendations, reprimands, additional training, or disciplinary action.

On page 80, line 6, strike “INFORMATION.—” and insert “INFORMATION AND PERSONNEL.—(1)”.

On page 80, line 8, insert “, the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority” after “Authority”.

On page 80 line 10, insert “operational and” before “field reports”.

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have

access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

**SA 3749.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 51, strike lines 19 through 24 and insert the following:

(c) **SCOPE OF POSITION.**—(1) The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority and the National Intelligence Program and for the relationships between any element of the intelligence community within the National Intelligence Program and any other element of the intelligence community.

(2) The General Counsel shall, in coordination with the Attorney General, serve as the chief legal authority of the executive branch on the effect on intelligence and intelligence-related activities of the United States Government of the Constitution, laws, regulations, Executive orders and implementing guidelines of the United States and of any other law, regulation, guidance, policy, treaty, or international agreement.

(d) **DUTIES AND RESPONSIBILITIES.**—The General Counsel of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in carrying out the responsibilities of the Director to ensure that—

(A) the intelligence community is operating as authorized by the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(B) the intelligence community is operating in compliance with any directives, policies, standards, and guidelines issued by the Director; and

(C) the intelligence community has all authorities necessary to provide timely and relevant intelligence information to the President, other policymakers, and military commanders;

(2) coordinate the legal programs of the elements of the intelligence community within the National Intelligence Program;

(3) coordinate with the Department of Justice to ensure that the activities of the intelligence community are consistent with the obligations of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(4) in consultation with the Department of Justice, interpret, and resolve all conflicts in the interpretation or application of, the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States to the intelligence and intelligence-related activities of the United States Government;

(5) recommend to the Director directives, policies, standards, and guidelines relating to the activities of the intelligence community;

(6) review, on an annual basis, in coordination with the heads of the elements of the intelligence community, the legal programs of each element of the intelligence community to determine if charges or modifications to authorities under such programs are required;

(7) provide legal guidance, which shall be dispositive within the executive branch, to the Department of State, the Department of Justice, and other departments, agencies, and elements of the United States Government on the effect of the implementation

and interpretation of treaties and other international agreements on the intelligence and intelligence-related activities of the United States Government; and

(8) perform such other duties as the Director may specify.

On page 53, line 8, insert “in consultation with the General Counsel of the National Intelligence Authority.”.

**SA 3750.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 87, line 16, strike “and” at the end. On page 87 between lines 16 and 17, insert the following:

(D) ensure that intelligence (including unevaluated intelligence) concerning suspected terrorists, their organizations, and their capabilities, plans, and intentions, the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis with the Directorate and by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

(E) conduct, or direct through the National Intelligence Director an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(F) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination;

(G) ensure the dissemination of Directorate intelligence products to the President, to Congress, to the heads of other departments and agencies of the executive branch, to the Chairman of the Joint Chiefs of Staff and senior military commanders, and to such other persons or entities as the President shall direct; and

On page 87, line 17, strike “(D)” and insert “(H)”.

On page 96, line 16, strike “foreign”.

**SA 3751.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 200, strike lines 5 through 11 and insert the following:

**SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.**

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

(1) in paragraph (1), by striking “ensure” and inserting “assist the Director in ensuring”; and

(2) in paragraph (2), by striking “appropriate”.

**SA 3752.** Mr. ROBERTS submitted an amendment intended to be proposed by

him to the bill S. 2845, to reform the intelligence community and the 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 32, between lines 15 and 16, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(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 32, line 20, strike “(k)” and insert “(l)”.

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

**SA 3753.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 32, beginning on line 8, strike “oversee and direct” and all that follows through line 10 and insert “direct and coordinate”.

On page 181, strike lines 1 through 10.

**SA 3754.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the 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 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 con-

tinued 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 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 200, strike lines 5 through 11 and insert the following:

**SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.**

Section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended—

(1) in subsection (a)(1), by striking “ensure” and inserting “assist the Director in ensuring”; and

(2) in subsection (b)—

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



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

(C) 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)”;

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

#### AUTHORITY FOR COMMITTEES TO MEET

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

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 28, 2004, at 10 a.m., to conduct a hearing on “policies to enforce the bank secrecy act and prevent money laundering in money services businesses and the gaming industry.”

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

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

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on September 28, 2004, at 9:30 a.m. on Media Ownership.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 28, 2004, at 2:30 p.m. to hold a hearing on Combating Corruption in the Multilateral Development Banks (III).

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

##### SPECIAL COMMITTEE ON AGING

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, September 28, 2004, from 10 a.m.-12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

##### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on September 28, 2004, at 2:30 p.m. on Effectiveness of Media Ratings Systems.

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

#### FEED AMERICA THURSDAY

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 440,

which was submitted earlier today by Senator HATCH.

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

The legislative clerk read as follows:

A resolution (S. Res. 440) designating Thursday, November 18, 2004, as Feed America Thursday.

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

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 440) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded; Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates Thursday, November 18, 2004, as “Feed America Thursday”; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

#### CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO OPENING OF NATIONAL MUSEUM OF AMERICAN INDIANS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 439 submitted earlier today by Senators FEINGOLD and KOHL.

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

The legislative clerk read as follows:

A resolution (S. Res. 439) recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian.

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

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 439) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

*Resolved*, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

#### NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 438 submitted earlier today by Senators BIDEN, HATCH, KOHL, and others.

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

The legislative clerk read as follows:

A resolution (S. Res. 438) supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the