AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 10 OFFERED BY

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "9/11 Recommendations Implementation Act".

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TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

SEC. 1001. SHORT TITLE.

This title may be cited as the ''National Security Intelligence Improvement Act of 2004''.

Subtitle A—Establishment of National Intelligence Director

SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MANAGEMENT OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking sections 102 through 104 and inserting the following new sections:

''NATIONAL INTELLIGENCE DIRECTOR

''SEC. 102. (a) NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The National Intelligence Director shall not be located within the Executive Office of the President.

''(b) PRINCIPAL RESPONSIBILITY.—Subject to the authority, direction, and control of the President, the National Intelligence Director shall—

"(1) serve as head of the intelligence community;

"(2) act as the principal adviser to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and

"(3) through the heads of the departments containing elements of the intelligence community, and the Central Intelligence Agency, manage and oversee the execution of the National Intelligence Program and direct the National Intelligence Program.

"(c) PROHIBITION ON DUAL SERVICE.—The individual serving in the position of National Intelligence Director shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.

"RESPONSIBILITIES AND AUTHORITIES OF THE NATIONAL INTELLIGENCE DIRECTOR

"SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1) Under the direction of the President, the National Intelligence Director shall be responsible for ensuring that national intelligence is provided—

"(A) to the President;

"(B) to the heads of departments and agencies of the executive branch;

1 "(C) to the Chairman of the Joint Chiefs of
2 Staff and senior military commanders;
3 "(D) where appropriate, to the Senate and
4 House of Representatives and the committees there-
5 of; and
6 "(E) to such other persons as the National In-
7 telligence Director determines to be appropriate.
8 "(2) Such national intelligence should be timely, ob-
9 jective, independent of political considerations, and based
10 upon all sources available to the intelligence community
11 and other appropriate entities.
12 "(b) ACCESS TO INTELLIGENCE.—To the extent ap-
13 proved by the President, the National Intelligence Director
14 shall have access to all national intelligence and intel-
15 ligence related to the national security which is collected
16 by any Federal department, agency, or other entity, except
17 as otherwise provided by law or, as appropriate, under
18 guidelines agreed upon by the Attorney General and the
19 National Intelligence Director.
20 "(c) BUDGET AUTHORITIES.—(1)(A) The National
21 Intelligence Director shall develop and present to the
22 President on an annual basis a budget for intelligence and
23 intelligence-related activities of the United States.
24 "(B) In carrying out subparagraph (A) for any fiscal
25 year for the components of the budget that comprise the

1 National Intelligence Program, the National Intelligence
2 Director shall provide guidance to the heads of depart-
3 ments containing elements of the intelligence community,
4 and to the heads of the elements of the intelligence com-
5 munity, for development of budget inputs to the National
6 Intelligence Director.

7 ''(2)(A) The National Intelligence Director shall par-
8 ticipate in the development by the Secretary of Defense
9 of the annual budgets for the Joint Military Intelligence
10 Program and for Tactical Intelligence and Related Activi-
11 ties.

12 ''(B) The National Intelligence Director shall provide
13 guidance for the development of the annual budget for
14 each element of the intelligence community that is not
15 within the National Intelligence Program.

16 ''(3) In carrying out paragraphs (1) and (2), the Na-
17 tional Intelligence Director may, as appropriate, obtain
18 the advice of the Joint Intelligence Community Council.

19 ''(4) The National Intelligence Director shall ensure
20 the effective execution of the annual budget for intel-
21 ligence and intelligence-related activities.

22 ''(5)(A) The National Intelligence Director shall fa-
23 cilitate the management and execution of funds appro-
24 priated for the National Intelligence Program.

1 "(B) Notwithstanding any other provision of law, in
2 receiving funds pursuant to relevant appropriations Acts
3 for the National Intelligence Program, the Office of Man-
4 agement and Budget shall apportion funds appropriated
5 for the National Intelligence Program to the National In-
6 telligence Director for allocation to the elements of the in-
7 telligence community through the host executive depart-
8 ments that manage programs and activities that are part
9 of the National Intelligence Program.

10 "(C) The National Intelligence Director shall monitor
11 the implementation and execution of the National Intel-
12 ligence Program by the heads of the elements of the intel-
13 ligence community that manage programs and activities
14 that are part of the National Intelligence Program, which
15 may include audits and evaluations, as necessary and fea-
16 sible.

17 "(6) Apportionment and allotment of funds under
18 this subsection shall be subject to chapter 13 and section
19 1517 of title 31, United States Code, and the Congres-
20 sional Budget and Impoundment Control Act of 1974 (2
21 U.S.C. 621 et seq.).

22 "(7)(A) The National Intelligence Director shall pro-
23 vide a quarterly report, beginning April 1, 2005, and end-
24 ing April 1, 2007, to the President and the Congress re-
25 garding implementation of this section.

1 "(B) The National Intelligence Director shall report
2 to the President and the Congress not later than 5 days
3 after learning of any instance in which a departmental
4 comptroller acts in a manner inconsistent with the law (in-
5 cluding permanent statutes, authorization Acts, and ap-
6 propriations Acts), or the direction of the National Intel-
7 ligence Director, in carrying out the National Intelligence
8 Program.

9 "(d) ROLE OF NATIONAL INTELLIGENCE DIRECTOR
10 IN REPROGRAMMING.—(1) No funds made available under
11 the National Intelligence Program may be transferred or
12 reprogrammed without the prior approval of the National
13 Intelligence Director, except in accordance with proce-
14 dures prescribed by the National Intelligence Director.

15 "(2) The Secretary of Defense shall consult with the
16 National Intelligence Director before transferring or re-
17 programming funds made available under the Joint Mili-
18 tary Intelligence Program.

19 "(e) TRANSFER OF FUNDS OR PERSONNEL WITHIN
20 NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to
21 any other authorities available under law for such pur-
22 poses, the National Intelligence Director, with the ap-
23 proval of the Director of the Office of Management and
24 Budget—

"(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

"(B) in accordance with procedures to be developed by the National Intelligence Director and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

"(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

"(3)(A) A transfer of funds or personnel may be made under this subsection only if—

"(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

"(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

"(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

1 "(iv) in the case of a transfer of funds, the
2 transfer results in a cumulative transfer of funds out
3 of any department or agency, as appropriate, funded
4 in the National Intelligence Program in a single fis-
5 cal year—
6 "(I) that is less than $100,000,000, and
7 "(II) that is less than 5 percent of
8 amounts available to a department or agency
9 under the National Intelligence Program; and
10 "(v) the transfer does not terminate a program.
11 "(B) A transfer may be made without regard to a
12 limitation set forth in clause (iv) or (v) of subparagraph
13 (A) if the transfer has the concurrence of the head of the
14 department or agency involved. The authority to provide
15 such concurrence may only be delegated by the head of
16 the department or agency involved to the deputy of such
17 officer.
18 "(4) Funds transferred under this subsection shall
19 remain available for the same period as the appropriations
20 account to which transferred.
21 "(5) Any transfer of funds under this subsection shall
22 be carried out in accordance with existing procedures ap-
23 plicable to reprogramming notifications for the appro-
24 priate congressional committees. Any proposed transfer
25 for which notice is given to the appropriate congressional

1 committees shall be accompanied by a report explaining
2 the nature of the proposed transfer and how it satisfies
3 the requirements of this subsection. In addition, the con-
4 gressional intelligence committees shall be promptly noti-
5 fied of any transfer of funds made pursuant to this sub-
6 section in any case in which the transfer would not have
7 otherwise required reprogramming notification under pro-
8 cedures in effect as of the date of the enactment of this
9 subsection.

10 ''(6)(A) The National Intelligence Director shall
11 promptly submit to—

12 ''(i) the congressional intelligence committees,

13 ''(ii) in the case of the transfer of personnel to
14 or from the Department of Defense, the Committee
15 on Armed Services of the Senate and the Committee
16 on Armed Services of the House of Representatives,
17 and

18 ''(iii) in the case of the transfer of personnel to
19 or from the Department of Justice, to the Commit-
20 tees on the Judiciary of the Senate and the House
21 of Representatives,

22 a report on any transfer of personnel made pursuant to
23 this subsection.

1 "(B) The Director shall include in any such report
2 an explanation of the nature of the transfer and how it
3 satisfies the requirements of this subsection.
4 "(f) TASKING AND OTHER AUTHORITIES.—(1)(A)
5 The National Intelligence Director shall—
6 "(i) develop collection objectives, priorities, and
7 guidance for the intelligence community to ensure
8 timely and effective collection, processing, analysis,
9 and dissemination (including access by users to col-
10 lected data consistent with applicable law and, as
11 appropriate, the guidelines referred to in subsection
12 (b) and analytic products generated by or within the
13 intelligence community) of national intelligence;
14 "(ii) determine and establish requirements and
15 priorities for, and manage and direct the tasking of,
16 collection, analysis, production, and dissemination of
17 national intelligence by elements of the intelligence
18 community, including—
19 "(I) approving requirements for collection
20 and analysis, and
21 "(II) resolving conflicts in collection re-
22 quirements and in the tasking of national col-
23 lection assets of the elements of the intelligence
24 community; and

1 "(iii) provide advisory tasking to intelligence
2 elements of those agencies and departments not
3 within the National Intelligence Program.
4 "(B) The authority of the National Intelligence Di-
5 rector under subparagraph (A) shall not apply—
6 "(i) insofar as the President so directs;
7 "(ii) with respect to clause (ii) of subparagraph
8 (A), insofar as the Secretary of Defense exercises
9 tasking authority under plans or arrangements
10 agreed upon by the Secretary of Defense and the
11 National Intelligence Director; or
12 "(iii) to the direct dissemination of information
13 to State government and local government officials
14 and private sector entities pursuant to sections 201
15 and 892 of the Homeland Security Act of 2002 (6
16 U.S.C. 121, 482).
17 "(2) The National Intelligence Director shall oversee
18 the National Counterterrorism Center and may establish
19 such other national intelligence centers as the Director de-
20 termines necessary.
21 "(3)(A) The National Intelligence Director shall pre-
22 scribe community-wide personnel policies that—
23 "(i) facilitate assignments across community
24 elements and to the intelligence centers;

1 ''(ii) establish overarching standards for intel-
2 ligence education and training; and
3 ''(iii) promote the most effective analysis and
4 collection of intelligence by ensuring a diverse work-
5 force, including the recruitment and training of
6 women, minorities, and individuals with diverse, eth-
7 nic, and linguistic backgrounds.
8 ''(B) In developing the policies prescribed under sub-
9 paragraph (A), the National Intelligence Director shall
10 consult with the heads of the departments containing the
11 elements of the intelligence community.
12 ''(C) Policies prescribed under subparagraph (A)
13 shall not be inconsistent with the personnel policies other-
14 wise applicable to members of the uniformed services.
15 ''(4) The National Intelligence Director shall ensure
16 compliance with the Constitution and laws of the United
17 States by the Central Intelligence Agency and shall ensure
18 such compliance by other elements of the intelligence com-
19 munity through the host executive departments that man-
20 age the programs and activities that are part of the Na-
21 tional Intelligence Program.
22 ''(5) The National Intelligence Director shall ensure
23 the elimination of waste and unnecessary duplication with-
24 in the intelligence community.

"(6) The National Intelligence Director shall perform such other functions as the President may direct.

Nothing in this Act shall be construed as affecting the role of the Department of Justice or the Attorney General with respect to applications under the Foreign Intelligence Surveillance Act of 1978.

"(g) INTELLIGENCE INFORMATION SHARING.—(1) The National Intelligence Director shall have principal authority to ensure maximum availability of and access to intelligence information within the intelligence community consistent with national security requirements. The National Intelligence Director shall—

"(A) establish uniform security standards and procedures;

"(B) establish common information technology standards, protocols, and interfaces;

"(C) ensure development of information technology systems that include multi-level security and intelligence integration capabilities; and

"(D) establish policies and procedures to resolve conflicts between the need to share intelligence information and the need to protect intelligence sources and methods.

"(2) The President shall ensure that the National Intelligence Director has all necessary support and authorities to fully and effectively implement paragraph (1).

"(3) Except as otherwise directed by the President or with the specific written agreement of the head of the department or agency in question, a Federal agency or official shall not be considered to have met any obligation to provide any information, report, assessment, or other material (including unevaluated intelligence information) to that department or agency solely by virtue of having provided that information, report, assessment, or other material to the National Intelligence Director or the National Counterterrorism Center.

"(4) Not later than February 1 of each year, the National Intelligence Director shall submit to the President and to the Congress an annual report that identifies any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively implement paragraph (1).

"(h) ANALYSIS.—(1) The National Intelligence Director shall ensure that all elements of the intelligence community strive for the most accurate analysis of intelligence derived from all sources to support national security needs.

1 "(2) The National Intelligence Director shall ensure
2 that intelligence analysis generally receives the highest pri-
3 ority when distributing resources within the intelligence
4 community and shall carry out duties under this sub-
5 section in a manner that—
6 "(A) develops all-source analysis techniques;
7 "(B) ensures competitive analysis;
8 "(C) ensures that differences in judgment are
9 fully considered and brought to the attention of pol-
10 icymakers; and
11 "(D) builds relationships between intelligence
12 collectors and analysts to facilitate greater under-
13 standing of the needs of analysts.
14 "(i) PROTECTION OF INTELLIGENCE SOURCES AND
15 METHODS.—(1) In order to protect intelligence sources
16 and methods from unauthorized disclosure and, consistent
17 with that protection, to maximize the dissemination of in-
18 telligence, the National Intelligence Director shall estab-
19 lish and implement guidelines for the intelligence commu-
20 nity for the following purposes:
21 "(A) Classification of information.
22 "(B) Access to and dissemination of intel-
23 ligence, both in final form and in the form when ini-
24 tially gathered.

1 "(C) Preparation of intelligence products in
2 such a way that source information is removed to
3 allow for dissemination at the lowest level of classi-
4 fication possible or in unclassified form to the extent
5 practicable.
6 "(2) The Director may only delegate a duty or au-
7 thority given the Director under this subsection to the
8 Deputy National Intelligence Director.
9 "(j) UNIFORM PROCEDURES FOR SENSITIVE COM-
10 PARTMENTED INFORMATION.—The President, acting
11 through the National Intelligence Director, shall—
12 "(1) establish uniform standards and proce-
13 dures for the grant of access to sensitive compart-
14 mented information to any officer or employee of
15 any agency or department of the United States and
16 to employees of contractors of those agencies or de-
17 partments;
18 "(2) ensure the consistent implementation of
19 those standards and procedures throughout such
20 agencies and departments;
21 "(3) ensure that security clearances granted by
22 individual elements of the intelligence community
23 are recognized by all elements of the intelligence
24 community, and under contracts entered into by
25 those agencies; and

"(4) ensure that the process for investigation and adjudication of an application for access to sensitive compartmented information is performed in the most expeditious manner possible consistent with applicable standards for national security.

"(k) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the President and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the National Intelligence Director shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

"(l) ENHANCED PERSONNEL MANAGEMENT.—(1)(A) The National Intelligence Director shall, under regulations prescribed by the Director, provide incentives for personnel of elements of the intelligence community to serve—

"(i) on the staff of the National Intelligence Director;

"(ii) on the staff of the national intelligence centers;

1 "(iii) on the staff of the National
2 Counterterrorism Center; and
3 "(iv) in other positions in support of the intel-
4 ligence community management functions of the Di-
5 rector.
6 "(B) Incentives under subparagraph (A) may include
7 financial incentives, bonuses, and such other awards and
8 incentives as the Director considers appropriate.
9 "(2)(A) Notwithstanding any other provision of law,
10 the personnel of an element of the intelligence community
11 who are assigned or detailed under paragraph (1)(A) to
12 service under the National Intelligence Director shall be
13 promoted at rates equivalent to or better than personnel
14 of such element who are not so assigned or detailed.
15 "(B) The Director may prescribe regulations to carry
16 out this section.
17 "(3)(A) The National Intelligence Director shall pre-
18 scribe mechanisms to facilitate the rotation of personnel
19 of the intelligence community through various elements of
20 the intelligence community in the course of their careers
21 in order to facilitate the widest possible understanding by
22 such personnel of the variety of intelligence requirements,
23 methods, users, and capabilities.
24 "(B) The mechanisms prescribed under subpara-
25 graph (A) may include the following:

1 ''(i) The establishment of special occupational
2 categories involving service, over the course of a ca-
3 reer, in more than one element of the intelligence
4 community.
5 ''(ii) The provision of rewards for service in po-
6 sitions undertaking analysis and planning of oper-
7 ations involving two or more elements of the intel-
8 ligence community.
9 ''(iii) The establishment of requirements for
10 education, training, service, and evaluation that in-
11 volve service in more than one element of the intel-
12 ligence community.
13 ''(C) It is the sense of Congress that the mechanisms
14 prescribed under this subsection should, to the extent
15 practical, seek to duplicate for civilian personnel within
16 the intelligence community the joint officer management
17 policies established by chapter 38 of title 10, United
18 States Code, and the other amendments made by title IV
19 of the Goldwater–Nichols Department of Defense Reorga-
20 nization Act of 1986 (Public Law 99–433).
21 ''(4)(A) This subsection shall not apply with respect
22 to personnel of the elements of the intelligence community
23 who are members of the uniformed services or law enforce-
24 ment officers (as that term is defined in section 5541(3)
25 of title 5, United States Code).

1 "(B) Assignment to the Office of the National Intel-
2 ligence Director of commissioned officers of the Armed
3 Forces shall be considered a joint-duty assignment for
4 purposes of the joint officer management policies pre-
5 scribed by chapter 38 of title 10, United States Code, and
6 other provisions of that title.

7 "(m) ADDITIONAL AUTHORITY WITH RESPECT TO
8 PERSONNEL.—(1) In addition to the authorities under
9 subsection (f)(3), the National Intelligence Director may
10 exercise with respect to the personnel of the Office of the
11 National Intelligence Director any authority of the Direc-
12 tor of the Central Intelligence Agency with respect to the
13 personnel of the Central Intelligence Agency under the
14 Central Intelligence Agency Act of 1949 (50 U.S.C. 403a
15 et seq.), and other applicable provisions of law, as of the
16 date of the enactment of this subsection to the same ex-
17 tent, and subject to the same conditions and limitations,
18 that the Director of the Central Intelligence Agency may
19 exercise such authority with respect to personnel of the
20 Central Intelligence Agency.

21 "(2) Employees and applicants for employment of the
22 Office of the National Intelligence Director shall have the
23 same rights and protections under the Office of the Na-
24 tional Intelligence Director as employees of the Central In-
25 telligence Agency have under the Central Intelligence

1 Agency Act of 1949, and other applicable provisions of
2 law, as of the date of the enactment of this subsection.
3 "(n) ACQUISITION AUTHORITIES.—(1) In carrying
4 out the responsibilities and authorities under this section,
5 the National Intelligence Director may exercise the acqui-
6 sition authorities referred to in the Central Intelligence
7 Agency Act of 1949 (50 U.S.C. 403a et seq.).
8 "(2) For the purpose of the exercise of any authority
9 referred to in paragraph (1), a reference to the head of
10 an agency shall be deemed to be a reference to the Na-
11 tional Intelligence Director or the Deputy National Intel-
12 ligence Director.
13 "(3)(A) Any determination or decision to be made
14 under an authority referred to in paragraph (1) by the
15 head of an agency may be made with respect to individual
16 purchases and contracts or with respect to classes of pur-
17 chases or contracts, and shall be final.
18 "(B) Except as provided in subparagraph (C), the
19 National Intelligence Director or the Deputy National In-
20 telligence Director may, in such official's discretion, dele-
21 gate to any officer or other official of the Office of the
22 National Intelligence Director any authority to make a de-
23 termination or decision as the head of the agency under
24 an authority referred to in paragraph (1).

1 "(C) The limitations and conditions set forth in sec-
2 tion 3(d) of the Central Intelligence Agency Act of 1949
3 (50 U.S.C. 403c(d)) shall apply to the exercise by the Na-
4 tional Intelligence Director of an authority referred to in
5 paragraph (1).

6 "(D) Each determination or decision required by an
7 authority referred to in the second sentence of section 3(d)
8 of the Central Intelligence Agency Act of 1949 shall be
9 based upon written findings made by the official making
10 such determination or decision, which findings shall be
11 final and shall be available within the Office of the Na-
12 tional Intelligence Director for a period of at least six
13 years following the date of such determination or decision.

14 "(o) CONSIDERATION OF VIEWS OF ELEMENTS OF
15 THE INTELLIGENCE COMMUNITY.—In carrying out the
16 duties and responsibilities under this section, the National
17 Intelligence Director shall take into account the views of
18 a head of a department containing an element of the intel-
19 ligence community and of the Director of the Central In-
20 telligence Agency.

21 "OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

22 "SEC. 103. (a) ESTABLISHMENT OF OFFICE; FUNC-
23 TION.—(1) There is an Office of the National Intelligence
24 Director. The Office of the National Intelligence Director
25 shall not be located within the Executive Office of the
26 President.

1 "(2) The function of the Office is to assist the Na-
2 tional Intelligence Director in carrying out the duties and
3 responsibilities of the Director under this Act and to carry
4 out such other duties as may be prescribed by the Presi-
5 dent or by law.

6 "(3) Any authority, power, or function vested by law
7 in any officer, employee, or part of the Office of the Na-
8 tional Intelligence Director is vested in, or may be exer-
9 cised by, the National Intelligence Director.

10 "(4) Exemptions, exceptions, and exclusions for the
11 Central Intelligence Agency or for personnel, resources, or
12 activities of such Agency from otherwise applicable laws,
13 other than the exception contained in section 104A(c)(1)
14 shall apply in the same manner to the Office of the Na-
15 tional Intelligence Director and the personnel, resources,
16 or activities of such Office.

17 "(b) OFFICE OF NATIONAL INTELLIGENCE DIREC-
18 TOR.—(1) The Office of the National Intelligence Director
19 is composed of the following:

20 "(A) The National Intelligence Director.

21 "(B) The Deputy National Intelligence Direc-
22 tor.

23 "(C) The Deputy National Intelligence Director
24 for Operations.

1 "(D) The Deputy National Intelligence Director
2 for Community Management and Resources.
3 "(E) The Associate National Intelligence Direc-
4 tor for Military Support.
5 "(F) The Associate National Intelligence Direc-
6 tor for Domestic Security.
7 "(G) The Associate National Intelligence Direc-
8 tor for Diplomatic Affairs.
9 "(H) The National Intelligence Council.
10 "(I) The General Counsel to the National Intel-
11 ligence Director.
12 "(J) Such other offices and officials as may be
13 established by law or the National Intelligence Di-
14 rector may establish or designate in the Office.
15 "(2) To assist the National Intelligence Director in
16 fulfilling the duties and responsibilities of the Director, the
17 Director shall employ and utilize in the Office of the Na-
18 tional Intelligence Director a staff having expertise in
19 matters relating to such duties and responsibilities and
20 may establish permanent positions and appropriate rates
21 of pay with respect to such staff.
22 "(c) DEPUTY NATIONAL INTELLIGENCE DIREC-
23 TOR.—(1) There is a Deputy National Intelligence Direc-
24 tor who shall be appointed by the President, by and with
25 the advice and consent of the Senate.

"(2) The Deputy National Intelligence Director shall assist the National Intelligence Director in carrying out the responsibilities of the National Intelligence Director under this Act.

"(3) The Deputy National Intelligence Director shall act for, and exercise the powers of, the National Intelligence Director during the absence or disability of the National Intelligence Director or during a vacancy in the position of the National Intelligence Director.

"(4) The Deputy National Intelligence Director takes precedence in the Office of the National Intelligence Director immediately after the National Intelligence Director.

"(d) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR OPERATIONS.—(1) There is a Deputy National Intelligence Director for Operations.

"(2) The Deputy National Intelligence Director for Operations shall—

"(A) assist the National Intelligence Director in all aspects of intelligence operations, including intelligence tasking, requirements, collection, and analysis;

"(B) assist the National Intelligence Director in overseeing the national intelligence centers; and

"(C) perform such other duties and exercise such powers as National Intelligence Director may prescribe.

"(e) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR COMMUNITY MANAGEMENT AND RESOURCES.—(1) There is a Deputy National Intelligence Director for Community Management and Resources.

"(2) The Deputy National Intelligence Director for Community Management and Resources shall—

"(A) assist the National Intelligence Director in all aspects of management and resources, including administration, budgeting, information security, personnel, training, and programmatic functions; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

"(f) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR MILITARY SUPPORT.—(1) There is an Associate National Intelligence Director for Military Support who shall be appointed by the National Intelligence Director, in consultation with the Secretary of Defense.

"(2) The Associate National Intelligence Director for Military Support shall—

"(A) ensure that the intelligence needs of the Department of Defense are met; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

"(g) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR DOMESTIC SECURITY.—(1) There is an Associate National Intelligence Director for Domestic Security who shall be appointed by the National Intelligence Director in consultation with the Attorney General and the Secretary of Homeland Security.

"(2) The Associate National Intelligence Director for Domestic Security shall—

"(A) ensure that the intelligence needs of the Department of Justice, the Department of Homeland Security, and other relevant executive departments and agencies are met; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe, except that the National Intelligence Director may not make such officer responsible for disseminating any domestic or homeland security information to State government or local government officials or any private sector entity.

"(h) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR DIPLOMATIC AFFAIRS.—(1) There is an Associate National Intelligence Director for Diplomatic Affairs

who shall be appointed by the National Intelligence Director in consultation with the Secretary of State.

"(2) The Associate National Intelligence Director for Diplomatic Affairs shall—

"(A) ensure that the intelligence needs of the Department of State are met; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

"(i) MILITARY STATUS OF DIRECTOR AND DEPUTY DIRECTORS.—(1) Not more than one of the individuals serving in the positions specified in paragraph (2) may be a commissioned officer of the Armed Forces in active status.

"(2) The positions referred to in this paragraph are the following:

"(A) The National Intelligence Director.

"(B) The Deputy National Intelligence Director.

"(3) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (2)—

"(A) be a commissioned officer of the Armed Forces, in active status; or

"(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

"(4) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (2)—

"(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

"(5) Except as provided in subparagraph (A) or (B) of paragraph (4), the appointment of an officer of the Armed Forces to a position specified in paragraph (2) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

1 "(6) A commissioned officer of the Armed Forces on
2 active duty who is appointed to a position specified in
3 paragraph (2), while serving in such position and while
4 remaining on active duty, shall continue to receive military
5 pay and allowances and shall not receive the pay pre-
6 scribed for such position. Funds from which such pay and
7 allowances are paid shall be reimbursed from funds avail-
8 able to the National Intelligence Director.

9 "(j) NATIONAL INTELLIGENCE COUNCIL.—(1) With-
10 in the Office of the Deputy National Intelligence Director
11 for Operations, there is a National Intelligence Council.

12 "(2)(A) The National Intelligence Council shall be
13 composed of senior analysts within the intelligence com-
14 munity and substantive experts from the public and pri-
15 vate sector, who shall be appointed by and report to the
16 Deputy National Intelligence Director for Operations.

17 "(B) The Director shall prescribe appropriate secu-
18 rity requirements for personnel appointed from the private
19 sector as a condition of service on the Council, or as con-
20 tractors of the Council or employees of such contractors,
21 to ensure the protection of intelligence sources and meth-
22 ods while avoiding, wherever possible, unduly intrusive re-
23 quirements which the Director considers to be unnecessary
24 for this purpose.

25 "(3) The National Intelligence Council shall—

"(A) produce national intelligence estimates for the United States Government, which shall include as a part of such estimates in their entirety, alternative views, if any, held by elements of the intelligence community;

"(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

"(C) otherwise assist the National Intelligence Director in carrying out the responsibility of the National Intelligence Director to provide national intelligence.

"(4) Within their respective areas of expertise and under the direction of the Deputy National Intelligence Director for Operations, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

"(5) Subject to the direction and control of the Deputy National Intelligence Director for Operations, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for

1 substantive experts necessary to assist the Council with
2 particular assessments under this subsection.
3 ''(6) The Deputy National Intelligence Director for
4 Operations shall make available to the National Intel-
5 ligence Council such personnel as may be necessary to per-
6 mit the Council to carry out its responsibilities under this
7 section.
8 ''(7) The heads of the elements of the intelligence
9 community shall, as appropriate, furnish such support to
10 the National Intelligence Council, including the prepara-
11 tion of intelligence analyses, as may be required by the
12 National Intelligence Director.
13 ''(k) GENERAL COUNSEL TO THE NATIONAL INTEL-
14 LIGENCE DIRECTOR.—(1) There is a General Counsel to
15 the National Intelligence Director.
16 ''(2) The individual serving in the position of General
17 Counsel to the National Intelligence Director may not,
18 while so serving, also serve as the General Counsel of any
19 other agency or department of the United States.
20 ''(3) The General Counsel to the National Intel-
21 ligence Director is the chief legal officer for the National
22 Intelligence Director.
23 ''(4) The General Counsel to the National Intel-
24 ligence Director shall perform such functions as the Na-
25 tional Intelligence Director may prescribe.

1 "(l) INTELLIGENCE COMMUNITY INFORMATION
2 TECHNOLOGY OFFICER.—(1) There is an Intelligence
3 Community Information Technology Officer who shall be
4 appointed by the National Intelligence Director.
5 "(2) The mission of the Intelligence Community In-
6 formation Technology Officer is to assist the National In-
7 telligence Director in ensuring the sharing of information
8 in the fullest and most prompt manner between and
9 among elements of the intelligence community consistent
10 with section 102A(g).
11 "(3) The Intelligence Community Information Tech-
12 nology Officer shall—
13 "(A) assist the Deputy National Intelligence
14 Director for Community Management and Resources
15 in developing and implementing an integrated infor-
16 mation technology network;
17 "(B) develop an enterprise architecture for the
18 intelligence community and assist the Deputy Na-
19 tional Intelligence Director for Community Manage-
20 ment and Resources in ensuring that elements of the
21 intelligence community comply with such architec-
22 ture;
23 "(C) have procurement approval authority over
24 all enterprise architecture-related information tech-

1 nology items funded in the National Intelligence
2 Program;
3 ''(D) ensure that all such elements have the
4 most direct and continuous electronic access to all
5 information (including unevaluated intelligence con-
6 sistent with existing laws and the guidelines referred
7 to in section 102A(b)) necessary for appropriately
8 cleared analysts to conduct comprehensive all-source
9 analysis and for appropriately cleared policymakers
10 to perform their duties—
11 ''(i) directly, in the case of the elements of
12 the intelligence community within the National
13 Intelligence Program, and
14 ''(ii) in conjunction with the Secretary of
15 Defense and other applicable heads of depart-
16 ments with intelligence elements outside the
17 National Intelligence Program;
18 ''(E) review and provide recommendations to
19 the Deputy National Intelligence Director for Com-
20 munity Management and Resources on National In-
21 telligence Program budget requests for information
22 technology and national security systems;
23 ''(F) assist the Deputy National Intelligence
24 Director for Community Management and Resources
25 in promulgating and enforcing standards on infor-

1 mation technology and national security systems
2 that apply throughout the elements of the intel-
3 ligence community;
4 ''(G) ensure that within and between the ele-
5 ments of the National Intelligence Program, duplica-
6 tive and unnecessary information technology and na-
7 tional security systems are eliminated; and
8 ''(H) pursuant to the direction of the National
9 Intelligence Director, consult with the Director of
10 the Office of Management and Budget to ensure
11 that the Office of the National Intelligence Director
12 coordinates and complies with national security re-
13 quirements consistent with applicable law, Executive
14 orders, and guidance; and
15 ''(I) perform such other duties with respect to
16 the information systems and information technology
17 of the Office of the National Intelligence Director as
18 may be prescribed by the Deputy National Intel-
19 ligence Director for Community Management and
20 Resources or specified by law.
21 ''CENTRAL INTELLIGENCE AGENCY
22 ''SEC. 104. (a) CENTRAL INTELLIGENCE AGENCY.—
23 There is a Central Intelligence Agency.
24 ''(b) FUNCTION.—The function of the Central Intel-
25 ligence Agency is to assist the Director of the Central In-

1 telligence Agency in carrying out the responsibilities speci-
2 fied in section 104A(c).

3 ''DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

4 ''SEC. 104A. (a) DIRECTOR OF CENTRAL INTEL-
5 LIGENCE AGENCY.—There is a Director of the Central In-
6 telligence Agency who shall be appointed by the President,
7 by and with the advice and consent of the Senate. The
8 Director shall be under the authority, direction, and con-
9 trol of the National Intelligence Director, except as other-
10 wise determined by the President.

11 ''(b) DUTIES.—In the capacity as Director of the
12 Central Intelligence Agency, the Director of the Central
13 Intelligence Agency shall—

14 ''(1) carry out the responsibilities specified in
15 subsection (c); and

16 ''(2) serve as the head of the Central Intel-
17 ligence Agency.

18 ''(c) RESPONSIBILITIES.—The Director of the Cen-
19 tral Intelligence Agency shall—

20 ''(1) collect intelligence through human sources
21 and by other appropriate means, except that the Di-
22 rector of the Central Intelligence Agency shall have
23 no police, subpoena, or law enforcement powers or
24 internal security functions;

25 ''(2) provide overall direction for the collection
26 of national intelligence overseas or outside of the

United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

''(3) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

''(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the National Intelligence Director determines can be more efficiently accomplished centrally; and

''(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Intelligence Director may direct.

''(d) DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President. The Deputy Director shall perform such functions as the Director may prescribe and shall perform the

1 duties of the Director during the Director's absence or dis-
2 ability or during a vacancy in the position of the Director
3 of the Central Intelligence Agency.

4 ''(e) TERMINATION OF EMPLOYMENT OF CIA EM-
5 PLOYEES.—(1) Notwithstanding the provisions of any
6 other law, the Director of the Central Intelligence Agency
7 may, in the discretion of the Director, terminate the em-
8 ployment of any officer or employee of the Central Intel-
9 ligence Agency whenever the Director considers the termi-
10 nation of employment of such officer or employee nec-
11 essary or advisable in the interests of the United States.

12 ''(2) Any termination of employment of an officer or
13 employee under paragraph (1) shall not affect the right
14 of the officer or employee to seek or accept employment
15 in any other department, agency, or element of the United
16 States Government if declared eligible for such employ-
17 ment by the Office of Personnel Management.''.

18 (b) FIRST DIRECTOR.—(1) When the Senate receives
19 the nomination of a person for the initial appointment by
20 the President for the position of National Intelligence Di-
21 rector, it shall consider and dispose of such nomination
22 within a period of 30 legislative days.

23 (2) If the Senate does not dispose of such nomination
24 referred to in paragraph (1) within such period—

25 (A) Senate confirmation is not required; and

(B) the appointment of such nominee as National Intelligence Director takes effect upon administration of the oath of office.

(3) For the purposes of this subsection, the term ''legislative day'' means a day on which the Senate is in session.

SEC. 1012. REVISED DEFINITION OF NATIONAL INTELLIGENCE.

Paragraph (5) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

''(5) The terms 'national intelligence' and 'intelligence related to national security' refer to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that—

''(A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and

''(B) that involves—

''(i) threats to the United States, its people, property, or interests;

''(ii) the development, proliferation, or use of weapons of mass destruction; or

"(iii) any other matter bearing on United States national or homeland security.".

SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY.

(a) DEVELOPMENT OF PROCEDURES.—The National Intelligence Director, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

(A) information exchange between senior officials of the Central Intelligence Agency and

1 senior officers and officials of the Department
2 of Defense when planning for such an operation
3 commences by either organization; and
4 (B) exchange of information between the
5 Secretary and the Director of the Central Intel-
6 ligence Agency to ensure that senior operational
7 officials in both the Department of Defense and
8 the Central Intelligence Agency have knowledge
9 of the existence of the ongoing operations of the
10 other.
11 (2) When appropriate, in cases where the De-
12 partment of Defense and the Central Intelligence
13 Agency are conducting separate missions in the
14 same geographical area, mutual agreement on the
15 tactical and strategic objectives for the region and a
16 clear delineation of operational responsibilities to
17 prevent conflict and duplication of effort.
18 (b) IMPLEMENTATION REPORT.—Not later than 180
19 days after the date of the enactment of the Act, the Na-
20 tional Intelligence Director shall submit to the congres-
21 sional defense committees (as defined in section 101 of
22 title 10, United States Code) and the congressional intel-
23 ligence committees (as defined in section 3(7) of the Na-
24 tional Security Act of 1947 (50 U.S.C. 401a(7))) a report
25 describing the procedures established pursuant to sub-

1 section (a) and the status of the implementation of those
2 procedures.

3 **SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIRECTOR**
4 **IN APPOINTMENT OF CERTAIN OFFICIALS RE-**
5 **SPONSIBLE FOR INTELLIGENCE-RELATED AC-**
6 **TIVITIES.**

7 Section 106 of the National Security Act of 1947 (50
8 U.S.C. 403–6) is amended by striking all after the heading
9 and inserting the following:

10 ''(a) RECOMMENDATION OF NID IN CERTAIN AP-
11 POINTMENTS.—(1) In the event of a vacancy in a position
12 referred to in paragraph (2), the National Intelligence Di-
13 rector shall recommend to the President an individual for
14 nomination to fill the vacancy.

15 ''(2) Paragraph (1) applies to the following positions:

16 ''(A) The Deputy National Intelligence Direc-
17 tor.

18 ''(B) The Director of the Central Intelligence
19 Agency.

20 ''(b) CONCURRENCE OF NID IN APPOINTMENTS TO
21 POSITIONS IN THE INTELLIGENCE COMMUNITY.—(1) In
22 the event of a vacancy in a position referred to in para-
23 graph (2), the head of the department or agency having
24 jurisdiction over the position shall obtain the concurrence
25 of the National Intelligence Director before appointing an

1 individual to fill the vacancy or recommending to the
2 President an individual to be nominated to fill the va-
3 cancy. If the Director does not concur in the recommenda-
4 tion, the head of the department or agency concerned may
5 not fill the vacancy or make the recommendation to the
6 President (as the case may be).

7 ''(2) Paragraph (1) applies to the following positions:

8 ''(A) The Director of the National Security
9 Agency.

10 ''(B) The Director of the National Reconnais-
11 sance Office.

12 ''(C) The Director of the National Geospatial-
13 Intelligence Agency.

14 ''(c) CONSULTATION WITH NATIONAL INTEL-
15 LIGENCE DIRECTOR IN CERTAIN POSITIONS.—(1) In the
16 event of a vacancy in a position referred to in paragraph
17 (2), the head of the department or agency having jurisdic-
18 tion over the position shall consult with the National Intel-
19 ligence Director before appointing an individual to fill the
20 vacancy or recommending to the President an individual
21 to be nominated to fill the vacancy.

22 ''(2) Paragraph (1) applies to the following positions:

23 ''(A) The Director of the Defense Intelligence
24 Agency.

"(B) The Assistant Secretary of State for Intelligence and Research.

"(C) The Director of the Office of Intelligence of the Department of Energy.

"(D) The Director of the Office of Counterintelligence of the Department of Energy.

"(E) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

"(F) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or that officer's successor.

"(G) The Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

"(H) The Deputy Assistant Commandant of the Coast Guard for Intelligence.

SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL INTELLIGENCE DIRECTOR.

(a) INITIAL APPOINTMENT OF THE NATIONAL INTELLIGENCE DIRECTOR.—Notwithstanding section 102(a)(1) of the National Security Act of 1947, as added by section 1011(a), the individual serving as the Director of Central Intelligence on the date immediately preceding the date of the enactment of this Act may, at the discre-

1 tion of the President, become the National Intelligence Di-
2 rector as of the date of the enactment of this Act.

3 (b) GENERAL REFERENCES.—(1) Any reference to
4 the Director of Central Intelligence in the Director's ca-
5 pacity as the head of the intelligence community in any
6 law, regulation, document, paper, or other record of the
7 United States shall be deemed to be a reference to the
8 National Intelligence Director.

9 (2) Any reference to the Director of Central Intel-
10 ligence in the Director's capacity as the head of the Cen-
11 tral Intelligence Agency in any law, regulation, document,
12 paper, or other record of the United States shall be
13 deemed to be a reference to the Director of the Central
14 Intelligence Agency.

15 (3) Any reference to the Deputy Director of Central
16 Intelligence in the Deputy Director's capacity as deputy
17 to the head of the intelligence community in any law, regu-
18 lation, document, paper, or other record of the United
19 States shall be deemed to be a reference to the Deputy
20 National Intelligence Director.

21 (4) Any reference to the Deputy Director of Central
22 Intelligence for Community Management in any law, regu-
23 lation, document, paper, or other record of the United
24 States shall be deemed to be a reference to the Deputy

National Intelligence Director for Community Management and Resources.

SEC. 1016. EXECUTIVE SCHEDULE MATTERS.

(a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding the end the following new item:

"National Intelligence Director.".

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following new items:

"Deputy National Intelligence Director.

"Director of the National Counterterrorism Center.".

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the Assistant Directors of Central Intelligence.

Subtitle B—National Counterterrorism Center and Civil Liberties Protections

SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

1 ''NATIONAL COUNTERTERRORISM CENTER

2 ''SEC. 119. (a) ESTABLISHMENT OF CENTER.—
3 There is within the Office of the National Intelligence Di-
4 rector a National Counterterrorism Center.

5 ''(b) DIRECTOR OF NATIONAL COUNTERTERRORISM
6 CENTER.—There is a Director of the National
7 Counterterrorism Center, who shall be the head of the Na-
8 tional Counterterrorism Center, who shall be appointed by
9 National Intelligence Director.

10 ''(c) SUPERVISION.—The Director of the National
11 Counterterrorism Center shall report to the National In-
12 telligence Director on—

13 ''(1) the budget and programs of the National
14 Counterterrorism Center;

15 ''(2) the activities of the Directorate of Intel-
16 ligence of the National Counterterrorism Center
17 under subsection (h);

18 ''(3) the conduct of intelligence operations im-
19 plemented by other elements of the intelligence com-
20 munity; and

21 ''(4) the planning and progress of joint
22 counterterrorism operations (other than intelligence
23 operations).

1 The National Intelligence Director shall carry out this sec-
2 tion through the Deputy National Intelligence Director for
3 Operations.

4 ''(d) PRIMARY MISSIONS.—The primary missions of
5 the National Counterterrorism Center shall be as follows:

6 ''(1) To serve as the primary organization in
7 the United States Government for analyzing and in-
8 tegrating all intelligence possessed or acquired by
9 the United States Government pertaining to ter-
10 rorism and counterterrorism, excepting intelligence
11 pertaining exclusively to domestic counterterrorism.

12 ''(2) To conduct strategic operational planning
13 for counterterrorism activities, integrating all instru-
14 ments of national power, including diplomatic, finan-
15 cial, military, intelligence, homeland security, and
16 law enforcement activities within and among agen-
17 cies.

18 ''(3) To support operational responsibilities as-
19 signed to lead agencies for counterterrorism activi-
20 ties by ensuring that such agencies have access to
21 and receive intelligence needed to accomplish their
22 assigned activities.

23 ''(4) To ensure that agencies, as appropriate,
24 have access to and receive all-source intelligence sup-

1 port needed to execute their counterterrorism plans
2 or perform independent, alternative analysis.
3 "(e) DOMESTIC COUNTERTERRORISM INTEL-
4 LIGENCE.—(1) The Center may, consistent with applicable
5 law, the direction of the President, and the guidelines re-
6 ferred to in section 102A(b), receive intelligence pertaining
7 exclusively to domestic counterterrorism from any Fed-
8 eral, State, or local government or other source necessary
9 to fulfill its responsibilities and retain and disseminate
10 such intelligence.
11 "(2) Any agency authorized to conduct
12 counterterrorism activities may request information from
13 the Center to assist it in its responsibilities, consistent
14 with applicable law and the guidelines referred to in sec-
15 tion 102A(b).
16 "(f) DUTIES AND RESPONSIBILITIES OF DIREC-
17 TOR.—The Director of the National Counterterrorism
18 Center shall—
19 "(1) serve as the principal adviser to the Na-
20 tional Intelligence Director on intelligence operations
21 relating to counterterrorism;
22 "(2) provide strategic guidance and plans for
23 the civilian and military counterterrorism efforts of
24 the United States Government and for the effective
25 integration of counterterrorism intelligence and op-

1 erations across agency boundaries, both inside and
2 outside the United States;
3 ''(3) advise the National Intelligence Director
4 on the extent to which the counterterrorism program
5 recommendations and budget proposals of the de-
6 partments, agencies, and elements of the United
7 States Government conform to the priorities estab-
8 lished by the President;
9 ''(4) disseminate terrorism information, includ-
10 ing current terrorism threat analysis, to the Presi-
11 dent, the Vice President, the Secretaries of State,
12 Defense, and Homeland Security, the Attorney Gen-
13 eral, the Director of the Central Intelligence Agency,
14 and other officials of the executive branch as appro-
15 priate, and to the appropriate committees of Con-
16 gress;
17 ''(5) support the Department of Justice and the
18 Department of Homeland Security, and other appro-
19 priate agencies, in fulfillment of their responsibilities
20 to disseminate terrorism information, consistent with
21 applicable law, guidelines referred to in section
22 102A(b), Executive Orders and other Presidential
23 guidance, to State and local government officials,
24 and other entities, and coordinate dissemination of

terrorism information to foreign governments as approved by the National Intelligence Director;

"(6) consistent with priorities approved by the President, assist the National Intelligence Director in establishing requirements for the intelligence community for the collection of terrorism information; and

"(7) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law.

"(g) LIMITATION.—The Director of the National Counterterrorism Center may not direct the execution of counterterrorism operations.

"(h) RESOLUTION OF DISPUTES.—The National Intelligence Director shall resolve disagreements between the National Counterterrorism Center and the head of a department, agency, or element of the United States Government on designations, assignments, plans, or responsibilities. The head of such a department, agency, or element may appeal the resolution of the disagreement by the National Intelligence Director to the President.

"(i) DIRECTORATE OF INTELLIGENCE.—The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence which shall have pri-

mary responsibility within the United States Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States.

"(j) DIRECTORATE OF STRATEGIC PLANNING.—The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Strategic Planning which shall provide strategic guidance and plans for counterterrorism operations conducted by the United States Government.".

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 118 the following new item:

"Sec. 119. National Counterterrorism Center.".

SEC. 1022. CIVIL LIBERTIES PROTECTION OFFICER.

(a) CIVIL LIBERTIES PROTECTION OFFICER.—(1) Within the Office of the National Intelligence Director, there is a Civil Liberties Protection Officer who shall be appointed by the National Intelligence Director.

(2) The Civil Liberties Protection Officer shall report directly to the National Intelligence Director.

(b) DUTIES.—The Civil Liberties Protection Officer shall—

(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the National Intelligence Director and the elements of the intelligence community within the National Intelligence Program;

(2) oversee compliance by the Office and the National Intelligence Director with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy;

(3) review and assess complaints and other information indicating possible abuses of civil liberties and privacy in the administration of the programs and operations of the Office and the National Intelligence Director and, as appropriate, investigate any such complaint or information;

(4) ensure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(5) ensure that personal information contained in a system of records subject to section 552a of title 5, United States Code (popularly referred to as

the 'Privacy Act'), is handled in full compliance with fair information practices as set out in that section;

(6) conduct privacy impact assessments when appropriate or as required by law; and

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

(c) USE OF AGENCY INSPECTORS GENERAL.—When appropriate, the Civil Liberties Protection Officer may refer complaints to the Office of Inspector General having responsibility for the affected element of the department or agency of the intelligence community to conduct an investigation under paragraph (3) of subsection (b).

Subtitle C—Joint Intelligence Community Council

SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.

(a) ESTABLISHMENT.—(1) There is hereby established a Joint Intelligence Community Council.

(b) FUNCTIONS.—(1) The Joint Intelligence Community Council shall provide advice to the National Intelligence Director as appropriate.

(2) The National Intelligence Director shall consult with the Joint Intelligence Community Council in developing guidance for the development of the annual National Intelligence Program budget.

(c) MEMBERSHIP.—The Joint Intelligence Community Council shall consist of the following:

(1) The National Intelligence Director, who shall chair the Council.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

(8) Such other officials of the executive branch as the President may designate.

Subtitle D—Improvement of Human Intelligence (HUMINT)

SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY CRITICAL COMPONENT OF THE INTELLIGENCE COMMUNITY.

It is a sense of Congress that—

(1) the human intelligence officers of the intelligence community have performed admirably and honorably in the face of great personal dangers;

(2) during an extended period of unprecedented investment and improvements in technical collection means, the human intelligence capabilities of the

United States have not received the necessary and commensurate priorities;

(3) human intelligence is becoming an increasingly important capability to provide information on the asymmetric threats to the national security of the United States;

(4) the continued development and improvement of a robust and empowered and flexible human intelligence work force is critical to identifying, understanding, and countering the plans and intentions of the adversaries of the United States; and

(5) an increased emphasis on, and resources applied to, enhancing the depth and breadth of human intelligence capabilities of the United States intelligence community must be among the top priorities of the National Intelligence Director.

SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CAPACITY.

Not later than 6 months after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on existing human intelligence (HUMINT) capacity which shall include a plan to implement changes, as necessary, to accelerate improvements to, and increase the capacity of, HUMINT across the intelligence community.

Subtitle E—Improvement of Education for the Intelligence Community

SEC. 1051. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.

(a) IN GENERAL.—(1) Subsection (b)(2) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended to read as follows:

"(2) will meet the requirements for obligated service described in subsection (j); and".

(2) Such section is further amended by adding at the end the following new subsection:

"(j) REQUIREMENTS FOR OBLIGATED SERVICE IN THE GOVERNMENT.—(1) Each recipient of a scholarship or a fellowship under the program shall work in a specified national security position. In this subsection, the term 'specified national security position' means a position of a department or agency of the United States that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to the study for which scholarship or fellowship assistance (as the case may be) was provided under the program.

1 "(2) Each such recipient shall commence work in a
2 specified national security position as soon as practicable
3 but in no case later than two years after the completion
4 by the recipient of the study for which scholarship or fel-
5 lowship assistance (as the case may be) was provided
6 under the program.

7 "(3) Each such recipient shall work in a specified na-
8 tional security position for a period specified by the Sec-
9 retary, which period shall include—

10 "(A) in the case of a recipient of a scholarship,
11 one year of service for each year, or portion thereof,
12 for which such scholarship assistance was provided,
13 and

14 "(B) in the case of a recipient of a fellowship,
15 not less than one nor more than three years for each
16 year, or portion thereof, for which such fellowship
17 assistance was provided.

18 "(4) Recipients shall seek specified national security
19 positions as follows:

20 "(A) In the Department of Defense or in any
21 element of the intelligence community.

22 "(B) In the Department of State or in the De-
23 partment of Homeland Security, if the recipient
24 demonstrates to the Secretary that no position is

1 available in the Department of Defense or in any
2 element of the intelligence community.
3 ''(C) In any other Federal department or agen-
4 cy not referred to in subparagraphs (A) and (B), if
5 the recipient demonstrates to the Secretary that no
6 position is available in a Federal department or
7 agency specified in such paragraphs.''.
8 (b) REGULATIONS.—The Secretary of Defense shall
9 prescribe regulations to carry out subsection (j) of section
10 802 of the David L. Boren National Security Education
11 Act of 1991, as added by subsection (a). In prescribing
12 such regulations, the Secretary shall establish standards
13 that recipients of scholarship and fellowship assistance
14 under the program under section 802 of the David L.
15 Boren National Security Education Act of 1991 are re-
16 quired to demonstrate in order to satisfy the requirement
17 of a good faith effort to gain employment as required
18 under such subsection.
19 (c) APPLICABILITY.—(1) The amendments made by
20 subsection (a) shall apply with respect to service agree-
21 ments entered into under the David L. Boren National
22 Security Education Act of 1991 on or after the date of
23 the enactment of this Act.
24 (2) The amendments made by subsection (a) shall not
25 affect the force, validity, or terms of any service agreement

entered into under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act that is in force as of that date.

SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP LANGUAGE INITIATIVE.

(a) INCREASE IN ANNUAL AUTHORIZATION OF APPROPRIATIONS.—(1) Title VIII of the Intelligence Authorization Act for Fiscal Year 1992 (Public Law 102–183; 105 Stat. 1271), as amended by section 311(c) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103–178; 107 Stat. 2037) and by section 333(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2397), is amended in subsection (a) of section 811 by striking ''there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, $10,000,000,'' and inserting ''there is authorized to be appropriated to the Secretary for each of fiscal years 2003 and 2004, $10,000,000, and for fiscal year 2005 and each subsequent fiscal year, $12,000,000,''.

(2) Subsection (b) of such section is amended by inserting ''for fiscal years 2003 and 2004 only'' after ''authorization of appropriations under subsection (a)''.

(b) REQUIREMENT FOR EMPLOYMENT AGREEMENTS.—(1) Section 802(i) of the David L. Boren Na-

1 tional Security Education Act of 1991 (50 U.S.C. 1902(i))
2 is amended by adding at the end the following new para-
3 graph:

4 "(5)(A) In the case of an undergraduate or graduate
5 student that participates in training in programs under
6 paragraph (1), the student shall enter into an agreement
7 described in subsection (b), other than such a student who
8 has entered into such an agreement pursuant to subpara-
9 graph (A)(ii) or (B)(ii) of section 802(a)(1).

10 "(B) In the case of an employee of an agency or de-
11 partment of the Federal Government that participates in
12 training in programs under paragraph (1), the employee
13 shall agree in writing—

14 "(i) to continue in the service of the agency or
15 department of the Federal Government employing
16 the employee for the period of such training;

17 "(ii) to continue in the service of such agency
18 or department employing the employee following
19 completion of such training for a period of two years
20 for each year, or part of the year, of such training;

21 "(iii) to reimburse the United States for the
22 total cost of such training (excluding the employee's
23 pay and allowances) provided to the employee if, be-
24 fore the completion by the employee of the training,
25 the employment of the employee by the agency or

department is terminated due to misconduct by the employee or by the employee voluntarily; and

''(iv) to reimburse the United States if, after completing such training, the employment of the employee by the agency or department is terminated either by the agency or department due to misconduct by the employee or by the employee voluntarily, before the completion by the employee of the period of service required in clause (ii), in an amount that bears the same ratio to the total cost of the training (excluding the employee's pay and allowances) provided to the employee as the unserved portion of such period of service bears to the total period of service under clause (ii).

''(C) Subject to subparagraph (D), the obligation to reimburse the United States under an agreement under subparagraph (A) is for all purposes a debt owing the United States.

''(D) The head of an element of the intelligence community may release an employee, in whole or in part, from the obligation to reimburse the United States under an agreement under subparagraph (A) when, in the discretion of the head of the element, the head of the element determines that equity or the interests of the United States so require.''.

(2) The amendment made by paragraph (1) shall apply to training that begins on or after the date that is 90 days after the date of the enactment of this Act.

(c) INCREASE IN THE NUMBER OF PARTICIPATING EDUCATIONAL INSTITUTIONS.—The Secretary of Defense shall take such steps as the Secretary determines will increase the number of qualified educational institutions that receive grants under the National Flagship Language Initiative to establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

(d) CLARIFICATION OF AUTHORITY TO SUPPORT STUDIES ABROAD.—Educational institutions that receive grants under the National Flagship Language Initiative may support students who pursue total immersion foreign language studies overseas of foreign languages that are critical to the national security of the United States.

SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE UNITED STATES WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE UNITED STATES.—(1) Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(A) by striking ''and'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) awarding scholarships to students who—

''(i) are United States citizens who—

''(I) are native speakers (commonly referred to as heritage community residents) of a foreign language that is identified as critical to the national security interests of the United States who should be actively recruited for employment by Federal se-

1 curity agencies with a need for lin-
2 guists; and
3 ''(II) are not proficient at a pro-
4 fessional level in the English language
5 with respect to reading, writing, and
6 interpersonal skills required to carry
7 out the national security interests of
8 the United States, as determined by
9 the Secretary,
10 to enable such students to pursue English
11 language studies at an institution of higher
12 education of the United States to attain
13 proficiency in those skills; and
14 ''(ii) enter into an agreement to work
15 in a national security position or work in
16 the field of education in the area of study
17 for which the scholarship was awarded in
18 a similar manner (as determined by the
19 Secretary) as agreements entered into pur-
20 suant to subsection (b)(2)(A).''.
21 (2) The matter following subsection (a)(2) of such
22 section is amended—
23 (A) in the first sentence, by inserting ''or for
24 the scholarship program under paragraph (1)(E)''
25 after ''under paragraph (1)(D) for the National

1 Flagship Language Initiative described in subsection
2 (i)''; and
3 (B) by adding at the end the following: ''For
4 the authorization of appropriations for the scholar-
5 ship program under paragraph (1)(E), see section
6 812.''.
7 (3) Section 803(d)(4)(E) of such Act (50 U.S.C.
8 1903(d)(4)(E)) is amended by inserting before the period
9 the following: ''and section 802(a)(1)(E) (relating to
10 scholarship programs for advanced English language stud-
11 ies by heritage community residents)''.
12 (b) FUNDING.—The David L. Boren National Secu-
13 rity Education Act of 1991 (50 U.S.C. 1901 et seq.) is
14 amended by adding at the end the following new section:
15 **''SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR**
16 **CERTAIN HERITAGE COMMUNITY RESIDENTS.**
17 ''There is authorized to be appropriated to the Sec-
18 retary for each fiscal year, beginning with fiscal year
19 2005, $4,000,000, to carry out the scholarship programs
20 for English language studies by certain heritage commu-
21 nity residents under section 802(a)(1)(E).

SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LANGUAGE AND EDUCATION FOR THE INTELLIGENCE COMMUNITY; REPORTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that there should be within the Office of the National Intelligence Director a senior official responsible to assist the National Intelligence Director in carrying out the Director's responsibilities for establishing policies and procedure for foreign language education and training of the intelligence community. The duties of such official should include the following:

(1) Overseeing and coordinating requirements for foreign language education and training of the intelligence community.

(2) Establishing policy, standards, and priorities relating to such requirements.

(3) Identifying languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

(4) Monitoring the allocation of resources for foreign language education and training in order to ensure the requirements of the intelligence community with respect to foreign language proficiency are met.

(b) REPORTS.—Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress the following reports:

(1) A report that identifies—

(A) skills and processes involved in learning a foreign language; and

(B) characteristics and teaching techniques that are most effective in teaching foreign languages.

(2)(A) A report that identifies foreign language heritage communities, particularly such communities that include speakers of languages that are critical to the national security of the United States.

(B) For purposes of subparagraph (A), the term ''foreign language heritage community'' means a community of residents or citizens of the United States—

(i) who are native speakers of, or who have fluency in, a foreign language; and

(ii) who should be actively recruited for employment by Federal security agencies with a need for linguists.

(3) A report on—

(A) the estimated cost of establishing a program under which the heads of elements of

the intelligence community agree to repay employees of the intelligence community for any student loan taken out by that employee for the study of foreign languages critical for the national security of the United States; and

(B) the effectiveness of such a program in recruiting and retaining highly qualified personnel in the intelligence community.

SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRITICAL TO THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title X of the National Security Act of 1947 (50 U.S.C.) is amended—

(1) by inserting before section 1001 (50 U.S.C. 441g) the following:

"Subtitle A—Science and Technology";

and

(2) by adding at the end the following new subtitles:

"Subtitle B—Foreign Languages Program

"PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES CRITICAL TO THE INTELLIGENCE COMMUNITY

"SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the National Intelligence

1 Director may jointly establish a program to advance for-
2 eign languages skills in languages that are critical to the
3 capability of the intelligence community to carry out na-
4 tional security activities of the United States (hereinafter
5 in this subtitle referred to as the 'Foreign Languages Pro-
6 gram').

7 "(b) IDENTIFICATION OF REQUISITE ACTIONS.—In
8 order to carry out the Foreign Languages Program, the
9 Secretary of Defense and the National Intelligence Direc-
10 tor shall jointly determine actions required to improve the
11 education of personnel in the intelligence community in
12 foreign languages that are critical to the capability of the
13 intelligence community to carry out national security ac-
14 tivities of the United States to meet the long-term intel-
15 ligence needs of the United States.

16 "EDUCATION PARTNERSHIPS

17 "SEC. 1012. (a) IN GENERAL.—In carrying out the
18 Foreign Languages Program, the head of a department
19 or agency containing an element of an intelligence commu-
20 nity entity may enter into one or more education partner-
21 ship agreements with educational institutions in the
22 United States in order to encourage and enhance the
23 study of foreign languages that are critical to the capa-
24 bility of the intelligence community to carry out national
25 security activities of the United States in educational insti-
26 tutions.

1 "(b) ASSISTANCE PROVIDED UNDER EDUCATIONAL
2 PARTNERSHIP AGREEMENTS.—Under an educational
3 partnership agreement entered into with an educational
4 institution pursuant to this section, the head of an element
5 of an intelligence community entity may provide the fol-
6 lowing assistance to the educational institution:
7 "(1) The loan of equipment and instructional
8 materials of the element of the intelligence commu-
9 nity entity to the educational institution for any pur-
10 pose and duration that the head determines to be
11 appropriate.
12 "(2) Notwithstanding any other provision of
13 law relating to transfers of surplus property, the
14 transfer to the educational institution of any com-
15 puter equipment, or other equipment, that is—
16 "(A) commonly used by educational insti-
17 tutions;
18 "(B) surplus to the needs of the entity;
19 and
20 "(C) determined by the head of the ele-
21 ment to be appropriate for support of such
22 agreement.
23 "(3) The provision of dedicated personnel to the
24 educational institution—

"(A) to teach courses in foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States; or

"(B) to assist in the development of such courses and materials for the institution.

"(4) The involvement of faculty and students of the educational institution in research projects of the element of the intelligence community entity.

"(5) Cooperation with the educational institution in developing a program under which students receive academic credit at the educational institution for work on research projects of the element of the intelligence community entity.

"(6) The provision of academic and career advice and assistance to students of the educational institution.

"(7) The provision of cash awards and other items that the head of the element of the intelligence community entity determines to be appropriate.

"VOLUNTARY SERVICES

"SEC. 1013. (a) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, and subject to subsection (b), the Foreign Languages Program under section 1011 shall include authority for the head of an element of an intelligence com-

1 munity entity to accept from any individual who is dedi-
2 cated personnel (as defined in section 1016(3)) voluntary
3 services in support of the activities authorized by this sub-
4 title.

5 "(b) REQUIREMENTS AND LIMITATIONS.—(1) In ac-
6 cepting voluntary services from an individual under sub-
7 section (a), the head of the element shall—

8 "(A) supervise the individual to the same extent
9 as the head of the element would supervise a com-
10 pensated employee of that element providing similar
11 services; and

12 "(B) ensure that the individual is licensed, priv-
13 ileged, has appropriate educational or experiential
14 credentials, or is otherwise qualified under applicable
15 law or regulations to provide such services.

16 "(2) In accepting voluntary services from an indi-
17 vidual under subsection (a), the head of an element of the
18 intelligence community entity may not—

19 "(A) place the individual in a policymaking po-
20 sition, or other position performing inherently gov-
21 ernment functions; or

22 "(B) compensate the individual for the provi-
23 sion of such services.

24 "(c) AUTHORITY TO RECRUIT AND TRAIN INDIVID-
25 UALS PROVIDING SERVICES.—The head of an element of

1 an intelligence community entity may recruit and train in-
2 dividuals to provide voluntary services accepted under sub-
3 section (a).

4 "(d) STATUS OF INDIVIDUALS PROVIDING SERV-
5 ICES.—(1) Subject to paragraph (2), while providing vol-
6 untary services accepted under subsection (a) or receiving
7 training under subsection (c), an individual shall be con-
8 sidered to be an employee of the Federal Government only
9 for purposes of the following provisions of law:

10 "(A) Section 552a of title 5, United States
11 Code (relating to maintenance of records on individ-
12 uals).

13 "(B) Chapter 11 of title 18, United States
14 Code (relating to conflicts of interest).

15 "(2)(A) With respect to voluntary services accepted
16 under paragraph (1) provided by an individual that are
17 within the scope of the services so accepted, the individual
18 is deemed to be a volunteer of a governmental entity or
19 nonprofit institution for purposes of the Volunteer Protec-
20 tion Act of 1997 (42 U.S.C. 14501 et seq.).

21 "(B) In the case of any claim against such an indi-
22 vidual with respect to the provision of such services, sec-
23 tion 4(d) of such Act (42 U.S.C. 14503(d)) shall not
24 apply.

1 "(3) Acceptance of voluntary services under this sec-
2 tion shall have no bearing on the issuance or renewal of
3 a security clearance.

4 "(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—
5 (1) The head of an element of the intelligence community
6 entity may reimburse an individual for incidental expenses
7 incurred by the individual in providing voluntary services
8 accepted under subsection (a). The head of an element of
9 the intelligence community entity shall determine which
10 expenses are eligible for reimbursement under this sub-
11 section.

12 "(2) Reimbursement under paragraph (1) may be
13 made from appropriated or nonappropriated funds.

14 "(f) AUTHORITY TO INSTALL EQUIPMENT.—(1) The
15 head of an element of the intelligence community may in-
16 stall telephone lines and any necessary telecommunication
17 equipment in the private residences of individuals who pro-
18 vide voluntary services accepted under subsection (a).

19 "(2) The head of an element of the intelligence com-
20 munity may pay the charges incurred for the use of equip-
21 ment installed under paragraph (1) for authorized pur-
22 poses.

23 "(3) Notwithstanding section 1348 of title 31, United
24 States Code, the head of an element of the intelligence
25 community entity may use appropriated funds or non-

appropriated funds of the element in carrying out this subsection.

"REGULATIONS

"SEC. 1014. (a) IN GENERAL.—The Secretary of Defense and the National Intelligence Director jointly shall promulgate regulations necessary to carry out the Foreign Languages Program authorized under this subtitle.

"(b) ELEMENTS OF THE INTELLIGENCE COMMUNITY.—Each head of an element of an intelligence community entity shall prescribe regulations to carry out sections 1012 and 1013 with respect to that element including the following:

"(1) Procedures to be utilized for the acceptance of voluntary services under section 1013.

"(2) Procedures and requirements relating to the installation of equipment under section 1013(g).

"DEFINITIONS

"SEC. 1015. In this subtitle:

"(1) The term 'intelligence community entity' means an agency, office, bureau, or element referred to in subparagraphs (B) through (K) of section 3(4).

"(2) The term 'educational institution' means—

"(A) a local educational agency (as that term is defined in section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26))),

"(B) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) other than institutions referred to in subsection (a)(1)(C) of such section), or

"(C) any other nonprofit institution that provides instruction of foreign languages in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

"(3) The term 'dedicated personnel' means employees of the intelligence community and private citizens (including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged or generally discharged under honorable circumstances, and rehired on a voluntary basis specifically to perform the activities authorized under this subtitle).

"Subtitle C—Additional Education Provisions

"ASSIGNMENT OF INTELLIGENCE COMMUNITY PERSONNEL AS LANGUAGE STUDENTS

"SEC. 1021. (a) IN GENERAL.—(1) The National Intelligence Director, acting through the heads of the ele-

1 ments of the intelligence community, may provide for the
2 assignment of military and civilian personnel described in
3 paragraph (2) as students at accredited professional, tech-
4 nical, or other institutions of higher education for training
5 at the graduate or undergraduate level in foreign lan-
6 guages required for the conduct of duties and responsibil-
7 ities of such positions.

8 ''(2) Personnel referred to in paragraph (1) are per-
9 sonnel of the elements of the intelligence community who
10 serve in analysts positions in such elements and who re-
11 quire foreign language expertise required for the conduct
12 of duties and responsibilities of such positions.

13 ''(b) AUTHORITY FOR REIMBURSEMENT OF COSTS
14 OF TUITION AND TRAINING.—(1) The Director may reim-
15 burse an employee assigned under subsection (a) for the
16 total cost of the training described in subsection (a), in-
17 cluding costs of educational and supplementary reading
18 materials.

19 ''(2) The authority under paragraph (1) shall apply
20 to employees who are assigned on a full-time or part-time
21 basis.

22 ''(3) Reimbursement under paragraph (1) may be
23 made from appropriated or nonappropriated funds.

24 ''(c) RELATIONSHIP TO COMPENSATION AS AN ANA-
25 LYST.—Reimbursement under this section to an employee

1 who is an analyst is in addition to any benefits, allow-
2 ances, travels, or other compensation the employee is enti-
3 tled to by reason of serving in such an analyst position.''.
4 (b) CLERICAL AMENDMENT.—The table of contents
5 for the National Security Act of 1947 is amended by strik-
6 ing the item relating to section 1001 and inserting the
7 following new items:

''Subtitle A—Science and Technology

''Sec. 1001. Scholarships and work-study for pursuit of graduate degrees in science and technology.

''Subtitle B—Foreign Languages Program

''Sec. 1011. Program on advancement of foreign languages critical to the intelligence community.
''Sec. 1012. Education partnerships.
''Sec. 1013. Voluntary services.
''Sec. 1014. Regulations.
''Sec. 1015. Definitions.

''Subtitle C—Additional Education Provisions

''Sec. 1021. Assignment of intelligence community personnel as language students.''.

8 **SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-**
9 **SERVE CORPS.**

10 (a) PILOT PROJECT.—The National Intelligence Di-
11 rector shall conduct a pilot project to establish a Civilian
12 Linguist Reserve Corps comprised of United States citi-
13 zens with advanced levels of proficiency in foreign lan-
14 guages who would be available upon a call of the President
15 to perform such service or duties with respect to such for-
16 eign languages in the Federal Government as the Presi-
17 dent may specify.

(b) CONDUCT OF PROJECT.—Taking into account the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), in conducting the pilot project under subsection (a) the National Intelligence Director shall—

(1) identify several foreign languages that are critical for the national security of the United States;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a); and

(3) implement a call for the performance of such services and duties.

(c) DURATION OF PROJECT.—The pilot project under subsection (a) shall be conducted for a three-year period.

(d) AUTHORITY TO ENTER INTO CONTRACTS.—The National Intelligence Director may enter into contracts with appropriate agencies or entities to carry out the pilot project under subsection (a).

(e) REPORTS.—(1) The National Intelligence Director shall submit to Congress an initial and a final report on the pilot project conducted under subsection (a).

(2) Each report required under paragraph (1) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(3) The final report shall be submitted not later than 6 months after the completion of the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Intelligence Director such sums as are necessary for each of fiscal years 2005, 2006, and 2007 in order to carry out the pilot project under subsection (a).

SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NATIONAL VIRTUAL TRANSLATION CENTER.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 1021(a), is further amended by adding at the end the following new section:

"NATIONAL VIRTUAL TRANSLATION CENTER

"SEC. 120. (a) IN GENERAL.—There is an element of the intelligence community known as the National Virtual Translation Center under the direction of the National Intelligence Director.

"(b) FUNCTION.—The National Virtual Translation Center shall provide for timely and accurate translations

of foreign intelligence for all other elements of the intelligence community.

"(c) FACILITATING ACCESS TO TRANSLATIONS.—In order to minimize the need for a central facility for the National Virtual Translation Center, the Center shall—

"(1) use state-of-the-art communications technology;

"(2) integrate existing translation capabilities in the intelligence community; and

"(3) use remote-connection capacities.

"(d) USE OF SECURE FACILITIES.—Personnel of the National Virtual Translation Center may carry out duties of the Center at any location that—

"(1) has been certified as a secure facility by an agency or department of the United States; and

"(2) the National Intelligence Director determines to be appropriate for such purpose.".

(b) CLERICAL AMENDMENT.—The table of sections for that Act, as amended by section 1021(b), is further amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. National Virtual Translation Center.".

SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF QUALIFIED INSTRUCTORS OF THE DEFENSE LANGUAGE INSTITUTE.

(a) STUDY.—The Secretary of Defense shall conduct a study on methods to improve the recruitment and retention of qualified foreign language instructors at the Foreign Language Center of the Defense Language Institute. In conducting the study, the Secretary shall consider, in the case of a foreign language instructor who is an alien, to expeditiously adjust the status of the alien from a temporary status to that of an alien lawfully admitted for permanent residence.

(b) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report on the study conducted under subsection (a), and shall include in that report recommendations for such changes in legislation and regulation as the Secretary determines to be appropriate.

(2) DEFINITION.—In this subsection, the term ''appropriate congressional committees'' means the following:

(A) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

Subtitle F—Additional Improvements of Intelligence Activities

SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION INCENTIVE PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) by striking subsection (f); and

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

(b) TERMINATION OF FUNDS REMITTANCE REQUIREMENT.—(1) Section 2 of such Act (50 U.S.C. 403–4 note) is further amended by striking subsection (i).

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

SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECHNOLOGIES PANEL.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section:

"SEC. 19. (a) There is established the National Security Agency Emerging Technologies Panel. The panel is a standing panel of the National Security Agency. The panel shall be appointed by, and shall report directly to, the Director.

"(b) The National Security Agency Emerging Technologies Panel shall study and assess, and periodically advise the Director on, the research, development, and application of existing and emerging science and technology advances, advances on encryption, and other topics.

"(c) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the National Security Agency Emerging Technologies Panel.".

Subtitle G—Conforming and Other Amendments

SEC. 1071. CONFORMING AMENDMENTS RELATING TO ROLES OF NATIONAL INTELLIGENCE DIRECTOR AND DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) NATIONAL SECURITY ACT OF 1947.—(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 3(5)(B) (50 U.S.C. 401a(5)(B)).

(B) Section 101(h)(2)(A) (50 U.S.C. 402(h)(2)(A)).

(C) Section 101(h)(5) (50 U.S.C. 402(h)(5)).

(D) Section 101(i)(2)(A) (50 U.S.C. 402(i)(2)(A)).

(E) Section 101(j) (50 U.S.C. 402(j)).

(F) Section 105(a) (50 U.S.C. 403–5(a)).

(G) Section 105(b)(6)(A) (50 U.S.C. 403–5(b)(6)(A)).

(H) Section 105B(a)(1) (50 U.S.C. 403–5b(a)(1)).

(I) Section 105B(b) (50 U.S.C. 403–5b(b)), the first place it appears.

(J) Section 110(b) (50 U.S.C. 404e(b)).

(K) Section 110(c) (50 U.S.C. 404e(c)).

(L) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).

(M) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).

(N) Section 113(b)(2)(A) (50 U.S.C. 404h(b)(2)(A)).

(O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).

(P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).

(R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).

(S) Section 115(b) (50 U.S.C. 404j(b)).

(T) Section 115(c)(1)(B) (50 U.S.C. 404j(c)(1)(B)).

(U) Section 116(a) (50 U.S.C. 404k(a)).

(V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).

(W) Section 303(a) (50 U.S.C. 405(a)), both places it appears.

(X) Section 501(d) (50 U.S.C. 413(d)).

(Y) Section 502(a) (50 U.S.C. 413a(a)).

(Z) Section 502(c) (50 U.S.C. 413a(c)).

(AA) Section 503(b) (50 U.S.C. 413b(b)).

(BB) Section 504(a)(3)(C) (50 U.S.C. 414(a)(3)(C)).

(CC) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

(DD) Section 506A(a)(1) (50 U.S.C. 415a–1(a)(1)).

(EE) Section 603(a) (50 U.S.C. 423(a)).

(FF) Section 702(a)(1) (50 U.S.C. 432(a)(1)).

(GG) Section 702(a)(6)(B)(viii) (50 U.S.C. 432(a)(6)(B)(viii)).

(HH) Section 702(b)(1) (50 U.S.C. 432(b)(1)), both places it appears.

(II) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).

(JJ) Section 703(a)(6)(B)(viii) (50 U.S.C. 432a(a)(6)(B)(viii)).

(KK) Section 703(b)(1) (50 U.S.C. 432a(b)(1)), both places it appears.

(LL) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).

(MM) Section 704(f)(2)(H) (50 U.S.C. 432b(f)(2)(H)).

(NN) Section 704(g)(1)) (50 U.S.C. 432b(g)(1)), both places it appears.

(OO) Section 1001(a) (50 U.S.C. 441g(a)).

(PP) Section 1102(a)(1) (50 U.S.C. 442a(a)(1)).

(QQ) Section 1102(b)(1) (50 U.S.C. 442a(b)(1)).

(RR) Section 1102(c)(1) (50 U.S.C. 442a(c)(1)).

(SS) Section 1102(d) (50 U.S.C. 442a(d)).

(2) That Act is further amended by striking ''of Central Intelligence'' each place it appears in the following provisions:

(A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).

(B) Section 105B(a)(2) (50 U.S.C. 403–5b(a)(2)).

(C) Section 105B(b) (50 U.S.C. 403–5b(b)), the second place it appears.

(3) That Act is further amended by striking ''Director'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(A) Section 114(c) (50 U.S.C. 404i(c)).

(B) Section 116(b) (50 U.S.C. 404k(b)).

(C) Section 1001(b) (50 U.S.C. 441g(b)).

(C) Section 1001(c) (50 U.S.C. 441g(c)), the first place it appears.

(D) Section 1001(d)(1)(B) (50 U.S.C. 441g(d)(1)(B)).

(E) Section 1001(e) (50 U.S.C. 441g(e)), the first place it appears.

(4) Section 114A of that Act (50 U.S.C. 404i–1) is amended by striking ''Director of Central Intelligence'' and inserting ''National Intelligence Director, the Director of the Central Intelligence Agency''

(5) Section 504(a)(2) of that Act (50 U.S.C. 414(a)(2)) is amended by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

(6) Section 701 of that Act (50 U.S.C. 431) is amended—

(A) in subsection (a), by striking ''Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence'' and inserting ''The Director of the Central Intelligence Agency, with the coordination of the National Intelligence Director, may exempt operational files of the Central Intelligence Agency''; and

(B) in subsection (g)(1), by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency and the National Intelligence Director''.

(7) The heading for section 114 of that Act (50 U.S.C. 404i) is amended to read as follows:

''ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL INTELLIGENCE DIRECTOR''.

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(A) Section 6 (50 U.S.C. 403g).

(B) Section 17(f) (50 U.S.C. 403q(f)), both places it appears.

(2) That Act is further amended by striking ''of Central Intelligence'' in each of the following provisions:

(A) Section 2 (50 U.S.C. 403b).

(A) Section 16(c)(1)(B) (50 U.S.C. 403p(c)(1)(B)).

(B) Section 17(d)(1) (50 U.S.C. 403q(d)(1)).

(C) Section 20(c) (50 U.S.C. 403t(c)).

(3) That Act is further amended by striking ''Director of Central Intelligence'' each place it appears in the

following provisions and inserting ''Director of the Central Intelligence Agency'':

(A) Section 14(b) (50 U.S.C. 403n(b)).

(B) Section 16(b)(2) (50 U.S.C. 403p(b)(2)).

(C) Section 16(b)(3) (50 U.S.C. 403p(b)(3)), both places it appears.

(D) Section 21(g)(1) (50 U.S.C. 403u(g)(1)).

(E) Section 21(g)(2) (50 U.S.C. 403u(g)(2)).

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 101 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2001) is amended by striking paragraph (2) and inserting the following new paragraph (2):

''(2) DIRECTOR.—The term 'Director' means the Director of the Central Intelligence Agency.''.

(d) CIA VOLUNTARY SEPARATION PAY ACT.—Subsection (a)(1) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 2001 note) is amended to read as follows:

''(1) the term 'Director' means the Director of the Central Intelligence Agency;''.

(e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking ''Di-

1 rector of Central Intelligence'' each place it appears and
2 inserting ''National Intelligence Director''.
3 (f) CLASSIFIED INFORMATION PROCEDURES ACT.—
4 Section 9(a) of the Classified Information Procedures Act
5 (5 U.S.C. App.) is amended by striking ''Director of Cen-
6 tral Intelligence'' and inserting ''National Intelligence Di-
7 rector''.
8 (g) INTELLIGENCE AUTHORIZATION ACTS.—
9 (1) PUBLIC LAW 103–359.—Section 811(c)(6)(C)
10 of the Counterintelligence and Security Enhance-
11 ments Act of 1994 (title VIII of Public Law 103–
12 359) is amended by striking ''Director of Central In-
13 telligence'' and inserting ''National Intelligence Di-
14 rector''.
15 (2) PUBLIC LAW 107–306.—(A) The Intelligence
16 Authorization Act for Fiscal Year 2003 (Public Law
17 107–306) is amended by striking ''Director of Cen-
18 tral Intelligence, acting as the head of the intel-
19 ligence community,'' each place it appears in the fol-
20 lowing provisions and inserting ''National Intel-
21 ligence Director'':
22 (i) Section 313(a) (50 U.S.C. 404n(a)).
23 (ii) Section 343(a)(1) (50 U.S.C. 404n–
24 2(a)(1))

(B) That Act is further amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(i) Section 902(a)(2) (50 U.S.C. 402b(a)(2)).

(ii) Section 904(e)(4) (50 U.S.C. 402c(e)(4)).

(iii) Section 904(e)(5) (50 U.S.C. 402c(e)(5)).

(iv) Section 904(h) (50 U.S.C. 402c(h)), each place it appears.

(v) Section 904(m) (50 U.S.C. 402c(m)).

(C) Section 341 of that Act (50 U.S.C. 404n–1) is amended by striking ''Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency'' and inserting ''National Intelligence Director shall establish within the Central Intelligence Agency''.

(D) Section 352(b) of that Act (50 U.S.C. 404–3 note) is amended by striking ''Director'' and inserting ''National Intelligence Director''.

(3) PUBLIC LAW 108–177.—(A) The Intelligence Authorization Act for Fiscal Year 2004 (Public Law

108–177) is amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(i) Section 317(a) (50 U.S.C. 403–3 note).

(ii) Section 317(h)(1).

(iii) Section 318(a) (50 U.S.C. 441g note).

(iv) Section 319(b) (50 U.S.C. 403 note).

(v) Section 341(b) (28 U.S.C. 519 note).

(vi) Section 357(a) (50 U.S.C. 403 note).

(vii) Section 504(a) (117 Stat. 2634), both places it appears.

(B) Section 319(f)(2) of that Act (50 U.S.C. 403 note) is amended by striking ''Director'' the first place it appears and inserting ''National Intelligence Director''.

(C) Section 404 of that Act (18 U.S.C. 4124 note) is amended by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

SEC. 1072. OTHER CONFORMING AMENDMENTS

(a) NATIONAL SECURITY ACT OF 1947.—(1) Section 101(j) of the National Security Act of 1947 (50 U.S.C. 402(j)) is amended by striking ''Deputy Director of Cen-

1 tral Intelligence'' and inserting ''Deputy National Intel-
2 ligence Director''.
3 (2) Section 112(d)(1) of that Act (50 U.S.C.
4 404g(d)(1)) is amended by striking ''section 103(c)(6) of
5 this Act'' and inserting ''section 102A(g) of this Act''.
6 (3) Section 116(b) of that Act (50 U.S.C. 404k(b))
7 is amended by striking ''to the Deputy Director of Central
8 Intelligence, or with respect to employees of the Central
9 Intelligence Agency, the Director may delegate such au-
10 thority to the Deputy Director for Operations'' and insert-
11 ing ''to the Deputy National Intelligence Director, or with
12 respect to employees of the Central Intelligence Agency,
13 to the Director of the Central Intelligence Agency''.
14 (4) Section 506A(b)(1) of that Act (50 U.S.C. 415a–
15 1(b)(1)) is amended by striking ''Office of the Deputy Di-
16 rector of Central Intelligence'' and inserting ''Office of the
17 National Intelligence Director''.
18 (5) Section 701(c)(3) of that Act (50 U.S.C.
19 431(c)(3)) is amended by striking ''Office of the Director
20 of Central Intelligence'' and inserting ''Office of the Na-
21 tional Intelligence Director''.
22 (6) Section 1001(b) of that Act (50 U.S.C. 441g(b))
23 is amended by striking ''Assistant Director of Central In-
24 telligence for Administration'' and inserting ''Office of the
25 National Intelligence Director''.

(b) CENTRAL INTELLIGENCE ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking ''section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))'' and inserting ''section 102A(g) of the National Security Act of 1947''.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking ''paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Central Intelligence'' and inserting ''section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(1)) that the National Intelligence Director''.

(d) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 107–306.—(A) Section 343(c) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is amended by striking ''section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3((c)(6))'' and inserting ''section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(1))''.

(B) Section 904 of that Act (50 U.S.C. 402c) is amended—

(i) in subsection (c), by striking ''Office of the Director of Central Intelligence'' and inserting ''Office of the National Intelligence Director''; and

(ii) in subsection (l), by striking ''Office of the Director of Central Intelligence'' and inserting ''Office of the National Intelligence Director''.

(2) PUBLIC LAW 108–177.—Section 317 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403–3 note) is amended—

(A) in subsection (g), by striking ''Assistant Director of Central Intelligence for Analysis and Production'' and inserting ''Deputy National Intelligence Director''; and

(B) in subsection (h)(2)(C), by striking ''Assistant Director'' and inserting ''Deputy National Intelligence Director''.

SEC. 1073. ELEMENTS OF INTELLIGENCE COMMUNITY UNDER NATIONAL SECURITY ACT OF 1947.

Paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

1 "(4) The term 'intelligence community' includes
2 the following:
3 "(A) The Office of the National Intel-
4 ligence Director.
5 "(B) The Central Intelligence Agency.
6 "(C) The National Security Agency.
7 "(D) The Defense Intelligence Agency.
8 "(E) The National Geospatial-Intelligence
9 Agency.
10 "(F) The National Reconnaissance Office.
11 "(G) Other offices within the Department
12 of Defense for the collection of specialized na-
13 tional intelligence through reconnaissance pro-
14 grams.
15 "(H) The intelligence elements of the
16 Army, the Navy, the Air Force, the Marine
17 Corps, the Federal Bureau of Investigation, and
18 the Department of Energy.
19 "(I) The Bureau of Intelligence and Re-
20 search of the Department of State.
21 "(J) The Office of Intelligence and Anal-
22 ysis of the Department of the Treasury.
23 "(K) The elements of the Department of
24 Homeland Security concerned with the analysis

of intelligence information, including the Office of Intelligence of the Coast Guard.

''(L) Such other elements of any other department or agency as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.''.

SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN INTELLIGENCE PROGRAM AS NATIONAL INTELLIGENCE PROGRAM.

(a) REDESIGNATION.—Paragraph (6) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended by striking ''Foreign''.

(b) CONFORMING AMENDMENTS.—(1) Section 506(a) of the National Security Act of 1947 (50 U.S.C. 415a(a)) is amended by striking ''National Foreign Intelligence Program'' and inserting ''National Intelligence Program''.

(2) Section 17(f) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(f)) is amended by striking ''National Foreign Intelligence Program'' and inserting ''National Intelligence Program''.

(c) HEADING AMENDMENT.—The heading of section 506 of that Act is amended by striking ''FOREIGN''.

SEC. 1075. REPEAL OF SUPERSEDED AUTHORITIES.

(a) APPOINTMENT OF CERTAIN INTELLIGENCE OFFICIALS.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is repealed.

(b) COLLECTION TASKING AUTHORITY.—Section 111 of the National Security Act of 1947 (50 U.S.C. 404f) is repealed.

SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.

The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 102 through 104 and inserting the following new items:

"Sec. 102. National Intelligence Director.
"Sec. 102A. Responsibilities and authorities of National Intelligence Director.
"Sec. 103. Office of the National Intelligence Director.
"Sec. 104. Central Intelligence Agency.
"Sec. 104A. Director of the Central Intelligence Agency."; and

(2) by striking the item relating to section 114 and inserting the following new item:

"Sec. 114. Additional annual reports from the National Intelligence Director."; and

(3) by striking the item relating to section 506 and inserting the following new item:

"Sec. 506. Specificity of National Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence".

SEC. 1077. CONFORMING AMENDMENTS RELATING TO PROHIBITING DUAL SERVICE OF THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

Section 1 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) is amended—

(1) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively; and

(2) by striking paragraph (2), as so redesignated, and inserting the following new paragraph (2):

''(2) 'Director' means the Director of the Central Intelligence Agency; and''.

SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTECTIONS.

Section 17(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(a)(1)) is amended by inserting before the semicolon at the end the following: ''and to programs and operations of the Office of the National Intelligence Director''.

SEC. 1079. GENERAL REFERENCES.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF INTELLIGENCE COMMUNITY.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States

shall be deemed to be a reference to the National Intelligence Director.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF CIA.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

(c) COMMUNITY MANAGEMENT STAFF.—Any reference to the Community Management Staff in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of the Office of the National Intelligence Director.

SEC. 1080. APPLICATION OF OTHER LAWS.

(a) POLITICAL SERVICE OF PERSONNEL.—Section 7323(b)(2)(B)(i) of title 5, United States Code, is amended—

(1) in subclause (XII), by striking "or" at the end; and

(2) by inserting after subclause (XIII) the following new subclause:

"(XIV) the Office of the National Intelligence Director; or".

(b) DELETION OF INFORMATION ABOUT FOREIGN GIFTS.—Section 7342(f)(4) of title 5, United States Code, is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in subparagraph (A), as so designated, by striking ''the Director of Central Intelligence'' and inserting ''the Director of the Central Intelligence Agency''; and

(3) by adding at the end the following new subparagraph:

''(B) In transmitting such listings for the Office of the National Intelligence Director, the National Intelligence Director may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.''.

(c) EXEMPTION FROM FINANCIAL DISCLOSURES.—Section 105(a)(1) of the Ethics in Government Act (5 U.S.C. App.) is amended by inserting ''the Office of the National Intelligence Director,'' before ''the Central Intelligence Agency''.

Subtitle H—Transfer, Termination, Transition and Other Provisions

SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF.

(a) TRANSFER.—There shall be transferred to the Office of the National Intelligence Director the staff of the Community Management Staff as of the date of the enactment of this Act, including all functions and activities discharged by the Community Management Staff as of that date.

(b) ADMINISTRATION.—The National Intelligence Director shall administer the Community Management Staff after the date of the enactment of this Act as a component of the Office of the National Intelligence Director under section 103(b) of the National Security Act of 1947, as amended by section 1011(a).

SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

(a) TRANSFER.—There shall be transferred to the National Counterterrorism Center the Terrorist Threat Integration Center (TTIC), including all functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act.

(b) ADMINISTRATION.—The Director of the National Counterterrorism Center shall administer the Terrorist

Threat Integration Center after the date of the enactment of this Act as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 119(i) of the National Security Act of 1947, as added by section 1021(a).

SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

(a) TERMINATION.—The positions within the Central Intelligence Agency referred to in subsection (b) are hereby abolished.

(b) COVERED POSITIONS.—The positions within the Central Intelligence Agency referred to in this subsection are as follows:

(1) The Assistant Director of Central Intelligence for Collection.

(2) The Assistant Director of Central Intelligence for Analysis and Production.

(3) The Assistant Director of Central Intelligence for Administration.

SEC. 1094. IMPLEMENTATION PLAN.

(a) SUBMISSION OF PLAN.—The President shall transmit to Congress a plan for the implementation of this title and the amendments made by this title. The plan shall address, at a minimum, the following:

(1) The transfer of personnel, assets, and obligations to the National Intelligence Director pursuant to this title.

(2) Any consolidation, reorganization, or streamlining of activities transferred to the National Intelligence Director pursuant to this title.

(3) The establishment of offices within the Office of the National Intelligence Director to implement the duties and responsibilities of the National Intelligence Director as described in this title.

(4) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations to be transferred to the National Intelligence Director.

(5) Recommendations for additional legislative or administrative action as the Director considers appropriate.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the permanent location for the headquarters for the Office of the National Intelligence Director, should be at a location other than the George Bush Center for Intelligence in Langley, Virginia.

SEC. 1095. TRANSITIONAL AUTHORITIES.

Upon the request of the National Intelligence Director, the head of any executive agency may, on a reimburs-

able basis, provide services or detail personnel to the National Intelligence Director.

SEC. 1096. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later than 60 days after the date of the enactment of this Act, the National Intelligence Director shall first appoint individuals to positions within the Office of the National Intelligence Director.

(B) Subparagraph (A) shall not apply with respect to the Deputy National Intelligence Director.

(2) Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress the implementation plan required under section 1904.

(3) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall prescribe regulations, policies, procedures, standards, and guidelines required under section 102A of the National Security Act of 1947, as amended by section 1011(a).

TITLE II—TERRORISM PREVENTION AND PROSECUTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

SEC. 2001. PRESUMPTION THAT CERTAIN NON-UNITED STATES PERSONS ENGAGING IN INTERNATIONAL TERRORISM ARE AGENTS OF FOREIGN POWERS FOR PURPOSES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) PRESUMPTION.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 101 the following new section:

"PRESUMPTION OF TREATMENT OF CERTAIN NON-UNITED STATES PERSONS ENGAGED IN INTERNATIONAL TERRORISM AS AGENTS OF FOREIGN POWERS

"SEC. 101A. Upon application by the Federal official applying for an order under this Act, the court may presume that a non-United States person who is knowingly engaged in sabotage or international terrorism, or activities that are in preparation therefor, is an agent of a foreign power under section 101(b)(2)(C).".

(2) The table of contents for that Act is amended by inserting after the item relating to section 101 the following new item:

"Sec. 101A. Presumption of treatment of certain non-United States persons engaged in international terrorism as agents of foreign powers.".

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

Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

SEC. 2021. SHORT TITLE.

This subtitle may be cited as the "Stop Terrorist and Military Hoaxes Act of 2004".

SEC. 2022. HOAXES AND RECOVERY COSTS.

(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

1 taking, or will take place that would constitute a vio-
2 lation of chapter 2, 10, 11B, 39, 40, 44, 111, or
3 113B of this title, section 236 of the Atomic Energy
4 Act of 1954 (42 U.S.C. 2284), or section 46502, the
5 second sentence of section 46504, section 46505
6 (b)(3) or (c), section 46506 if homicide or attempted
7 homicide is involved, or section 60123(b) of title 49
8 shall—
9 ''(A) be fined under this title or impris-
10 oned not more than 5 years, or both;
11 ''(B) if serious bodily injury results, be
12 fined under this title or imprisoned not more
13 than 25 years, or both; and
14 ''(C) if death results, be fined under this
15 title or imprisoned for any number of years up
16 to life, or both.
17 ''(2) ARMED FORCES.—Whoever, without lawful
18 authority, makes a false statement, with intent to
19 convey false or misleading information, about the
20 death, injury, capture, or disappearance of a mem-
21 ber of the Armed Forces of the United States during
22 a war or armed conflict in which the United States
23 is engaged, shall—
24 ''(A) be fined under this title or impris-
25 oned not more than 5 years, or both;

1 "(B) if serious bodily injury results, be
2 fined under this title or imprisoned not more
3 than 25 years, or both; and
4 "(C) if death results, be fined under this
5 title or imprisoned for any number of years up
6 to life, or both.
7 "(b) CIVIL ACTION.—Whoever knowingly engages in
8 any conduct with intent to convey false or misleading in-
9 formation under circumstances where such information
10 may reasonably be believed and where such information
11 indicates that an activity has taken, is taking, or will take
12 place that would constitute a violation of chapter 2, 10,
13 11B, 39, 40, 44, 111, or 113B of this title, section 236
14 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or
15 section 46502, the second sentence of section 46504, sec-
16 tion 46505 (b)(3) or (c), section 46506 if homicide or at-
17 tempted homicide is involved, or section 60123(b) of title
18 49 is liable in a civil action to any party incurring expenses
19 incident to any emergency or investigative response to that
20 conduct, for those expenses.
21 "(c) REIMBURSEMENT.—
22 "(1) IN GENERAL.—The court, in imposing a
23 sentence on a defendant who has been convicted of
24 an offense under subsection (a), shall order the de-
25 fendant to reimburse any state or local government,

or private not-for-profit organization that provides fire or rescue service 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 does 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 as the beginning of chapter 47 of title 18, United States Code, is amended by adding after the item for section 1037 the following:

"1038. False information and hoaxes.".

SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATEMENTS IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Section 1001(a) and the third undesignated paragraph of section 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 of the 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. 2024. CLARIFICATION OF DEFINITION.

Section 1958 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''facility in'' and inserting ''facility of''; and

(2) in subsection (b)(2), by inserting ''or foreign'' after ''interstate''.

Subtitle C—Material Support to Terrorism Prohibition Enhancement Act of 2004

SEC. 2041. SHORT TITLE.

This subtitle may be cited as the ''Material Support to Terrorism Prohibition Enhancement Act of 2004''.

SEC. 2042. RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

Chapter 113B of title 18, United States Code, is amended by adding after section 2339C the following new section:

''§ 2339D. Receiving military-type training from a foreign terrorist organization

''(a) OFFENSE.—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 as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, 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), or that the organization has engaged or engages in

1 terrorism (as defined in section 140(d)(2) of the Foreign
2 Relations Authorization Act, Fiscal Years 1988 and
3 1989).

4 "(b) EXTRATERRITORIAL JURISDICTION.—There is
5 extraterritorial Federal jurisdiction over an offense under
6 this section. There is jurisdiction over an offense under
7 subsection (a) if—

8 "(1) an offender is a national of the United
9 States (as defined in 101(a)(22) of the Immigration
10 and Nationality Act) or an alien lawfully admitted
11 for permanent residence in the United States (as de-
12 fined in section 101(a)(20) of the Immigration and
13 Nationality Act);

14 "(2) an offender is a stateless person whose ha-
15 bitual residence is in the United States;

16 "(3) after the conduct required for the offense
17 occurs an offender is brought into or found in the
18 United States, even if the conduct required for the
19 offense occurs outside the United States;

20 "(4) the offense occurs in whole or in part with-
21 in the United States;

22 "(5) the offense occurs in or affects interstate
23 or foreign commerce;

24 "(6) an offender aids or abets any person over
25 whom jurisdiction exists under this paragraph in

1 committing an offense under subsection (a) or con-
2 spires with any person over whom jurisdiction exists
3 under this paragraph to commit an offense under
4 subsection (a).
5 ''(c) DEFINITIONS.—As used in this section—
6 ''(1) the term 'military-type training' includes
7 training in means or methods that can cause death
8 or serious bodily injury, destroy or damage property,
9 or disrupt services to critical infrastructure, or train-
10 ing on the use, storage, production, or assembly of
11 any explosive, firearm or other weapon, including
12 any weapon of mass destruction (as defined in sec-
13 tion 2232a(c)(2));
14 ''(2) the term 'serious bodily injury' has the
15 meaning given that term in section 1365(h)(3);
16 ''(3) the term 'critical infrastructure' means
17 systems and assets vital to national defense, national
18 security, economic security, public health or safety
19 including both regional and national infrastructure.
20 Critical infrastructure may be publicly or privately
21 owned; examples of critical infrastructure include
22 gas and oil production, storage, or delivery systems,
23 water supply systems, telecommunications networks,
24 electrical power generation or delivery systems, fi-
25 nancing and banking systems, emergency services

(including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

''(4) the term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.''.

SEC. 2043. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) ADDITIONS TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (3);

(3) by inserting after paragraph (1) as so designated by this subsection the following:

''(2) (A) Whoever in a circumstance described in subparagraph (B) 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 (as defined in

1 section 2331), or in preparation for, or in carrying
2 out, the concealment or escape from the commission
3 of any such act, or attempts or conspires to do so,
4 shall be punished as provided under paragraph (1)
5 for an offense under that paragraph.
6 ''(B) The circumstances referred to in subpara-
7 graph (A) are any of the following:
8 ''(i) The offense occurs in or affects inter-
9 state or foreign commerce.
10 ''(ii) The act of terrorism is an act of
11 international or domestic terrorism that violates
12 the criminal law of the United States.
13 ''(iii) The act of terrorism is an act of do-
14 mestic terrorism that appears to be intended to
15 influence the policy, or affect the conduct, of
16 the Government of the United States or a for-
17 eign government.
18 ''(iv) An offender, acting within the United
19 States or outside the territorial jurisdiction of
20 the United States, is a national of the United
21 States (as defined in section 101(a)(22) of the
22 Immigration and Nationality Act, an alien law-
23 fully admitted for permanent residence in the
24 United States (as defined in section 101(a)(20)
25 of the Immigration and Nationality Act , or a

1 stateless person whose habitual residence is in
2 the United States, and the act of terrorism is
3 an act of international terrorism that appears
4 to be intended to influence the policy, or affect
5 the conduct, of the Government of the United
6 States or a foreign government.

7 ''(v) An offender, acting within the United
8 States, is an alien, and the act of terrorism is
9 an act of international terrorism that appears
10 to be intended to influence the policy, or affect
11 the conduct, of the Government of the United
12 States or a foreign government.

13 ''(vi) An offender, acting outside the terri-
14 torial jurisdiction of the United States, is an
15 alien and the act of terrorism is an act of inter-
16 national terrorism that appears to be intended
17 to influence the policy of, or affect the conduct
18 of, the Government of the United States.

19 ''(vii) An offender aids or abets any person
20 over whom jurisdiction exists under this para-
21 graph in committing an offense under this
22 paragraph or conspires with any person over
23 whom jurisdiction exists under this paragraph
24 to commit an offense under this paragraph.'';
25 and

1 (4) by inserting ''act or'' after ''underlying''.
2 (b) DEFINITIONS.—Section 2339A(b) of title 18,
3 United States Code, is amended—
4 (1) by striking ''In this'' and inserting ''(1) In
5 this'';
6 (2) by inserting ''any property, tangible or in-
7 tangible, or service, including'' after ''means'';
8 (3) by inserting ''(one or more individuals who
9 may be or include oneself)'' after ''personnel'';
10 (4) by inserting ''and'' before ''transportation'';
11 (5) by striking ''and other physical assets''; and
12 (6) by adding at the end the following:
13 ''(2) As used in this subsection, the term 'training'
14 means instruction or teaching designed to impart a spe-
15 cific skill, as opposed to general knowledge, and the term
16 'expert advice or assistance' means advice or assistance
17 derived from scientific, technical or other specialized
18 knowledge.''.
19 (c) ADDITION TO OFFENSE OF PROVIDING MATE-
20 RIAL SUPPORT TO TERRORIST ORGANIZATIONS.—Section
21 2339B(a)(1) of title 18, United States Code, is
22 amended—
23 (1) by striking '', within the United States or
24 subject to the jurisdiction of the United States,'' and

1 inserting ''in a circumstance described in paragraph
2 (2)'' ; and
3 (2) by adding at the end the following: ''To vio-
4 late this paragraph, a person must have knowledge
5 that the organization is a designated terrorist orga-
6 nization (as defined in subsection (g)(6)), that the
7 organization has engaged or engages in terrorist ac-
8 tivity (as defined in section 212(a)(3)(B) of the Im-
9 migration and Nationality Act, or that the organiza-
10 tion has engaged or engages in terrorism (as defined
11 in section 140(d)(2) of the Foreign Relations Au-
12 thorization Act, Fiscal Years 1988 and 1989.''.
13 (d) FEDERAL AUTHORITY.—Section 2339B(d) of
14 title 18 is amended—
15 (1) by inserting ''(1)'' before ''There''; and
16 (2) by adding at the end the following:
17 ''(2) The circumstances referred to in paragraph (1)
18 are any of the following:
19 ''(A) An offender is a national of the United
20 States (as defined in section 101(a)(22) of the Im-
21 migration and Nationality Act (8 U.S.C.
22 1101(a)(22)) or an alien lawfully admitted for per-
23 manent residence in the United States (as defined in
24 section 101(a)(20) of the Immigration and Nation-
25 ality Act.

1 "(B) An offender is a stateless person whose
2 habitual residence is in the United States.
3 "(C) After the conduct required for the offense
4 occurs an offender is brought into or found in the
5 United States, even if the conduct required for the
6 offense occurs outside the United States.
7 "(D) The offense occurs in whole or in part
8 within the United States.
9 "(E) The offense occurs in or affects interstate
10 or foreign commerce.
11 "(F) An offender aids or abets any person over
12 whom jurisdiction exists under this paragraph in
13 committing an offense under subsection (a) or con-
14 spires with any person over whom jurisdiction exists
15 under this paragraph to commit an offense under
16 subsection (a).".
17 (e) DEFINITION.—Paragraph (4) of section
18 2339B(g) of title 18, United States Code, is amended to
19 read as follows:
20 "(4) the term 'material support or resources'
21 has the same meaning given that term in section
22 2339A;".
23 (f) ADDITIONAL PROVISIONS.—Section 2339B of
24 title 18, United States Code, is amended by adding at the
25 end the following:

1 ''(h) PROVISION OF PERSONNEL.—No person may be
2 prosecuted under this section in connection with the term
3 'personnel' unless that person has knowingly provided, at-
4 tempted to provide, or conspired to provide a foreign ter-
5 rorist organization with one or more individuals (who may
6 be or include himself) to work under that terrorist organi-
7 zation's direction or control or to organize, manage, super-
8 vise, or otherwise direct the operation of that organization.
9 Individuals who act entirely independently of the foreign
10 terrorist organization to advance its goals or objectives
11 shall not be considered to be working under the foreign
12 terrorist organization's direction and control.

13 ''(i) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed or applied so as to abridge the ex-
15 ercise of rights guaranteed under the First Amendment
16 to the Constitution of the United States.''.

17 **SEC. 2044. FINANCING OF TERRORISM.**

18 (a) FINANCING TERRORISM.—Section 2339c(c)(2) of
19 title 18, United States Code, is amended—

20 (1) by striking '', resources, or funds'' and in-
21 serting ''or resources, or any funds or proceeds of
22 such funds'';

23 (2) in subparagraph (A), by striking ''were pro-
24 vided'' and inserting ''are to be provided, or knowing
25 that the support or resources were provided,''; and

(3) in subparagraph (B)—

(A) by striking ''or any proceeds of such funds''; and

(B) by striking ''were provided or collected'' and inserting ''are to be provided or collected, or knowing that the funds were provided or collected,''.

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

(1) by striking ''and'' at the end of paragraph (12);

(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 given that term in section 2339B(g)(4) of this title; and''.

Subtitle D—Weapons of Mass Destruction Prohibition Improvement Act of 2004

SEC. 2051. SHORT TITLE.

This subtitle may be cited as the ''Weapons of Mass Destruction Prohibition Improvement Act of 2004''.

SEC. 2052. WEAPONS OF MASS DESTRUCTION.

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) so that paragraph (2) of subsection (a) reads as follows:

"(2) against any person or property within the United States, and

"(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

"(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

"(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

"(D) 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;";

(2) in paragraph (3) of subsection (a), by striking the comma at the end and inserting "; or";

(3) in subsection (a), by adding the following at the end:

"(4) against any property within the United States that is owned, leased, or used by a foreign government,";

(4) at the end of subsection (c)(1), by striking"and";

(5) in subsection (c)(2), by striking the period at the end and inserting "; and"; and

(6) in subsection (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.—Section 2332a of title 18, United States Code, as amended by subsection (a), is further amended—

(1) in the section heading, by striking "certain";

(2) in subsection (a), by striking "(other than a chemical weapon as that term is defined in section 229F)"; and

(3) in subsection (b), by striking "(other than a chemical weapon (as that term is defined in section 229F))".

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SE-

1 LECT AGENTS.—Section 175b(d)(2) of title 18, United
2 States Code, is amended—
3 (1) in subparagraph (G) by—
4 (A) inserting ''(i)'' after ''(G)'';
5 (B) inserting '', or (ii) acts for or on behalf
6 of, or operates subject to the direction or con-
7 trol of, a government or official of a country de-
8 scribed in this subparagraph'' after ''ter-
9 rorism''; and
10 (C) striking ''or'' after the semicolon.
11 (2) in subparagraph (H) by striking the period
12 and inserting ''; or''; and
13 (3) by adding at the end the following new sub-
14 paragraph:
15 ''(I) is a member of, acts for or on behalf
16 of, or operates subject to the direction or con-
17 trol of, a terrorist organization as defined in
18 section 212(a)(3)(B)(vi) of the Immigration and
19 Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).''.
20 (d) CONFORMING AMENDMENT TO REGULATIONS.—
21 (1) Section 175b(a)(1) of title 18, United
22 States Code, is amended by striking ''as a select
23 agent in Appendix A'' and all that follows and in-
24 serting the following: ''as a non-overlap or overlap
25 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) The amendment made by paragraph (1) shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

(e) ENHANCING PROSECUTION OF WEAPONS OF MASS DESTRUCTION OFFENSES.—Section 1961(1)(B) of title 18, United States Code, is amended by adding at the end the following: ''sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials),''.

SEC. 2053. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) 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) Title 18, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 39, by inserting after the item relating to section 831 the following:

"832. Participation in nuclear and weapons of mass destruction threats to the United States.";

(2) by inserting after section 831 the following:

"§ 832. Participation in nuclear and weapons of mass destruction threats to the United States

"(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as defined in 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) There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) Whoever without lawful authority develops, possesses, or attempts or conspires to develop or possess a radiological weapon, or threatens to use or uses a radiological weapon against any person within the United States, or a national of the United States while such national is outside the United States or against any property that is owned, leased, funded or used by the United States, whether that property is within or outside the United States, shall be imprisoned for any term of years or for

1 life, and if death results, shall be punished by death or
2 imprisoned for any term of years or for life.
3 ''(d) As used in this section—
4 ''(1) 'nuclear weapons program' means a pro-
5 gram or plan for the development, acquisition, or
6 production of any nuclear weapon or weapons;
7 ''(2) 'weapons of mass destruction program'
8 means a program or plan for the development, ac-
9 quisition, or production of any weapon or weapons
10 of mass destruction (as defined in section 2332a(c));
11 ''(3) 'foreign terrorist power' means a terrorist
12 organization designated under section 219 of the
13 Immigration and Nationality Act, or a state sponsor
14 of terrorism designated under section 6(j) of the Ex-
15 port Administration Act of 1979 or section 620A of
16 the Foreign Assistance Act of 1961; and
17 ''(4) 'nuclear weapon' means any weapon that
18 contains or uses nuclear material as defined in sec-
19 tion 831(f)(1).''; and
20 (3) in section 2332b(g)(5)(B)(i), by inserting
21 after ''nuclear materials),'' the following: ''832 (re-
22 lating to participation in nuclear and weapons of
23 mass destruction threats to the United States)''.

SEC. 2054. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

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

(1) Al Qaeda has tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has redoubled its international commitments to supporting the programs for Cooperative Threat Reduction and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the United States Government's commitment and approach to securing the weapons of mass destruction and related highly dangerous materials that are still scattered among Russia and other countries of the former Soviet Union.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related dangerous materials is greatly outweighed by the potentially catastrophic cost to the United States of use of weapons of mass destruction

or related dangerous materials by the terrorists who are so eager to acquire them.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction, wherever such proliferation may occur, is warranted; and

(2) the programs of the United States Government to prevent or counter the proliferation of weapons of mass destruction, including the Proliferation Security Initiative, the programs for Cooperative Threat Reduction, and other nonproliferation assistance programs, should be expanded, improved, and better funded to address the global dimensions of the proliferation threat.

(c) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(1) a strategy for expanding and strengthening the Proliferation Security Initiative, the programs for Cooperative Threat Reduction, and other nonproliferation assistance programs; and

(2) an estimate of the funding necessary to execute that strategy.

(d) REPORT ON REFORMING THE COOPERATIVE THREAT REDUCTION PROGRAM AND OTHER NON-PROLIFERATION ASSISTANCE PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating whether the United States could more effectively address the global threat of nuclear proliferation by—

(1) establishing a central coordinator for the programs for Cooperative Threat Reduction;

(2) eliminating the requirement that the President spend no more than $50,000,000 annually on programs for Cooperative Threat Reduction and other non-proliferation assistance programs carried out outside the former Soviet Union; or

(3) repealing the provisions of the Soviet Nuclear Threat Reduction Act of 1991 (22 U.S.C. 2551 note) that place conditions on assistance to the former Soviet Union unrelated to bilateral cooperation on weapons dismantlement.

SEC. 2055. SENSE OF CONGRESS REGARDING INTERNATIONAL COUNTERPROLIFERATION EFFORTS.

It is the sense of Congress that the United States should work with the international community to develop laws and an international legal regime with universal ju-

1 risdiction to enable the interdiction of nuclear material
2 and technology, and the capture, interdiction, and pros-
3 ecution of individuals or entities involved in the smuggling
4 or transfer of nuclear material or technology to any state
5 in the world where they do not fully disclose the nature
6 of their nuclear program.

7 **SEC. 2056. REMOVAL OF POTENTIAL NUCLEAR WEAPONS**
8 **MATERIALS FROM VULNERABLE SITES**
9 **WORLDWIDE.**

10 (a) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that removing potential nuclear weapons materials
12 from vulnerable sites around the world would reduce the
13 possibility that such materials could fall into the hands
14 of al Qaeda or other groups and states hostile to the
15 United States, and should be a top priority for achieving
16 the national security of the United States. Several actions
17 may be taken to reduce the risk that nuclear weapons ma-
18 terials may end up in terrorist hands, including—

19 (1) transporting such materials from such sites
20 to secure facilities;

21 (2) providing interim security upgrades for such
22 materials pending their removal from their current
23 sites;

24 (3) managing such materials after their arrival
25 at secure facilities;

1 (4) purchasing such materials;
2 (5) converting such sites to the use of low-en-
3 riched uranium fuels;
4 (6) assisting in the closure and decommis-
5 sioning of such sites;
6 (7) providing incentives to facilitate the removal
7 of such materials from vulnerable facilities;
8 (8) arranging for the shipment of potential nu-
9 clear weapons materials to the United States, or to
10 other countries willing to accept such materials and
11 able to provide high levels of security for such mate-
12 rials, and dispose of such materials, in order to en-
13 sure that United States national security objectives
14 are accomplished as quickly and effectively as pos-
15 sible; and
16 (9) providing funds to upgrade security and ac-
17 counting at sites where potential nuclear weapons
18 materials will remain for an extended period in order
19 to ensure that such materials are secure against
20 plausible potential threats, and will remain so in the
21 future.
22 (b) REPORT.—
23 (1) Not later than 30 days after the submittal
24 to Congress of the budget of the President for fiscal
25 year 2006 pursuant to section 1105(a) of title 31,

1 United States Code, the administration shall submit
2 to Congress a report that includes the following:
3 (A) A list of the sites determined to be of
4 the highest priorities for removal of potential
5 nuclear weapons materials, based on the quan-
6 tity and attractiveness of such materials at such
7 sites and the risk of theft or diversion of such
8 materials for weapons purposes.
9 (B) An inventory of all sites worldwide
10 where highly-enriched uranium or separated
11 plutonium is located, including, to the extent
12 practicable, a prioritized assessment of the ter-
13 rorism and proliferation risk posed by such ma-
14 terials at each such site, based on the quantity
15 of such materials, the attractiveness of such
16 materials for use in nuclear weapons, the cur-
17 rent level of security and accounting for such
18 materials, and the level of threat (including the
19 effects of terrorist or criminal activity and the
20 pay and morale of personnel and guards) in the
21 country or region where such sites are located.
22 (C) A strategic plan, including measurable
23 milestones and metrics.
24 (D) An estimate of the funds required to
25 secure these materials.

(E) The recommendations of the Administration on whether any further legislative actions or international agreements are necessary to facilitate the accomplishment of the objective.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(c) POTENTIAL NUCLEAR WEAPONS MATERIAL DEFINED.—In this section, the term ''potential nuclear weapons material'' means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated materials if the radiation field from such materials is not sufficient to prevent the theft and use of such materials for an explosive nuclear chain reaction.

Subtitle E—Money Laundering and Terrorist Financing

CHAPTER 1—FUNDING TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

SEC. 2101. ADDITIONAL AUTHORIZATION FOR FINCEN.

Subsection (d) of section 310 of title 31, United States Code, is amended—

(1) by striking ''APPROPRIATIONS.—There are authorized'' and inserting ''APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized"; and

(2) by adding at the end the following new paragraph:

"(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

"(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to

1 exploit the information in the FinCEN
2 databanks $16,500,000.
3 "(B) ADVANCED ANALYTICAL TECH-
4 NOLOGIES.—To provide advanced analytical
5 tools needed to ensure that the data collected
6 by FinCEN under chapter 53 and related provi-
7 sions of law are utilized fully and appropriately
8 in safeguarding financial institutions and sup-
9 porting the war on terrorism, $5,000,000.
10 "(C) DATA NETWORKING MODERNIZA-
11 TION.—To improve the telecommunications in-
12 frastructure to support the improved capabili-
13 ties of the FinCEN systems, $3,000,000.
14 "(D) ENHANCED COMPLIANCE CAPA-
15 BILITY.—To improve the effectiveness of the
16 Office of Compliance in FinCEN, $3,000,000.
17 "(E) DETECTION AND PREVENTION OF FI-
18 NANCIAL CRIMES AND TERRORISM.—To provide
19 development of, and training in the use of, tech-
20 nology to detect and prevent financial crimes
21 and terrorism within and without the United
22 States, $8,000,000.".

SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY REAUTHORIZATION.

(a) PROGRAM.—Section 5341(a)(2) of title 31, United States Code, is amended by striking ''and 2003,'' and inserting ''2003, and 2005,''.

(b) REAUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

''Fiscal year 2004	$15,000,000
Fiscal year 2005	$15,000,000''.

CHAPTER 2—ENFORCEMENT TOOLS TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

Subchapter A—Money Laundering Abatement and Financial Antiterrorism Technical Corrections

SEC. 2111. SHORT TITLE.

This subtitle may be cited as the ''Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004''.

SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–56.

(a) The heading of title III of Public Law 107–56 is amended to read as follows:

"TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001".

(b) The table of contents of Public Law 107–56 is amended by striking the item relating to title III and inserting the following new item:

"TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001".

(c) Section 302 of Public Law 107–56 is amended—

(1) in subsection (a)(4), by striking the comma after "movement of criminal funds";

(2) in subsection (b)(7), by inserting "or types of accounts" after "classes of international transactions"; and

(3) in subsection (b)(10), by striking "subchapters II and III" and inserting "subchapter II".

(d) Section 303(a) of Public Law 107–56 is amended by striking "Anti-Terrorist Financing Act" and inserting "Financial Antiterrorism Act".

(e) The heading for section 311 of Public Law 107–56 is amended by striking "**OR INTERNATIONAL TRANSACTIONS**" and inserting "**INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS**".

(f) Section 314 of Public Law 107–56 is amended—

(1) in paragraph (1)—

(A) by inserting a comma after ''organizations engaged in''; and

(B) by inserting a comma after ''credible evidence of engaging in'';

(2) in paragraph (2)(A)—

(A) by striking ''and'' after ''nongovernmental organizations,''; and

(B) by inserting a comma after ''unwittingly involved in such finances'';

(3) in paragraph (3)(A)—

(A) by striking ''to monitor accounts of'' and inserting ''monitor accounts of,''; and

(B) by striking the comma after ''organizations identified''; and

(4) in paragraph (3)(B), by inserting ''financial'' after ''size, and nature of the''.

(g) Section 321 of Public Law 107–56 is amended by striking ''5312(2)'' and inserting ''5312(a)(2)''.

(h) Section 325 of Public Law 107–56 is amended by striking ''as amended by section 202 of this title,'' and inserting ''as amended by section 352,''.

(i) Subsections (a)(2) and (b)(2) of section 327 of Public Law 107–56 are each amended by inserting a period after ''December 31, 2001'' and striking all that fol-

lows through the period at the end of each such subsection.

(j) Section 356(c)(4) of Public Law 107–56 is amended by striking ''or business or other grantor trust'' and inserting '', business trust, or other grantor trust''.

(k) Section 358(e) of Public Law 107–56 is amended—

(1) by striking ''Section 123(a)'' and inserting ''That portion of section 123(a)'';

(2) by striking ''is amended to read'' and inserting ''that precedes paragraph (1) of such section is amended to read''; and

(3) by striking ''.'.'' at the end of such section and inserting ''—' ''.

(l) Section 360 of Public Law 107–56 is amended—

(1) in subsection (a), by inserting ''the'' after ''utilization of the funds of''; and

(2) in subsection (b), by striking ''at such institutions'' and inserting ''at such institution''.

(m) Section 362(a)(1) of Public Law 107–56 is amended by striking ''subchapter II or III'' and inserting ''subchapter II''.

(n) Section 365 of Public Law 107–56 is amended —

(1) by redesignating the 2nd of the 2 subsections designated as subsection (c) (relating to a clerical amendment) as subsection (d); and

(2) by redesignating subsection (f) as subsection (e).

(o) Section 365(d) of Public Law 107–56 (as so redesignated by subsection (n) of this section) is amended by striking ''section 5332 (as added by section 112 of this title)'' and inserting ''section 5330''.

SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVISIONS OF LAW.

(a) Section 310(c) of title 31, United States Code, is amended by striking ''the Network'' each place such term appears and inserting ''FinCEN''.

(b) Section 5312(a)(3)(C) of title 31, United States Code, is amended by striking ''sections 5333 and 5316'' and inserting ''sections 5316 and 5331''.

(c) Section 5318(i) of title 31, United States Code, is amended—

(1) in paragraph (3)(B), by inserting a comma after ''foreign political figure'' the 2nd place such term appears; and

(2) in the heading of paragraph (4), by striking ''DEFINITION'' and inserting ''DEFINITIONS''.

(d) Section 5318(k)(1)(B) of title 31, United States Code, is amended by striking ''section 5318A(f)(1)(B)'' and inserting ''section 5318A(e)(1)(B)''.

(e) The heading for section 5318A of title 31, United States Code, is amended to read as follows:

''§ 5318A Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern''.

(f) Section 5318A of title 31, United States Code, is amended—

(1) in subsection (a)(4)(A), by striking '', as defined in section 3 of the Federal Deposit Insurance Act,'' and inserting '' (as defined in section 3 of the Federal Deposit Insurance Act)'';

(2) in subsection (a)(4)(B)(iii), by striking ''or class of transactions'' and inserting ''class of transactions, or type of account'';

(3) in subsection (b)(1)(A), by striking ''or class of transactions to be'' and inserting ''class of transactions, or type of account to be''; and

(4) in subsection (e)(3), by inserting ''or subsection (i) or (j) of section 5318'' after ''identification of individuals under this section''.

(g) Section 5324(b) of title 31, United States Code, is amended by striking ''5333'' each place such term appears and inserting ''5331''.

(h) Section 5332 of title 31, United States Code, is amended—

(1) in subsection (b)(2), by striking '', subject to subsection (d) of this section''; and

(2) in subsection (c)(1), by striking '', subject to subsection (d) of this section,''.

(i) The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by striking the item relating to section 5318A and inserting the following new item:

''5318A. Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.''.

(j) Section 18(w)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(w)(3)) is amended by inserting a comma after ''agent of such institution''.

(k) Section 21(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)(2)) is amended by striking ''recognizes that'' and inserting ''recognizing that''.

(l) Section 626(e) of the Fair Credit Reporting Act (15 U.S.C. 1681v(e)) is amended by striking ''governmental agency'' and inserting ''government agency''.

SEC. 2114. REPEAL OF REVIEW.

Title III of Public Law 107–56 is amended by striking section 303 (31 U.S.C. 5311 note).

SEC. 2115. EFFECTIVE DATE.

The amendments made by this subtitle to Public Law 107–56, the United States Code, the Federal Deposit Insurance Act, and any other provision of law shall take effect as if such amendments had been included in Public Law 107–56, as of the date of the enactment of such Public Law, and no amendment made by such Public Law that is inconsistent with an amendment made by this subtitle shall be deemed to have taken effect.

Subchapter B—Additional Enforcement Tools

SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECURITY PRINTING.

(a) PRODUCTION OF DOCUMENTS.—Section 5114(a) of title 31, United States Code (relating to engraving and printing currency and security documents), is amended—

(1) by striking ''(a) The Secretary of the Treasury'' and inserting:

''(a) AUTHORITY TO ENGRAVE AND PRINT.—

''(1) IN GENERAL.—The Secretary of the Treasury''; and

(2) by adding at the end the following new paragraphs:

"(2) ENGRAVING AND PRINTING FOR OTHER GOVERNMENTS.—The Secretary of the Treasury may produce currency, postage stamps, and other security documents for foreign governments if—

"(A) the Secretary of the Treasury determines that such production will not interfere with engraving and printing needs of the United States; and

"(B) the Secretary of State determines that such production would be consistent with the foreign policy of the United States.

"(3) PROCUREMENT GUIDELINES.—Articles, material, and supplies procured for use in the production of currency, postage stamps, and other security documents for foreign governments pursuant to paragraph (2) shall be treated in the same manner as articles, material, and supplies procured for public use within the United States for purposes of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.; commonly referred to as the Buy American Act).".

(b) REIMBURSEMENT.—Section 5143 of title 31, United States Code (relating to payment for services of the Bureau of Engraving and Printing), is amended—

(1) in the first sentence, by inserting ''or to a foreign government under section 5114'' after ''agency'';

(2) in the second sentence, by inserting ''and other'' after ''including administrative''; and

(3) in the last sentence, by inserting '', and the Secretary shall take such action, in coordination with the Secretary of State, as may be appropriate to ensure prompt payment by a foreign government of any invoice or statement of account submitted by the Secretary with respect to services rendered under section 5114'' before the period at the end.

SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.

(a) IN GENERAL.—Section 474(a) of title 18, United States Code, is amended by inserting after the paragraph beginning ''Whoever has in his control, custody, or possession any plate'' the following:

'' Whoever, with intent to defraud, has in his custody, control, or possession any material that can be used to make, alter, forge or counterfeit any obligations and other securities of the United States or any part of such securities and obligations, except under the authority of the Secretary of the Treasury; or''.

(b) FOREIGN OBLIGATIONS AND SECURITIES.—Section 481 of title 18, United States Code, is amended by

inserting after the paragraph beginning ''Whoever, with intent to defraud'' the following:

'' Whoever, with intent to defraud, has in his custody, control, or possession any material that can be used to make, alter, forge or counterfeit any obligation or other security of any foreign government, bank or corporation; or''.

(c) COUNTERFEIT ACTS.—Section 470 of title 18, United States Code, is amended by striking ''or 474'' and inserting ''474, or 474A''.

(d) MATERIALS USED IN COUNTERFEITING.—Section 474A(b) of title 18, United States Code, is amended by striking ''any essentially identical'' and inserting ''any thing or material made after or in the similitude of any''.

Subtitle F—Criminal History Background Checks

SEC. 2141. SHORT TITLE.

This subtitle may be cited as the ''Criminal History Access Means Protection of Infrastructures and Our Nation Act''.

SEC. 2142. CRIMINAL HISTORY BACKGROUND CHECKS.

(a) IN GENERAL.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

1 "(f)(1) Under rules prescribed by the Attorney Gen-
2 eral, the Attorney General shall, within 60 days after the
3 date of enactment, initiate a pilot program to establish
4 and maintain a system for providing to an employer crimi-
5 nal history information that—
6 "(A) is in the possession of the Attorney Gen-
7 eral; and
8 "(B) is requested by an employer as part of an
9 employee criminal history investigation that has been
10 authorized by the State where the employee works or
11 where the employer has their principal place of busi-
12 ness;
13 in order to ensure that a prospective employee is suitable
14 for certain employment positions.
15 "(2) The Attorney General shall require that an em-
16 ployer seeking criminal history information of an employee
17 request such information and submit fingerprints or other
18 biometric identifiers as approved by the Attorney General
19 to provide a positive and reliable identification of such pro-
20 spective employee.
21 "(3) The Director of the Federal Bureau of Inves-
22 tigation may require an employer to pay a reasonable fee
23 for such information.
24 "(4) Upon receipt of fingerprints or other biometric
25 identifiers, the Attorney General shall conduct an Inte-

1 grated Fingerprint Identification System of the Federal
2 Bureau of Investigation (IAFIS) check and provide the
3 results of such check to the requester.
4 "(5) As used in this subsection,
5 "(A) the term 'criminal history information'
6 and 'criminal history records' includes——
7 "(i) an identifying description of the indi-
8 vidual to whom it pertains;
9 "(ii) notations of arrests, detentions, in-
10 dictments, or other formal criminal charges per-
11 taining to such individual; and
12 "(iii) any disposition to a notation revealed
13 in subparagraph (B), including acquittal, sen-
14 tencing, correctional supervision, or release.
15 "(B) the term 'Integrated Automated Finger-
16 print Identification System of the Federal Bureau of
17 Investigation (IAFIS)' means the national deposi-
18 tory for fingerprint, biometric, and criminal history
19 information, through which fingerprints are proc-
20 essed electronically.
21 "(6) Nothing in this subsection shall preclude the At-
22 torney General from authorizing or requiring criminal his-
23 tory record checks on individuals employed or seeking em-
24 ployment in positions vital to the Nation's critical infra-
25 structure or key resources as those terms are defined in

1 section 1016(e) of Public Law 107–56 (42 U.S.C.
2 5195c(e)) and section 2(9) of the Homeland Security Act
3 of 2002 (6 U.S.C. 101(9)), if pursuant to a law or execu-
4 tive order.''.

5 (b) REPORT TO CONGRESS.—

6 (1) IN GENERAL.—Not later than 60 days after
7 the conclusion of the pilot program, the Attorney
8 General shall report to the appropriate committees
9 of Congress regarding all statutory requirements for
10 criminal history record checks that are required to
11 be conducted by the Department of Justice or any
12 of its components.

13 (2) IDENTIFICATION OF INFORMATION.—The
14 Attorney General shall identify the number of
15 records requested, including the type of information
16 requested, usage of different terms and definitions
17 regarding criminal history information, and the vari-
18 ation in fees charged for such information and who
19 pays such fees.

20 (3) RECOMMENDATIONS.—The Attorney Gen-
21 eral shall make recommendations for consolidating
22 the existing procedures into a unified procedure con-
23 sistent with that provided in section 534(f) of title
24 28, United States Code, as amended by this subtitle.

In making the recommendations to Congress, the Attorney General shall consider—

(A) the effectiveness of utilizing commercially available databases as a supplement to IAFIS criminal history information checks;

(B) the effectiveness of utilizing State databases as a supplement to IAFIS criminal history information checks;

(C) any feasibility studies by the Department of Justice of the FBI's resources and structure to establish a system to provide criminal history information; and

(D) privacy rights and other employee protections to include employee consent, access to the records used if employment was denied, an appeal mechanism, and penalties for misuse of the information.

SEC. 2143. PROTECT ACT.

Public law 108–21 is amended—

(1) in section 108(a)(2)(A) by striking ''an 18 month'' and inserting ''a 30-month''; and

(2) in section 108(a)(3)(A) by striking ''an 18-month'' and inserting ''a 30-month''.

SEC. 2144. REVIEWS OF CRIMINAL RECORDS OF APPLICANTS FOR PRIVATE SECURITY OFFICER EMPLOYMENT.

(a) SHORT TITLE.—This section may be cited as the ''Private Security Officer Employment Authorization Act of 2004''.

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(9) private security officers and applicants for private security officer positions should be thoroughly screen and trained.

(c) DEFINITIONS.—In this Act:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

1 (B) is authorized by regulations promul-
2 gated by the Attorney General to request a
3 criminal history record information search of an
4 employee through a State identification bureau
5 pursuant to this section.
6 (3) PRIVATE SECURITY OFFICER.—The term
7 ''private security officer'—
8 (A) means an individual other than an em-
9 ployee of a Federal, State, or local government,
10 whose primary duty is to perform security serv-
11 ices, full- or part-time, for consideration, wheth-
12 er armed or unarmed and in uniform or plain
13 clothes (except for services excluded from cov-
14 erage under this Act if the Attorney General
15 determines by regulation that such exclusion
16 would serve the public interest); but
17 (B) does not include—
18 (i) employees whose duties are pri-
19 marily internal audit or credit functions;
20 (ii) employees of electronic security
21 system companies acting as technicians or
22 monitors; or
23 (iii) employees whose duties primarily
24 involve the secure movement of prisoners.

1 (4) SECURITY SERVICES.—The term ''security
2 services'' means acts to protect people or property as
3 defined by regulations promulgated by the Attorney
4 General.
5 (5) STATE IDENTIFICATION BUREAU.—The
6 term ''State identification bureau'' means the State
7 entity designated by the Attorney General for the
8 submission and receipt of criminal history record in-
9 formation.
10 (d) CRIMINAL HISTORY RECORD INFORMATION
11 SEARCH.—
12 (1) IN GENERAL.—
13 (A) SUBMISSION OF FINGERPRINTS.—An
14 authorized employer may submit to the State
15 identification bureau of a participating State,
16 fingerprints or other means of positive identi-
17 fication, as determined by the Attorney Gen-
18 eral, of an employee of such employer for pur-
19 poses of a criminal history record information
20 search pursuant to this Act.
21 (B) EMPLOYEE RIGHTS.—
22 (i) PERMISSION.—An authorized em-
23 ployer shall obtain written consent from an
24 employee to submit to the State identifica-
25 tion bureau of a participating State the re-

1 quest to search the criminal history record
2 information of the employee under this
3 Act.
4 (ii) ACCESS.—An authorized employer
5 shall provide to the employee confidential
6 access to any information relating to the
7 employee received by the authorized em-
8 ployer pursuant to this Act.
9 (C) PROVIDING INFORMATION TO THE
10 STATE IDENTIFICATION BUREAU.—Upon re-
11 ceipt of a request for a criminal history record
12 information search from an authorized employer
13 pursuant to this Act, submitted through the
14 State identification bureau of a participating
15 State, the Attorney General shall—
16 (i) search the appropriate records of
17 the Criminal Justice Information Services
18 Division of the Federal Bureau of Inves-
19 tigation; and
20 (ii) promptly provide any resulting
21 identification and criminal history record
22 information to the submitting State identi-
23 fication bureau requesting the information.
24 (D) USE OF INFORMATION.—

1 (i) IN GENERAL.—Upon receipt of the
2 criminal history record information from
3 the Attorney General by the State identi-
4 fication bureau, the information shall be
5 used only as provided in clause (ii).
6 (ii) TERMS.—In the case of—
7 (I) a participating State that has
8 no State standards for qualification to
9 be a private security officer, the State
10 shall notify an authorized employer as
11 to the fact of whether an employee
12 has been—
13 (aa) convicted of a felony,
14 an offense involving dishonesty or
15 a false statement if the convic-
16 tion occurred during the previous
17 10 years, or an offense involving
18 the use or attempted use of phys-
19 ical force against the person of
20 another if the conviction occurred
21 during the previous 10 years; or
22 (bb) charged with a criminal
23 felony for which there has been
24 no resolution during the pre-
25 ceding 365 days; or

1 (II) a participating State that
2 has State standards for qualification
3 to be a private security officer, the
4 State shall use the information re-
5 ceived pursuant to this Act in apply-
6 ing the State standards and shall only
7 notify the employer of the results of
8 the application of the State standards.
9 (E) FREQUENCY OF REQUESTS.—An au-
10 thorized employer may request a criminal his-
11 tory record information search for an employee
12 only once every 12 months of continuous em-
13 ployment by that employee unless the author-
14 ized employer has good cause to submit addi-
15 tional requests.
16 (2) REGULATIONS.—Not later than 180 days
17 after the date of enactment of this Act, the Attorney
18 General shall issue such final or interim final regula-
19 tions as may be necessary to carry out this Act,
20 including—
21 (A) measures relating to the security, con-
22 fidentiality, accuracy, use, submission, dissemi-
23 nation, destruction of information and audits,
24 and record keeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this Act; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this Act by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this subsection.

SEC. 2145. TASK FORCE ON CLEARINGHOUSE FOR IAFIS CRIMINAL HISTORY RECORDS.

Not later than 60 days after the date of enactment of this Act, the Attorney General shall establish a task force to examine the establishment of a national clearinghouse to process IAFIS criminal history record requests received directly from employers providing private security guard services with respect to critical infrastructure (as defined in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e))) and other private security guard services. Members of this task force shall include representatives of the Department of Justice and the Federal Bureau of Investigation, in consultation with representatives of the security guard industry. Not later than 90 days after the establishment of the task force, the Attorney General shall submit to Congress a report outlining how the national clearinghouse shall be established, and specifying a date certain (within one year of the enactment of this Act) by which the national clearinghouse will begin operations.

Subtitle G—Protection of United States Aviation System From Terrorist Attacks

SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR OTHER TECHNOLOGY.

(a) USE OF BIOMETRIC TECHNOLOGY.—Section 44903(h) of title 49, United States Code, is amended—

(1) in paragraph (4)(E) by striking ''may provide for'' and inserting ''shall issue, not later than 120 days after the date of enactment of paragraph (5), guidance for''; and

(2) by adding at the end the following:

''(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—In issuing guidance under paragraph (4)(E), the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Attorney General, representatives of the aviation industry, the biometrics industry, and the National Institute of Standards and Technology, shall establish, at a minimum—

''(A) comprehensive technical and operational system requirements and performance standards for the use of biometrics in airport access control systems (including airport perim-

eter access control systems) to ensure that the biometric systems are effective, reliable, and secure;

"(B) a list of products and vendors that meet such requirements and standards;

"(C) procedures for implementing biometric systems—

"(i) to ensure that individuals do not use an assumed identity to enroll in a biometric system; and

"(ii) to resolve failures to enroll, false matches, and false non-matches; and

"(D) best practices for incorporating biometric technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

"(6) USE OF BIOMETRIC TECHNOLOGY FOR LAW ENFORCEMENT OFFICER TRAVEL.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Assistant Secretary in consultation with the Attorney General shall—

1 "(i) establish a law enforcement offi-
2 cer travel credential that incorporates bio-
3 metrics and is uniform across all Federal,
4 State, and local government law enforce-
5 ment agencies;
6 "(ii) establish a process by which the
7 travel credential will be used to verify the
8 identity of a Federal, State, or local gov-
9 ernment law enforcement officer seeking to
10 carry a weapon on board an aircraft, with-
11 out unnecessarily disclosing to the public
12 that the individual is a law enforcement of-
13 ficer;
14 "(iii) establish procedures—
15 "(I) to ensure that only Federal,
16 State, and local government law en-
17 forcement officers are issued the trav-
18 el credential;
19 "(II) to resolve failures to enroll,
20 false matches, and false non-matches
21 relating to use of the travel credential;
22 and
23 "(III) to invalidate any travel
24 credential that is lost, stolen, or no
25 longer authorized for use;

1 "(iv) begin issuance of the travel cre-
2 dential to each Federal, State, and local
3 government law enforcement officer au-
4 thorized by the Assistant Secretary to
5 carry a weapon on board an aircraft; and
6 "(v) take such other actions with re-
7 spect to the travel credential as the Sec-
8 retary considers appropriate.
9 "(B) FUNDING.—There are authorized to
10 be appropriated such sums as may be necessary
11 to carry out this paragraph.
12 "(7) DEFINITIONS.—In this subsection, the fol-
13 lowing definitions apply:
14 "(A) BIOMETRIC INFORMATION.—The
15 term 'biometric information' means the distinct
16 physical or behavioral characteristics that are
17 used for identification, or verification of the
18 identity, of an individual.
19 "(B) BIOMETRICS.—The term 'biometrics'
20 means a technology that enables the automated
21 identification, or verification of the identity, of
22 an individual based on biometric information.
23 "(C) FAILURE TO ENROLL.—The term
24 'failure to enroll' means the inability of an indi-
25 vidual to enroll in a biometric system due to an

insufficiently distinctive biometric sample, the lack of a body part necessary to provide the biometric sample, a system design that makes it difficult to provide consistent biometric information, or other factors.

"(D) FALSE MATCH.—The term 'false match' means the incorrect matching of one individual's biometric information to another individual's biometric information by a biometric system.

"(E) FALSE NON-MATCH.—The term 'false non-match' means the rejection of a valid identity by a biometric system.

"(F) SECURE AREA OF AN AIRPORT.—The term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).".

(b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—

(1) GRANT AUTHORITY.—Section 44923(a)(4) of title 49, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

''(4) for projects to implement biometric technologies in accordance with guidance issued under section 44903(h)(4)(E); and''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 44923(i)(1) of such title is amended by striking ''$250,000,000 for each of fiscal years 2004 through 2007'' and inserting ''$250,000,000 for fiscal year 2004, $345,000,000 for fiscal year 2005, and $250,000,000 for each of fiscal years 2006 and 2007''.

SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLANNING.

Section 44904 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

"(c) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

"(1) IN GENERAL.—The Secretary of Homeland Security in consultation with the Attorney General, shall prepare and update, as needed, a transportation sector specific plan and transportation modal security plans in accordance with this section.

"(2) CONTENTS.—At a minimum, the modal security plan for aviation prepared under paragraph (1) shall—

"(A) set risk-based priorities for defending aviation assets;

"(B) select the most practical and cost-effective methods for defending aviation assets;

"(C) assign roles and missions to Federal, State, regional, and local authorities and to stakeholders;

"(D) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

"(E) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

"(3) REPORTS.—Not later than 180 days after the date of enactment of the subsection and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plans prepared under paragraph (1), including any updates to the plans. The report may be submitted in a classified format.

"(d) OPERATIONAL CRITERIA.—Not later than 90 days after the date of submission of the report under subsection (c)(3), the Assistant Secretary of Homeland Security (Transportation Security Administration) in consultation with the Attorney General shall issue operational criteria to protect airport infrastructure and operations against the threats identified in the plans prepared under subsection (c)(1) and shall approve best practices guidelines for airport assets.".

SEC. 2173. NEXT GENERATION AIRLINE PASSENGER PRESCREENING.

(a) IN GENERAL.—Section 44903(j)(2) of title 49, United States Code, is amended by adding at the end the following:

1 "(C) NEXT GENERATION AIRLINE PAS-
2 SENGER PRESCREENING.—
3 "(i) COMMENCEMENT OF TESTING.—
4 Not later than November 1, 2004, the As-
5 sistant Secretary of Homeland Security
6 (Transportation Security Administration),
7 or the designee of the Assistant Secretary,
8 shall commence testing of a next genera-
9 tion passenger prescreening system that
10 will allow the Department of Homeland Se-
11 curity to assume the performance of com-
12 paring passenger name records to the
13 automatic selectee and no fly lists, utilizing
14 all appropriate records in the consolidated
15 and integrated terrorist watchlist main-
16 tained by the Federal Government.
17 "(ii) ASSUMPTION OF FUNCTION.—
18 Not later than 180 days after completion
19 of testing under clause (i), the Assistant
20 Secretary, or the designee of the Assistant
21 Secretary, shall assume the performance of
22 the passenger prescreening function of
23 comparing passenger name records to the
24 automatic selectee and no fly lists and uti-
25 lize all appropriate records in the consoli-

1 dated and integrated terrorist watchlist
2 maintained by the Federal Government in
3 performing that function.
4 "(iii) REQUIREMENTS.—In assuming
5 performance of the function under clause
6 (i), the Assistant Secretary shall—
7 "(I) establish a procedure to en-
8 able airline passengers, who are de-
9 layed or prohibited from boarding a
10 flight because the next generation
11 passenger prescreening system deter-
12 mined that they might pose a security
13 threat, to appeal such determination
14 and correct information contained in
15 the system;
16 "(II) ensure that Federal Gov-
17 ernment databases that will be used
18 to establish the identity of a pas-
19 senger under the system will not
20 produce a large number of false
21 positives;
22 "(III) establish an internal over-
23 sight board to oversee and monitor
24 the manner in which the system is
25 being implemented;

1 "(IV) establish sufficient oper-
2 ational safeguards to reduce the op-
3 portunities for abuse;
4 "(V) implement substantial secu-
5 rity measures to protect the system
6 from unauthorized access;
7 "(VI) adopt policies establishing
8 effective oversight of the use and op-
9 eration of the system; and
10 "(VII) ensure that there are no
11 specific privacy concerns with the
12 technological architecture of the sys-
13 tem.
14 "(iv) PASSENGER NAME RECORDS.—
15 Not later than 60 days after the comple-
16 tion of the testing of the next generation
17 passenger prescreening system, the Assist-
18 ant Secretary shall require air carriers to
19 supply to the Assistant Secretary the pas-
20 senger name records needed to begin im-
21 plementing the next generation passenger
22 prescreening system.
23 "(D) SCREENING OF EMPLOYEES AGAINST
24 WATCHLIST.—The Assistant Secretary of
25 Homeland Security (Transportation Security

1 Administration), in coordination with the Sec-
2 retary of Transportation and the Administrator
3 of the Federal Aviation Administration, shall
4 ensure that individuals are screened against all
5 appropriate records in the consolidated and in-
6 tegrated terrorist watchlist maintained by the
7 Federal Government before—
8 ''(i) being certificated by the Federal
9 Aviation Administration;
10 ''(ii) being issued a credential for ac-
11 cess to the secure area of an airport; or
12 ''(iii) being issued a credential for ac-
13 cess to the air operations area (as defined
14 in section 1540.5 of title 49, Code of Fed-
15 eral Regulations, or any successor regula-
16 tion to such section) of an airport.
17 ''(E) APPEAL PROCEDURES.—The Assist-
18 ant Secretary shall establish a timely and fair
19 process for individuals identified as a threat
20 under subparagraph (D) to appeal the deter-
21 mination and correct any erroneous informa-
22 tion.
23 ''(F) DEFINITION.—In this paragraph, the
24 term 'secure area of an airport' means the ster-
25 ile area and the Secure Identification Display

Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).''.

(b) GAO REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date on which the Assistant Secretary of Homeland Security (Transportation Security Administration) assumes performance of the passenger prescreening function under section 44903(j)(2)(C)(ii) of title 49, United States Code, the Comptroller General shall submit to the appropriate congressional committees a report on the assumption of such function. The report may be submitted in a classified format.

(2) CONTENTS.—The report under paragraph (1) shall address—

(A) whether a system exists in the next generation passenger prescreening system whereby aviation passengers, determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the Transportation Security Administration, may appeal such a decision and correct erroneous information;

(B) the sufficiency of identifying information contained in passenger name records and any government databases for ensuring that a large number of false positives will not result under the next generation passenger prescreening system in a significant number of passengers being treated as a threat mistakenly or in security resources being diverted;

(C) whether the Transportation Security Administration stress tested the next generation passenger prescreening system;

(D) whether an internal oversight board has been established in the Department of Homeland Security to monitor the next generation passenger prescreening system;

(E) whether sufficient operational safeguards have been established to prevent the opportunities for abuse of the system;

(F) whether substantial security measures are in place to protect the passenger prescreening database from unauthorized access;

(G) whether policies have been adopted for the effective oversight of the use and operation of the system;

(H) whether specific privacy concerns still exist with the system; and

(I) whether appropriate life cycle cost estimates have been developed, and a benefit and cost analysis has been performed, for the system.

SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.

(a) NONMETALLIC WEAPONS AND EXPLOSIVES.—In order to improve security, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall give priority to developing, testing, improving, and deploying technology at screening checkpoints at airports that will detect nonmetallic weapons and explosives on the person of individuals, in their clothing, or in their carry-on baggage or personal property and shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of nonmetallic weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Assistant Sec-
3 retary shall transmit to the appropriate congres-
4 sional committees a strategic plan to promote the
5 optimal utilization and deployment of explosive de-
6 tection systems at airports to screen individuals and
7 their carry-on baggage or personal property, includ-
8 ing walk-through explosive detection portals, docu-
9 ment scanners, shoe scanners, and any other explo-
10 sive detection equipment for use at a screening
11 checkpoint. The plan may be transmitted in a classi-
12 fied format.
13 (2) CONTENTS.—The strategic plan shall in-
14 clude descriptions of the operational applications of
15 explosive detection equipment at airport screening
16 checkpoints, a deployment schedule and quantities of
17 equipment needed to implement the plan, and fund-
18 ing needs for implementation of the plan, including
19 a financing plan that provides for leveraging non-
20 Federal funding.

21 **SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-**
22 **RESISTANT CARGO AND BAGGAGE CON-**
23 **TAINERS.**

24 (a) IN GENERAL.—Beginning not later than 180
25 days after the date of enactment of this Act, the Assistant

1 Secretary of Homeland Security (Transportation Security
2 Administration) shall carry out a pilot program to evalu-
3 ate the use of blast-resistant containers for cargo and bag-
4 gage on passenger aircraft to minimize the potential ef-
5 fects of detonation of an explosive device.

6 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-
7 GRAM.—

8 (1) IN GENERAL.—As part of the pilot pro-
9 gram, the Assistant Secretary shall provide incen-
10 tives to air carriers to volunteer to test the use of
11 blast-resistant containers for cargo and baggage on
12 passenger aircraft.

13 (2) APPLICATIONS.—To volunteer to participate
14 in the incentive program, an air carrier shall submit
15 to the Assistant Secretary an application that is in
16 such form and contains such information as the As-
17 sistant Secretary requires.

18 (3) TYPES OF ASSISTANCE.—Assistance pro-
19 vided by the Assistant Secretary to air carriers that
20 volunteer to participate in the pilot program shall in-
21 clude the use of blast-resistant containers and finan-
22 cial assistance to cover increased costs to the car-
23 riers associated with the use and maintenance of the
24 containers, including increased fuel costs.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall submit to appropriate congressional committees a report on the results of the pilot program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000. Such sums shall remain available until expended.

SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.

The Transportation Security Administration shall develop technology to better identify, track, and screen air cargo.

SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DETECTION.

Section 44940 of title 49, United States Code, is amended by adding at the end the following:

"(i) CHECKPOINT SCREENING SECURITY FUND.—

"(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the 'Checkpoint Screening Security Fund'.

"(2) DEPOSITS.—In each of fiscal years 2005 and 2006, after amounts are made available under section 44923(h), the next $30,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

"(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least $30,000,000 in each of fiscal years 2005 and 2006 for deposit into the Fund.

"(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available for the purchase, deployment, and installation of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.".

SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.

(a) PILOT PROGRAM.—The Transportation Security Administration shall develop, not later than 120 days after the date of enactment of this Act, and conduct a pilot program to test, integrate, and deploy next generation security checkpoint screening technology at not less than 5 airports in the United States.

(b) HUMAN FACTOR STUDIES.— The Administration shall conduct human factors studies to improve screener performance as part of the pilot program under subsection (a).

SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT DOOR.

(a) CIVIL PENALTY.—Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

"(6) PENALTY FOR FAILURE TO SECURE FLIGHT DECK DOOR.—Any person holding a part 119 certificate under part of title 14, Code of Federal Regulations, is liable to the Government for a civil penalty of not more than $25,000 for each violation, by the pilot in command of an aircraft owned or operated by such person, of any Federal regulation that requires that the flight deck door be closed and locked when the aircraft is being operated.".

(b) TECHNICAL CORRECTIONS.—

(1) COMPROMISE AND SETOFF FOR FALSE INFORMATION.—Section 46302(b) of such title is amended by striking "Secretary of Transportation" and inserting "Secretary of the Department of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation,".

(2) CARRYING A WEAPON.—Section 46303 of such title is amended—

(A) in subsection (b) by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security"; and

(B) in subsection (c)(2) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security".

(3) ADMINISTRATIVE IMPOSITION OF PENALTIES.—Section 46301(d) of such title is amended—

(A) in the first sentence of paragraph (2) by striking "46302, 46303," and inserting "46302 (for a violation relating to section 46504),"; and

(B) in the second sentence of paragraph (2)—

(i) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security"; and

(ii) by striking "44909)" and inserting "44909), 46302 (except for a violation relating to section 46504), 46303,";

(C) in each of paragraphs (2), (3), and (4) by striking "Under Secretary or" and inserting "Secretary of Homeland Security"; and

(D) in paragraph (4)(A) by moving clauses (i), (ii), and (iii) 2 ems to the left.

SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.

The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue to develop operational initiatives to protect the anonymity of Federal air marshals.

SEC. 2181. FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.

(a) The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall make available appropriate in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while on duty.

(b) The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal Air Marshals receive training in identifying fraudulent identification documents, including fraudulent or expired Visas and Passports. Such training shall also be made available to other Federal law enforce-

1 ment agencies and local law enforcement agencies located
2 in border states.

3 **SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**
4 **RIAGE PILOT PROGRAM.**

5 (a) IN GENERAL.—Not later than 90 days after the
6 date of enactment of this Act, the Assistant Secretary of
7 Homeland Security (Transportation Security Administra-
8 tion), with the concurrence of the Attorney General, shall
9 implement a pilot program to allow pilots participating in
10 the Federal flight deck officer program to transport their
11 firearms on their persons. The Assistant Secretary, in con-
12 sultation with the Attorney General, may prescribe any
13 training, equipment, or procedures including procedures
14 for reporting of missing, lost or stolen firearms, that the
15 Assistant Secretary determines necessary to ensure safety
16 and maximize weapon retention.

17 (b) REVIEW.—Not later than 1 year after the date
18 of initiation of the pilot program, the Assistant Secretary
19 shall conduct a review of the safety record of the pilot
20 program and transmit a report on the results of the review
21 to the appropriate congressional committees.

22 (c) OPTION.—If the Assistant Secretary as part of
23 the review under subsection (b) determines that the safety
24 level obtained under the pilot program is comparable to
25 the safety level determined under existing methods of pi-

1 lots carrying firearms on aircraft, the Assistant Secretary
2 shall allow all pilots participating in the Federal flight
3 deck officer program the option of carrying their firearm
4 on their person subject to such requirements as the Assist-
5 ant Secretary determines appropriate.

6 **SEC. 2183. REGISTERED TRAVELER PROGRAM.**

7 The Transportation Security Administration shall ex-
8 pedite implementation of the registered traveler program.

9 **SEC. 2184. WIRELESS COMMUNICATION.**

10 (a) STUDY.—The Transportation Security Adminis-
11 tration, in consultation with the Federal Aviation Admin-
12 istration, shall conduct a study to determine the viability
13 of providing devices or methods, including wireless meth-
14 ods, to enable a flight crew to discreetly notify the pilot
15 in the case of a security breach or safety issue occurring
16 in the cabin.

17 (b) MATTERS TO BE CONSIDERED.—In conducting
18 the study, the Transportation Security Administration
19 and the Federal Aviation Administration shall consider
20 technology that is readily available and can be quickly in-
21 tegrated and customized for use aboard aircraft for flight
22 crew communication.

23 (c) REPORT.—Not later than 180 days after the date
24 of enactment of this Act, the Transportation Security Ad-

1 ministration shall submit to the appropriate congressional
2 committees a report on the results of the study.

3 **SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

4 Not later than 6 months after the date of enactment
5 of this Act, the Assistant Secretary of Homeland Security
6 (Transportation Security Administration) shall transmit
7 to the appropriate congressional committees a report on
8 the costs and benefits associated with the use of secondary
9 flight deck barriers and whether the use of such barriers
10 should be mandated for all air carriers. The Assistant Sec-
11 retary may transmit the report in a classified format.

12 **SEC. 2186. EXTENSION.**

13 Section 48301(a) of title 49, United States Code, is
14 amended by striking ''and 2005'' and inserting ''2005,
15 and 2006''.

16 **SEC. 2187. PERIMETER SECURITY.**

17 (a) REPORT.—Not later than 180 days after the date
18 of enactment of this Act, the Assistant Secretary of Home-
19 land Security (Transportation Security Administration),
20 in consultation with airport operators and law enforce-
21 ment authorities, shall develop and submit to the appro-
22 priate congressional committee a report on airport perim-
23 eter security. The report may be submitted in a classified
24 format.

25 (b) CONTENTS.—The report shall include—

(1) an examination of the feasibility of access control technologies and procedures, including the use of biometrics and other methods of positively identifying individuals prior to entry into secure areas of airports, and provide best practices for enhanced perimeter access control techniques; and

(2) an assessment of the feasibility of physically screening all individuals prior to entry into secure areas of an airport and additional methods for strengthening the background vetting process for all individuals credentialed to gain access to secure areas of airports.

SEC. 2188. EXTREMELY HAZARDOUS MATERIALS TRANSPORTATION SECURITY.

(a) RULEMAKING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Attorney General and the heads of other appropriate Federal, State, and local government entities, security experts, representatives of the hazardous materials shipping industry and labor unions representing persons who work in the hazardous materials shipping industry, and other interested persons, shall issue, after notice and opportunity for public

comment, regulations concerning the shipping of extremely hazardous materials.

(2) PURPOSES OF REGULATIONS.—The regulations shall be consistent, to the extent the Secretary determines appropriate, with and not duplicative of other Federal regulations and international agreements relating to the shipping of extremely hazardous materials and shall require—

(A) physical security measures for such shipments, such as the use of passive secondary containment of tanker valves, additional security force personnel, and surveillance technologies and barriers;

(B) concerned Federal, State, and local law enforcement authorities (including, if applicable, transit, railroad, or port authority police agencies) to be informed before an extremely hazardous material is transported within, through, or near an area of concern;

(C) coordination with Federal, State, and local law enforcement authorities to create response plans for a terrorist attack on a shipment of extremely hazardous materials;

(D) the use of currently available technologies and systems to ensure effective and im-

1 mediate communication between transporters of
2 extremely hazardous materials, law enforcement
3 authorities and first responders;
4 (E) comprehensive and appropriate train-
5 ing in the area of extremely hazardous mate-
6 rials transportation security for all individuals
7 who transport, load, unload, or are otherwise
8 involved in the shipping of extremely hazardous
9 materials or who would respond to an accident
10 or incident involving a shipment of extremely
11 hazardous material or would have to repair
12 transportation equipment and facilities in the
13 event of such an accident or incident; and
14 (F) for the transportation of extremely
15 hazardous materials through or near an area of
16 concern, the Secretary to determine whether or
17 not the transportation could be made by one or
18 more alternate routes at lower security risk
19 and, if the Secretary determines the transpor-
20 tation could be made by an alternate route, the
21 use of such alternate route, except when the
22 origination or destination of the shipment is lo-
23 cated within the area of concern.
24 (b) JUDICIAL RELIEF.—A person (other than an in-
25 dividual) who transports, loads, unloads, or is otherwise

1 involved in the shipping of hazardous materials and vio-
2 lates or fails to comply with a regulation issued by the
3 Secretary under subsection (a) may be subject, in a civil
4 action brought in United States district court, for each
5 shipment with respect to which the violation occurs—
6 (1) to an order for injunctive relief; or
7 (2) to a civil penalty of not more than
8 $100,000.
9 (c) ADMINISTRATIVE PENALTIES.—
10 (1) PENALTY ORDERS.—The Secretary may
11 issue an order imposing an administrative penalty of
12 not more than $1,000,000 for failure by a person
13 (other than an individual) who transports, loads, un-
14 loads, or is otherwise involved in the shipping of haz-
15 ardous materials to comply with a regulation issued
16 by the Secretary under subsection (a).
17 (2) NOTICE AND HEARING.—Before issuing an
18 order described in paragraph (1), the Secretary shall
19 provide to the person against whom the penalty is to
20 be assessed—
21 (A) written notice of the proposed order;
22 and
23 (B) the opportunity to request, not later
24 than 30 days after the date on which the per-

son receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may issue regulations establishing procedures for administrative hearings and appropriate review of penalties issued under this subsection, including necessary deadlines.

(d) WHISTLEBLOWER PROTECTION.—

(1) IN GENERAL.—No person involved in the shipping of extremely hazardous materials may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of any lawful act done by the person—

(A) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the person reasonably believes constitutes a violation of any law, rule or regulation related to the security of shipments of extremely hazardous materials, or any other threat to the security of shipments of extremely hazardous materials, when the information or assistance is provided to or the investigation is conducted by—

(i) a Federal regulatory or law enforcement agency;

1 (ii) any Member of Congress or any
2 committee of Congress; or
3 (iii) a person with supervisory author-
4 ity over the person (or such other person
5 who has the authority to investigate, dis-
6 cover, or terminate misconduct); or
7 (B) to file, cause to be filed, testify, par-
8 ticipate in, or otherwise assist in a proceeding
9 or action filed or about to be filed relating to
10 a violation of any law, rule or regulation related
11 to the security of shipments of extremely haz-
12 ardous materials or any other threat to the se-
13 curity of shipments of extremely hazardous ma-
14 terials.
15 (C) to refuse to violate or assist in the vio-
16 lation of any law, rule, or regulation related to
17 the security of shipments of extremely haz-
18 ardous materials.
19 (2) ENFORCEMENT ACTION.—
20 (A) IN GENERAL.—A person who alleges
21 discharge or other discrimination by any person
22 in violation of paragraph (1) may seek relief
23 under paragraph (3), by—
24 (i) filing a complaint with the Sec-
25 retary of Labor; or

(ii) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(B) PROCEDURE.—

(i) IN GENERAL.— An action under subparagraph (A)(i) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(ii) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(iii) BURDENS OF PROOF.—An action brought under subparagraph (A)(ii) shall be governed by the legal burdens of proof

1 set forth in section 42121(b) of title 49,
2 United States Code.
3 (iv) STATUTE OF LIMITATIONS.—An
4 action under subparagraph (A) shall be
5 commenced not later than 90 days after
6 the date on which the violation occurs.
7 (3) REMEDIES.—
8 (A) IN GENERAL.—A person prevailing in
9 any action under paragraph (2)(A) shall be en-
10 titled to all relief necessary to make the person
11 whole.
12 (B) COMPENSATORY DAMAGES.—Relief for
13 any action under subparagraph (A) shall
14 include—
15 (i) reinstatement with the same se-
16 niority status that the person would have
17 had, but for the discrimination;
18 (ii) the amount of any back pay, with
19 interest; and
20 (iii) compensation for any special
21 damages sustained as a result of the dis-
22 crimination, including litigation costs, ex-
23 pert witness fees, and reasonable attorney
24 fees.

(4) RIGHTS RETAINED BY PERSON.—Nothing in this subsection shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) EXTREMELY HAZARDOUS MATERIAL.—The term ''extremely hazardous material'' means—

(A) a material that is toxic by inhalation;

(B) a material that is extremely flammable;

(C) a material that is highly explosive; and

(D) any other material designated by the Secretary to be extremely hazardous.

(2) AREA OF CONCERN.—The term ''area of concern'' means an area that the Secretary determines could pose a particular interest to terrorists.

SEC. 2189. DEFINITIONS.

In this title, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term ''appropriate congressional committees'' means the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives and the Com-

mittee on Commerce, Science, and Transportation of the Senate.

(2) AIR CARRIER.—The term ''air carrier'' has the meaning such term has under section 40102 of title 49, United States Code.

(3) SECURE AREA OF AN AIRPORT.—The term ''secure area of an airport'' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

Subtitle H—Other Matters

SEC. 2191. GRAND JURY INFORMATION SHARING.

(a) 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 po-

1 tential attack or other grave hostile acts of
2 a foreign power or an agent of a foreign
3 power, domestic or international sabotage,
4 domestic or international terrorism, or
5 clandestine intelligence gathering activities
6 by an intelligence service or network of a
7 foreign power or by an agent of a foreign
8 power, within the United States or else-
9 where, to any appropriate Federal, State,
10 state subdivision, Indian tribal, or foreign
11 government official for the purpose of pre-
12 venting or responding to such a threat.'';
13 and
14 (ii) in clause (i)—
15 (I) by striking ''federal''; and
16 (II) by adding at the end the fol-
17 lowing: ''Any State, state subdivision,
18 Indian tribal, or foreign government
19 official who receives information
20 under Rule 6(e)(3)(D) may use the
21 information only consistent with such
22 guidelines as the Attorney General
23 and the National Intelligence Director
24 shall jointly issue.''; and
25 (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".

(b) CONFORMING AMENDMENT.—Section 203(c) of Public Law 107–56 (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. 2192. INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE DATA SYSTEM.

(a) FINDINGS.—The Congress finds as follows:

(1) The interoperable electronic data system know as the ''Chimera system'', and required to be developed and implemented by section 202(a)(2) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)(2)), has not in any way been implemented.

(2) Little progress has been made since the enactment of such Act with regard to establishing a process to connect existing trusted systems operated independently by the respective intelligence agencies.

(3) It is advisable, therefore, to assign such responsibility to the National Intelligence Director.

(4) The National Intelligence Director should, pursuant to the amendments made by subsection (c), begin systems planning immediately upon assuming office to deliver an interim system not later than 1 year after the date of the enactment of this Act, and to deliver the fully functional Chimera system not later than September 11, 2007.

(5) Both the interim system, and the fully functional Chimera system, should be designed so that intelligence officers, Federal law enforcement agencies (as defined in section 2 of such Act (8 U.S.C.

1701)), operational counter-terror support center personnel, consular officers, and Department of Homeland Security enforcement officers have access to them.

(b) PURPOSES.—The purposes of this section are as follows:

(1) To provide the National Intelligence Director with the necessary authority and resources to establish both an interim data system and, subsequently, a fully functional Chimera system, to collect and share intelligence and operational information with the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) To require the National Intelligence Director to establish a state-of-the-art Chimera system with both biometric identification and linguistic capabilities satisfying the best technology standards.

(3) To ensure that the National Intelligence Center will have a fully functional capability, not later than September 11, 2007, for interoperable data and intelligence exchange with the agencies of the intelligence community (as so defined).

(c) AMENDMENTS.—

1 (1) IN GENERAL.—Title II of the Enhanced
2 Border Security and Visa Entry Reform Act of 2002
3 (8 U.S.C. 1721 et seq.) is amended—
4 (A) in section 202(a)—
5 (i) by amending paragraphs (1) and
6 (2) to read as follows:
7 "(1) INTERIM INTEROPERABLE INTELLIGENCE
8 DATA EXCHANGE SYSTEM.—Not later than 1 year
9 after assuming office, the National Intelligence Di-
10 rector shall establish an interim interoperable intel-
11 ligence data exchange system that will connect the
12 data systems operated independently by the entities
13 in the intelligence community and by the National
14 Counterterrorism Center, so as to permit automated
15 data exchange among all of these entities. Imme-
16 diately upon assuming office, the National Intel-
17 ligence Director shall begin the plans necessary to
18 establish such interim system.
19 "(2) CHIMERA SYSTEM.—Not later than Sep-
20 tember 11, 2007, the National Intelligence Director
21 shall establish a fully functional interoperable law
22 enforcement and intelligence electronic data system
23 within the National Counterterrorism Center to pro-
24 vide immediate access to information in databases of
25 Federal law enforcement agencies and the intel-

1 ligence community that is necessary to identify ter-
2 rorists, and organizations and individuals that sup-
3 port terrorism. The system established under this
4 paragraph shall referred to as the 'Chimera system'.
5 '';
6 (ii) in paragraph (3)—
7 (I) by striking ''President'' and
8 inserting ''National Intelligence Direc-
9 tor''; and
10 (II) by striking ''the data sys-
11 tem'' and inserting ''the interim sys-
12 tem described in paragraph (1) and
13 the Chimera system described in para-
14 graph (2)'';
15 (iii) in paragraph (4)(A), by striking
16 ''The data system'' and all that follows
17 through ''(2),'' and inserting ''The interim
18 system described in paragraph (1) and the
19 Chimera system described in paragraph
20 (2)'';
21 (iv) in paragraph (5)—
22 (I) in the matter preceding sub-
23 paragraph (A), by striking ''data sys-
24 tem under this subsection'' and insert-

ing "Chimera system described in paragraph (2)";

(II) in subparagraph (B), by striking "and" at the end;

(III) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(D) to any Federal law enforcement or intelligence officer authorized to assist in the investigation, identification, or prosecution of terrorists, alleged terrorists, individuals supporting terrorist activities, and individuals alleged to support terrorist activities. "; and

(v) in paragraph (6)—

(I) by striking "President" and inserting "National Intelligence Director";

(II) by striking "the data system" and all that follows through "(2)," and inserting "the interim system described in paragraph (1) and the Chimera system described in paragraph (2)";

(B) in section 202(b)—

(i) in paragraph (1), by striking ''The interoperable'' and all that follows through ''subsection (a)'' and inserting ''the Chimera system described in subsection (a)(2)'';

(ii) in paragraph (2), by striking ''interoperable electronic database'' and inserting ''Chimera system described in subsection (a)(2)''; and

(iii) by amending paragraph (4) to read as follows:

''(4) INTERIM REPORTS.—Not later than 6 months after assuming office, the National Intelligence Director shall submit a report to the appropriate committees of Congress on the progress in implementing each requirement of this section.'';

(C) in section 204—

(i) by striking ''Attorney General'' each place such term appears and inserting ''National Intelligence Director'';

(ii) in subsection (d)(1), by striking ''Attorney General's'' and inserting ''National Intelligence Director's''; and

(D) by striking section 203 and redesignating section 204 as section 203.

(2) CLERICAL AMENDMENT.—The table of contents for the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1701 et seq.) is amended—

(A) by striking the item relating to section 203; and

(B) by redesignating the item relating to section 204 as relating to section 203.

SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States and to meet the intelligence needs of the United States, Congress makes the following findings:

(1) The Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) The Federal Bureau of Investigation must further enhance and fully institutionalize its ability to prevent, preempt, and disrupt terrorist threats to our homeland, our people, our allies, and our interests.

(3) The Federal Bureau of Investigation must collect, process, share, and disseminate, to the greatest extent permitted by applicable law, to the President, the Vice President, and other officials in the Executive Branch, all terrorism information and other information necessary to safeguard our people and advance our national and homeland security interests.

(4) The Federal Bureau of Investigation must move towards full and seamless coordination and cooperation with all other elements of the Intelligence Community, including full participation in, and support to, the National Counterterrorism Center.

(5) The Federal Bureau of Investigation must strengthen its pivotal role in coordination and cooperation with Federal, State, tribal, and local law enforcement agencies to ensure the necessary sharing of information for counterterrorism and criminal law enforcement purposes.

(6) The Federal Bureau of Investigation must perform its vital intelligence functions in a manner consistent with both with national intelligence priorities and respect for privacy and other civil liberties under the Constitution and laws of the United States.

1 (b) IMPROVEMENT OF INTELLIGENCE CAPABILI-
2 TIES.—The Director of the Federal Bureau of Investiga-
3 tion shall establish a comprehensive intelligence program
4 for—
5 (1) intelligence analysis, including recruitment
6 and hiring of analysts, analyst training, priorities
7 and status for analysis, and analysis performance
8 measures;
9 (2) intelligence production, including product
10 standards, production priorities, information sharing
11 and dissemination, and customer satisfaction meas-
12 ures;
13 (3) production of intelligence that is responsive
14 to national intelligence requirements and priorities,
15 including measures of the degree to which each FBI
16 headquarters and field component is collecting and
17 providing such intelligence;
18 (4) intelligence sources, including source valida-
19 tion, new source development, and performance
20 measures;
21 (5) field intelligence operations, including staff-
22 ing and infrastructure, management processes, pri-
23 orities, and performance measures;
24 (6) full and seamless coordination and coopera-
25 tion with the other components of the Intelligence

1 Community, consistent with their responsibilities;
2 and
3 (7) sharing of FBI intelligence and information
4 across Federal, state, and local governments, with
5 the private sector, and with foreign partners as pro-
6 vided by law or by guidelines of the Attorney Gen-
7 eral.
8 (c) INTELLIGENCE DIRECTORATE.—The Director of
9 the Federal Bureau of Investigation shall establish an In-
10 telligence Directorate within the FBI. The Intelligence Di-
11 rectorate shall have the authority to manage and direct
12 the intelligence operations of all FBI headquarters and
13 field components. The Intelligence Directorate shall have
14 responsibility for all components and functions of the FBI
15 necessary for—
16 (1) oversight of FBI field intelligence oper-
17 ations;
18 (2) FBI human source development and man-
19 agement;
20 (3) FBI collection against nationally-determined
21 intelligence requirements;
22 (4) language services;
23 (5) strategic analysis;
24 (6) intelligence program and budget manage-
25 ment; and

(7) the intelligence workforce.

(d) NATIONAL SECURITY WORKFORCE.—The Director of the Federal Bureau of Investigation shall establish a specialized, integrated intelligence cadre composed of Special Agents, analysts, linguists, and surveillance specialists in a manner which creates and sustains within the FBI a workforce with substantial expertise in, and commitment to, the intelligence mission of the FBI. The Director shall—

(1) ensure that these FBI employees may make their career, including promotion to the most senior positions in the FBI, within this career track;

(2) establish intelligence cadre requirements for—

(A) training;

(B) career development and certification;

(C) recruitment, hiring, and selection;

(D) integrating field intelligence teams; and

(E) senior level field management;

(3) establish intelligence officer certification requirements, including requirements for training courses and assignments to other intelligence, national security, or homeland security components of

the Executive branch, in order to advance to senior operational management positions in the FBI;

(4) ensure that the FBI's recruitment and training program enhances its ability to attract individuals with educational and professional backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the FBI;

(5) ensure that all Special Agents and analysts employed by the FBI after the date of the enactment of this Act shall receive basic training in both criminal justice matters and intelligence matters;

(6) ensure that all Special Agents employed by the FBI after the date of the enactment of this Act, to the maximum extent practicable, be given an opportunity to undergo, during their early service with the FBI, meaningful assignments in criminal justice matters and in intelligence matters;

(7) ensure that, to the maximum extent practical, Special Agents who specialize in intelligence are afforded the opportunity to work on intelligence matters over the remainder of their career with the FBI; and

(8) ensure that, to the maximum extent practical, analysts are afforded FBI training and career

1 opportunities commensurate with the training and
2 career opportunities afforded analysts in other ele-
3 ments of the intelligence community.

4 (e) FIELD OFFICE MATTERS.—The Director of the
5 Federal Bureau of Investigation shall take appropriate ac-
6 tions to ensure the integration of analysis, Special Agents,
7 linguists, and surveillance personnel in FBI field intel-
8 ligence components and to provide effective leadership and
9 infrastructure to support FBI field intelligence compo-
10 nents. The Director shall—

11 (1) ensure that each FBI field office has an of-
12 ficial at the level of Assistant Special Agent in
13 Charge or higher with responsibility for the FBI
14 field intelligence component; and

15 (2) to the extent practicable, provide for such
16 expansion of special compartmented information fa-
17 cilities in FBI field offices as is necessary to ensure
18 the discharge by the field intelligence components of
19 the national security and criminal intelligence mis-
20 sion of the FBI.

21 (g) BUDGET MATTERS.—The Director of the Federal
22 Bureau of Investigation shall, in consultation with the Di-
23 rector of the Office of Management and Budget, modify
24 the budget structure of the FBI in order to organize the
25 budget according to its four main programs as follows:

1 (1) Intelligence.
2 (2) Counterterrorism and counterintelligence.
3 (3) Criminal enterprise/Federal crimes.
4 (4) Criminal justice services.
5 (h) REPORTS.—
6 (1)(A) Not later than 180 days after the date
7 of the enactment of this Act, and every twelve
8 months thereafter, the Director of the Federal Bu-
9 reau of Investigation shall submit to Congress a re-
10 port on the progress made as of the date of such re-
11 port in carrying out the requirements of this section.
12 (B) The Director shall include in the first re-
13 port required by subparagraph (A) an estimate of
14 the resources required to complete the expansion of
15 special compartmented information facilities to carry
16 out the intelligence mission of FBI field intelligence
17 components.
18 (2) In each annual report required by para-
19 graph (1)(A) the director shall include—
20 (A) a report on the progress made by each
21 FBI field office during the period covered by
22 such review in addressing FBI and national in-
23 telligence priorities;

(B) a report assessing the qualifications, status, and roles of analysts at FBI headquarters and in FBI field offices; and

(C) a report on the progress of the FBI in implementing information-sharing principles.

(3) A report required by this subsection shall be submitted—

(A) to each committee of Congress that has jurisdiction over the subject matter of such report; and

(B) in unclassified form, but may include a classified annex.

SEC. 2194. NUCLEAR FACILITY THREATS.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission and other appropriate Federal, State, and local agencies and private entities, shall conduct a study to identify the types of threats that pose an appreciable risk to the security of the various classes of facilities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954. Such study shall take into account, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration; and

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals.

(b) SUMMARY AND CLASSIFICATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Congress and the Nuclear Regulatory Commission a report—

(1) summarizing the types of threats identified under subsection (a); and

(2) classifying each type of threat identified under subsection (a), in accordance with existing laws and regulations, as either—

(A) involving attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or otherwise falling under the responsibilities of the Federal Government; or

(B) involving the type of risks that Nuclear Regulatory Commission licensees should be responsible for guarding against.

(c) FEDERAL ACTION REPORT.—Not later than 90 days after the date on which a report is transmitted under subsection (b), the President shall transmit to the Congress a report on actions taken, or to be taken, to address the types of threats identified under subsection (b)(2)(A). Such report may include a classified annex as appropriate.

(d) REGULATIONS.—Not later than 270 days after the date on which a report is transmitted under subsection (b), the Nuclear Regulatory Commission shall issue regulations, including changes to the design basis threat, to ensure that licensees address the threats identified under subsection (b)(2)(B).

1 (e) PHYSICAL SECURITY PROGRAM.—The Nuclear
2 Regulatory Commission shall establish an operational
3 safeguards response evaluation program that ensures that
4 the physical protection capability and operational safe-
5 guards response for sensitive nuclear facilities, as deter-
6 mined by the Commission consistent with the protection
7 of public health and the common defense and security,
8 shall be tested periodically through Commission designed,
9 observed, and evaluated force-on-force exercises to deter-
10 mine whether the ability to defeat the design basis threat
11 is being maintained. The exercises shall be conducted by
12 a mock terrorist team consisting of Commission personnel
13 with advanced knowledge of special weapons and tactics
14 comparable to special operations forces of the Armed
15 Forces. For purposes of this subsection, the term ''sen-
16 sitive nuclear facilities'' includes at a minimum commer-
17 cial nuclear power plants, including associated spent fuel
18 storage facilities, spent fuel storage pools and dry cask
19 storage at closed reactors, independent spent fuel storage
20 facilities and geologic repository operations areas, category
21 I fuel cycle facilities, and gaseous diffusion plants. There
22 are authorized to be appropriated to the Nuclear Regu-
23 latory Commission $3,000,000 for the purposes of car-
24 rying out this subsection.

(f) CONTROL OF INFORMATION.—In carrying out this section, the President and the Nuclear Regulatory Commission shall control the dissemination of restricted data, safeguards information, and other classified national security information in a manner so as to ensure the common defense and security, consistent with chapter 12 of the Atomic Energy Act of 1954.

SEC. 2195. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking ''ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a)

may include programs, projects, and other activities to—" and inserting "USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—";

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

"(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

"(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

"(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

"(B) security assessments;

1 "(C) security training of personnel and
2 students;
3 "(D) coordination with local law enforce-
4 ment; and
5 "(E) any other measure that, in the deter-
6 mination of the Attorney General, may provide
7 a significant improvement in security;
8 "(5) pay for officers hired to perform intel-
9 ligence, anti-terror, or homeland security duties ex-
10 clusively;"; and
11 (D) by amending paragraph (9) (as so re-
12 designated) to read as follows:
13 "(8) develop new technologies, including inter-
14 operable communications technologies, modernized
15 criminal record technology, and forensic technology,
16 to assist State and local law enforcement agencies in
17 reorienting the emphasis of their activities from re-
18 acting to crime to preventing crime and to train law
19 enforcement officers to use such technologies;";
20 (4) by redesignating subsections (e) through (k)
21 as subsections (c) through (i), respectively;
22 (5) in subsection (c) (as so redesignated) by
23 striking "subsection (i)" and inserting "subsection
24 (g)"; and

(6) by adding at the end the following new subsection:

"(j) MATCHING FUNDS FOR SCHOOL SECURITY GRANTS.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

"(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

"(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

"(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.".

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd–1) is amended in subsection (d)(2) by striking "section 1701(d)" and inserting "section 1701(b)".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking clause (i) and all that follows through the period at the end and inserting the following:

"(i) $1,007,624,000 for fiscal year 2005;

"(ii) $1,027,176,000 for fiscal year 2006; and

"(iii) $1,047,119,000 for fiscal year 2007."; and

(2) in subparagraph (B)—

(A) by striking "section 1701(f)" and inserting "section 1701(d)"; and

(B) by striking the third sentence.

Subtitle I—Police Badges

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the "Badge Security Enhancement Act of 2004" .

SEC. 2202. POLICE BADGES.

Section 716 of title 18, United States Code, is amended in subsection (b)—

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

(2) by redesignating paragraph (3) as paragraph (2).

TITLE III—BORDER SECURITY AND TERRORIST TRAVEL

Subtitle A—Immigration Reform in the National Interest

CHAPTER 1—GENERAL PROVISIONS

SEC. 3001. ELIMINATING THE "WESTERN HEMISPHERE" EXCEPTION FOR CITIZENS.

(a) IN GENERAL.—

(1) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended to read as follows:

"(b)(1) Except as otherwise provided in this subsection, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless the citizen bears a valid United States passport.

"(2) Subject to such limitations and exceptions as the President may authorize and prescribe, the President may waive the application of paragraph (1) in the case of a citizen departing the United States to, or entering the United States from, foreign contiguous territory.

"(3) The President, if waiving the application of paragraph (1) pursuant to paragraph (2), shall require citizens departing the United States to, or entering the United States from, foreign contiguous territory to bear

1 a document (or combination of documents) designated by
2 the Secretary of Homeland Security under paragraph (4).
3 ''(4) The Secretary of Homeland Security—
4 ''(A) shall designate documents that are suffi-
5 cient to denote identity and citizenship in the United
6 States such that they may be used, either individ-
7 ually or in conjunction with another document, to
8 establish that the bearer is a citizen or national of
9 the United States for purposes of lawfully departing
10 from or entering the United States; and
11 ''(B) shall publish a list of those documents in
12 the Federal Register.
13 ''(5) A document may not be designated under para-
14 graph (4) (whether alone or in combination with other
15 documents) unless the Secretary of Homeland Security de-
16 termines that the document—
17 ''(A) may be relied upon for the purposes of
18 this subsection; and
19 ''(B) may not be issued to an alien unlawfully
20 present in the United States.''.
21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall take effect on October 1,
23 2006.
24 (b) INTERIM RULE.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security—

(A) shall designate documents that are sufficient to denote identity and citizenship in the United States such that they may be used, either individually or in conjunction with another document, to establish that the bearer is a citizen or national of the United States for purposes of lawfully departing from or entering the United States; and

(B) shall publish a list of those documents in the Federal Register.

(2) LIMITATION ON PRESIDENTIAL AUTHORITY.—Beginning on the date that is 90 days after the publication described in paragraph (1)(B), the President, notwithstanding section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), may not exercise the President's authority under such section so as to permit any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States from any country other than foreign contiguous territory, unless the citizen bears a document (or combination of documents) designated under paragraph (1)(A).

(3) CRITERIA FOR DESIGNATION.—A document may not be designated under paragraph (1)(A) (whether alone or in combination with other documents) unless the Secretary of Homeland Security determines that the document—

(A) may be relied upon for the purposes of this subsection; and

(B) may not be issued to an alien unlawfully present in the United States.

(4) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act and shall cease to be effective on September 30, 2006.

SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH RESPECT TO DOCUMENTATION REQUIREMENTS FOR NATIONALS OF FOREIGN CONTIGUOUS TERRITORIES AND ADJACENT ISLANDS.

(a) IN GENERAL.—Section 212(d)(4) of the Immigration and Nationality Act (8 U.S.C.1182(d)(4)) is amended—

(1) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) by striking ''on the basis of reciprocity'' and all that follows through ''or (C)''; and

(3) by adding at the end the following:

''Either or both of the requirements of such paragraph may also be waived by the Secretary of Homeland Security and the Secretary of State, acting jointly and on the basis of reciprocity, with respect to nationals of foreign contiguous territory or of adjacent islands, but only if such nationals are required, in order to be admitted into the United States, to be in possession of identification deemed by the Secretary of Homeland Security to be secure.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2006.

SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than

1 800 the number of positions for full-time active-duty in-
2 vestigators within the Department of Homeland Security
3 investigating violations of immigration laws (as defined in
4 section 101(a)(17) of the Immigration and Nationality Act
5 (8 U.S.C. 1101(a)(17)) above the number of such posi-
6 tions for which funds were allotted for the preceding fiscal
7 year. At least half of these additional investigators shall
8 be designated to investigate potential violations of section
9 274A of the Immigration and Nationality Act (8 U.S.C
10 1324a). Each State shall be allotted at least 3 of these
11 additional investigators.

12 **SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

13 Section 211 of the Immigration and Nationality Act
14 (8 U.S.C. 1181) is amended by adding at the end the fol-
15 lowing:

16 ''(d) For purposes of establishing identity to any Fed-
17 eral employee, an alien present in the United States may
18 present any document issued by the Attorney General or
19 the Secretary of Homeland Security under the authority
20 of one of the immigration laws (as defined in section
21 101(a)(17)), or an unexpired lawfully issued foreign pass-
22 port. Subject to the limitations and exceptions in immigra-
23 tion laws (as defined in section 101(a)(17) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1101(a)(17)), no
25 other document may be presented for those purposes.''.

SEC. 3006. EXPEDITED REMOVAL.

Section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

"(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review, unless—

"(I) the alien has been charged with a crime, is in criminal proceedings, or is serving a criminal sentence; or

"(II) the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the

officer determines that the alien has been physically present in the United States for less than 1 year.

"(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B) if the officer determines that the alien has been physically present in the United States for less than 1 year.".

SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING ASYLUM.

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended—

(1) in paragraph (1), by striking ''The Attorney General'' and inserting the following:

''(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General''; and

(2) by adding at the end the following:

''(B) BURDEN OF PROOF.—The burden of proof is on the applicant to establish that the applicant is a refugee within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of this Act, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be the central motive for persecuting the applicant. The testimony of the applicant may be sufficient to sustain such burden without corroboration, but only if it is credible, is persuasive, and refers to specific facts that demonstrate that the applicant is a refugee. Where the trier of fact finds that it is reasonable to expect cor-

1 roborating evidence for certain alleged facts
2 pertaining to the specifics of the applicant's
3 claim, such evidence must be provided unless a
4 reasonable explanation is given as to why such
5 information is not provided. The credibility de-
6 termination of the trier of fact may be based,
7 in addition to other factors, on the demeanor,
8 candor, or responsiveness of the applicant or
9 witness, the consistency between the applicant's
10 or witness's written and oral statements, wheth-
11 er or not under oath, made at any time to any
12 officer, agent, or employee of the United States,
13 the internal consistency of each such statement,
14 the consistency of such statements with the
15 country conditions in the country from which
16 the applicant claims asylum (as presented by
17 the Department of State) and any inaccuracies
18 or falsehoods in such statements. These factors
19 may be considered individually or cumula-
20 tively.''.

21 (b) STANDARD OF REVIEW FOR ORDERS OF RE-
22 MOVAL.—Section 242(b)(4) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1252(b)(4)) is amended by adding
24 after subparagraph (D) the following flush language: ''No
25 court shall reverse a determination made by an adjudi-

1 cator with respect to the availability of corroborating evi-
2 dence as described in section 208(b)(1)(B), unless the
3 court finds that a reasonable adjudicator is compelled to
4 conclude that such corroborating evidence is unavailable.''.

5 (c) EFFECTIVE DATE.—The amendment made by
6 subsection (b) shall take effect upon the date of enactment
7 of this Act and shall apply to cases in which the final ad-
8 ministrative removal order was issued before, on, or after
9 the date of enactment of this Act.

10 **SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL**
11 **DOCUMENTATION.**

12 (a) LIMITATION ON REVIEW.—Section 221(i) of the
13 Immigration and Nationality Act (8 U.S.C. 1201(i)) is
14 amended by adding at the end the following: ''There shall
15 be no means of administrative or judicial review of a rev-
16 ocation under this subsection, and no court or other per-
17 son otherwise shall have jurisdiction to consider any claim
18 challenging the validity of such a revocation.''.

19 (b) CLASSES OF DEPORTABLE ALIENS.—Section
20 237(a)(1)(B) of the Immigration and Nationality Act (8
21 U.S.C. 1227(a)(1)(B)) is amended by striking ''United
22 States is'' and inserting the following: ''United States, or
23 whose nonimmigrant visa (or other documentation author-
24 izing admission into the United States as a nonimmigrant)
25 has been revoked under section 221(i), is''.

1 (c) REVOCATION OF PETITIONS.—Section 205 of the
2 Immigration and Nationality Act (8 U.S.C. 1155) is
3 amended—
4 (1) by striking ''Attorney General'' and insert-
5 ing ''Secretary of Homeland Security''; and
6 (2) by striking the final two sentences.
7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of the enactment
9 of this Act and shall apply to revocations under sections
10 205 and 221(i) of the Immigration and Nationality Act
11 made before, on, or after such date.
12 **SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**
13 (a) IN GENERAL.—Section 242 of the Immigration
14 and Nationality Act (8 U.S.C. 1252) is amended—
15 (1) in subsection (a)—
16 (A) in paragraph (2)—
17 (i) in subparagraphs (A), (B), and
18 (C), by inserting ''(statutory and nonstatu-
19 tory), including section 2241 of title 28,
20 United States Code, or any other habeas
21 corpus provision, and sections 1361 and
22 1651 of title 28, United States Code'' after
23 ''Notwithstanding any other provision of
24 law''; and

(ii) by adding at the end the following:

"(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in this paragraph shall be construed as precluding consideration by the circuit courts of appeals of constitutional claims or pure questions of law raised upon petitions for review filed in accordance with this section. Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or, except as provided in subsection (e), any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, such petitions for review shall be the sole and exclusive means of raising any and all claims with respect to orders of removal entered or issued under any provision of this Act."; and

(B) by adding at the end the following:

"(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a petition

for review by the circuit courts of appeals filed in accordance with this section is the sole and exclusive means of judicial review of claims arising under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment.

"(5) EXCLUSIVE MEANS OF REVIEW.—The judicial review specified in this subsection shall be the sole and exclusive means for review by any court of an order of removal entered or issued under any provision of this Act. For purposes of this title, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of title 28, United States Code, and review pursuant to any other provision of law.";

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting "pursuant to subsection (f)" after "unless"; and

(B) in paragraph (9), by adding at the end the following: "Except as otherwise provided in this subsection, no court shall have jurisdiction,

by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of title 28, United States Code, or by any other provision of law (statutory or nonstatutory), to hear any cause or claim subject to these consolidation provisions.'';

(3) in subsection (f)(2), by inserting ''or stay, by temporary or permanent order, including stays pending judicial review,'' after ''no court shall enjoin''; and

(4) in subsection (g), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code'' after ''notwithstanding any other provision of law''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of enactment of this Act.

CHAPTER 2—DEPORTATION OF TERRORISTS AND SUPPORTERS OF TERRORISM

SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION ON REMOVAL.

(a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in the matter preceding clause (i), by striking "section 237(a)(4)(D)" and inserting "paragraph (4)(B) or (4)(D) of section 237(a)"; and

(2) in clause (iii), by striking "or";

(3) in clause (iv), by striking the period and inserting "; or" ;

(4) by inserting after clause (iv) and following:

"(v) the alien is described in subclause (I), (II), (III), (IV), or (VI) of section 212(a)(3)(B)(i) or section 237(a)(4)(B), unless, in the case only of an alien described in subclause (IV) of section 212(a)(3)(B)(i), the Secretary of Homeland Security determines, in the Secretary's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States."; and

(5) by striking the last sentence.

(b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended—

(1) by striking ''inadmissible under'' each place such term appears and inserting ''described in''; and

(2) by striking ''removable under''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(2) acts and conditions constituting a ground for inadmissibility or removal occurring or existing before, on, or after such date.

SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR TERRORISTS AND CRIMINALS.

(a) REGULATIONS.—

(1) REVISION DEADLINE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall revise the regulations prescribed by the Secretary to implement the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading

1 Treatment or Punishment, done at New York on
2 December 10, 1984.
3 (2) EXCLUSION OF CERTAIN ALIENS.—The
4 revision—
5 (A) shall exclude from the protection of
6 such regulations aliens described in section
7 241(b)(3)(B) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1231(b)(3)(B)) (as amended
9 by this title), including rendering such aliens in-
10 eligible for withholding or deferral of removal
11 under the Convention; and
12 (B) shall ensure that the revised regula-
13 tions operate so as to—
14 (i) allow for the reopening of deter-
15 minations made under the regulations be-
16 fore the effective date of the revision; and
17 (ii) apply to acts and conditions con-
18 stituting a ground for ineligibility for the
19 protection of such regulations, as revised,
20 regardless of when such acts or conditions
21 occurred.
22 (3) BURDEN OF PROOF.—The revision shall
23 also ensure that the burden of proof is on the appli-
24 cant for withholding or deferral of removal under the
25 Convention to establish by clear and convincing evi-

1 dence that he or she would be tortured if removed
2 to the proposed country of removal.
3 (b) JUDICIAL REVIEW.—Notwithstanding any other
4 provision of law, no court shall have jurisdiction to review
5 the regulations adopted to implement this section, and
6 nothing in this section shall be construed as providing any
7 court jurisdiction to consider or review claims raised under
8 the Convention or this section, except as part of the review
9 of a final order of removal pursuant to section 242 of the
10 Immigration and Nationality Act (8 U.S.C. 1252).

11 **SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

12 (a) IN GENERAL.—Section 241(b) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1231(b)) is amended—
14 (1) in paragraph (1)—
15 (A) in each of subparagraphs (A) and (B),
16 by striking the period at the end and inserting
17 ''unless, in the opinion of the Secretary of
18 Homeland Security, removing the alien to such
19 country would be prejudicial to the United
20 States.''; and
21 (B) by amending subparagraph (C) to read
22 as follows:
23 ''(C) ALTERNATIVE COUNTRIES.—If the
24 alien is not removed to a country designated in

1 subparagraph (A) or (B), the Secretary of
2 Homeland Security shall remove the alien to—
3 "(i) the country of which the alien is
4 a citizen, subject, or national, where the
5 alien was born, or where the alien has a
6 residence, unless the country physically
7 prevents the alien from entering the coun-
8 try upon the alien's removal there; or
9 "(ii) any country whose government
10 will accept the alien into that country.";
11 and
12 (2) in paragraph (2)—
13 (A) by striking "Attorney General" each
14 place such term appears and inserting "Sec-
15 retary of Homeland Security";
16 (B) by amending subparagraph (D) to
17 read as follows:
18 "(D) ALTERNATIVE COUNTRIES.—If the
19 alien is not removed to a country designated
20 under subparagraph (A)(i), the Secretary of
21 Homeland Security shall remove the alien to a
22 country of which the alien is a subject, national,
23 or citizen, or where the alien has a residence,
24 unless—

"(i) such country physically prevents the alien from entering the country upon the alien's removal there; or

"(ii) in the opinion of the Secretary of Homeland Security, removing the alien to the country would be prejudicial to the United States."; and

(C) by amending subparagraph (E)(vii) to read as follows:

"(vii) Any country whose government will accept the alien into that country.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any deportation, exclusion, or removal on or after such date pursuant to any deportation, exclusion, or removal order, regardless of whether such order is administratively final before, on, or after such date.

CHAPTER 3—PREVENTING COMMERCIAL ALIEN SMUGGLING

SEC. 3041. BRINGING IN AND HARBORING CERTAIN ALIENS.

(a) CRIMINAL PENALTIES.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended by adding at the end the following:

1 "(4) In the case of a person who has brought aliens
2 into the United States in violation of this subsection, the
3 sentence otherwise provided for may be increased by up
4 to 10 years if—
5 "(A) the offense was part of an ongoing com-
6 mercial organization or enterprise;
7 "(B) aliens were transported in groups of 10 or
8 more;
9 "(C) aliens were transported in a manner that
10 endangered their lives; or
11 "(D) the aliens presented a life-threatening
12 health risk to people in the United States.".
13 (b) OUTREACH PROGRAM.—Section 274 of the Immi-
14 gration and Nationality Act (8 U.S.C. 1324), as amended
15 by subsection (a), is further amended by adding at the
16 end the following:
17 "(f) OUTREACH PROGRAM.—The Secretary of Home-
18 land Security, in consultation as appropriate with the At-
19 torney General and the Secretary of State, shall develop
20 and implement an outreach program to educate the public
21 in the United States and abroad about the penalties for
22 bringing in and harboring aliens in violation of this sec-
23 tion.

Subtitle B—Identity Management Security

CHAPTER 1—IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 3051. DEFINITIONS.

In this chapter, the following definitions apply:

(1) DRIVER'S LICENSE.—The term ''driver's license'' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term ''identification card'' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(4) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of enactment of this Act, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver license or identification card number.

(5) A photograph of the person.

(6) The person's address of principal residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person

is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1).

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials

and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

SEC. 3053. LINKING OF DATABASES.

(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this subtitle, a State shall participate in the interstate compact regarding sharing of driver license data, known as the ''Driver License Agreement'', in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.

(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

Section 1028(a)(8) of title 18, United States Code, is amended by striking ''false authentication features'' and inserting ''false or actual authentication features''.

SEC. 3055. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this chapter.

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

SEC. 3056. AUTHORITY.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, certify standards, and issue grants under this chapter shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 3052(a)(1) if the State provides adequate justification for noncompliance.

CHAPTER 2—IMPROVED SECURITY FOR BIRTH CERTIFICATES

SEC. 3061. DEFINITIONS.

(a) APPLICABILITY OF DEFINITIONS.—Except as otherwise specifically provided, the definitions contained in section 3051 apply to this chapter.

(b) OTHER DEFINITIONS.—In this chapter, the following definitions apply:

(1) BIRTH CERTIFICATE.—The term ''birth certificate'' means a certificate of birth—

(A) for an individual (regardless of where born)—

(i) who is a citizen or national of the United States at birth; and

(ii) whose birth is registered in the United States; and

(B) that—

(i) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(ii) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record,

of an original certificate of birth issued by such agency or custodian of record.

(2) REGISTRANT.—The term ''registrant'' means, with respect to a birth certificate, the person whose birth is registered on the certificate.

(3) STATE.—The term ''State'' shall have the meaning given such term in section 3051; except that New York City shall be treated as a State separate from New York.

SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO LOCAL GOVERNMENTS.

The minimum standards in this chapter applicable to birth certificates issued by a State shall also apply to birth certificates issued by a local government in the State. It shall be the responsibility of the State to ensure that local governments in the State comply with the minimum standards.

SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of enactment of this Act, a Federal agency may not accept, for any official purpose, a birth certificate issued by a State to any person unless the State is meeting the requirements of this section.

1 (2) STATE CERTIFICATIONS.—The Secretary
2 shall determine whether a State is meeting the re-
3 quirements of this section based on certifications
4 made by the State to the Secretary. Such certifi-
5 cations shall be made at such times and in such
6 manner as the Secretary, in consultation with the
7 Secretary of Health and Human Services, may pre-
8 scribe by regulation.
9 (b) MINIMUM DOCUMENT STANDARDS.—To meet the
10 requirements of this section, a State shall include, on each
11 birth certificate issued to a person by the State, the use
12 of safety paper, the seal of the issuing custodian of record,
13 and such other features as the Secretary may determine
14 necessary to prevent tampering, counterfeiting, and other-
15 wise duplicating the birth certificate for fraudulent pur-
16 poses. The Secretary may not require a single design to
17 which birth certificates issued by all States must conform.
18 (c) MINIMUM ISSUANCE STANDARDS.—
19 (1) IN GENERAL.—To meet the requirements of
20 this section, a State shall require and verify the fol-
21 lowing information from the requestor before issuing
22 an authenticated copy of a birth certificate:
23 (A) The name on the birth certificate.
24 (B) The date and location of the birth.
25 (C) The mother's maiden name.

1 (D) Substantial proof of the requestor's
2 identity.
3 (2) ISSUANCE TO PERSONS NOT NAMED ON
4 BIRTH CERTIFICATE.—To meet the requirements of
5 this section, in the case of a request by a person who
6 is not named on the birth certificate, a State must
7 require the presentation of legal authorization to re-
8 quest the birth certificate before issuance.
9 (3) ISSUANCE TO FAMILY MEMBERS.—Not later
10 than one year after the date of enactment of this
11 Act, the Secretary, in consultation with the Sec-
12 retary of Health and Human Services and the
13 States, shall establish minimum standards for
14 issuance of a birth certificate to specific family
15 members, their authorized representatives, and oth-
16 ers who demonstrate that the certificate is needed
17 for the protection of the requestor's personal or
18 property rights.
19 (4) WAIVERS.—A State may waive the require-
20 ments set forth in subparagraphs (A) through (C) of
21 subsection (c)(1) in exceptional circumstances, such
22 as the incapacitation of the registrant.
23 (5) APPLICATIONS BY ELECTRONIC MEANS.—
24 To meet the requirements of this section, for appli-
25 cations by electronic means, through the mail or by

1 phone or fax, a State shall employ third party ver-
2 ification, or equivalent verification, of the identity of
3 the requestor.
4 (6) VERIFICATION OF DOCUMENTS.—To meet
5 the requirements of this section, a State shall verify
6 the documents used to provide proof of identity of
7 the requestor.
8 (d) OTHER REQUIREMENTS.—To meet the require-
9 ments of this section, a State shall adopt, at a minimum,
10 the following practices in the issuance and administration
11 of birth certificates:
12 (1) Establish and implement minimum building
13 security standards for State and local vital record
14 offices.
15 (2) Restrict public access to birth certificates
16 and information gathered in the issuance process to
17 ensure that access is restricted to entities with which
18 the State has a binding privacy protection agree-
19 ment.
20 (3) Subject all persons with access to vital
21 records to appropriate security clearance require-
22 ments.
23 (4) Establish fraudulent document recognition
24 training programs for appropriate employees en-
25 gaged in the issuance process.

(5) Establish and implement internal operating system standards for paper and for electronic systems.

(6) Establish a central database that can provide interoperative data exchange with other States and with Federal agencies, subject to privacy restrictions and confirmation of the authority and identity of the requestor.

(7) Ensure that birth and death records are matched in a comprehensive and timely manner, and that all electronic birth records and paper birth certificates of decedents are marked ''deceased''.

(8) Cooperate with the Secretary in the implementation of electronic verification of vital events under section 3065.

SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND DEATH REGISTRATION SYSTEMS.

In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary shall take the following actions:

(1) Work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems.

(2) Coordinate requirements for such systems to align with a national model.

(3) Ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies.

(4) Ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common format of the certified copy, so that those requiring such documents can quickly confirm their validity.

(5) Establish uniform field requirements for State birth registries.

(6) Not later than 1 year after the date of enactment of this Act, establish a process with the Department of Defense that will result in the sharing of data, with the States and the Social Security Administration, regarding deaths of United States military personnel and the birth and death of their dependents.

(7) Not later than 1 year after the date of enactment of this Act, establish a process with the Department of State to improve registration, notification, and the sharing of data with the States and the

1 Social Security Administration, regarding births and
2 deaths of United States citizens abroad.
3 (8) Not later than 3 years after the date of es-
4 tablishment of databases provided for under this sec-
5 tion, require States to record and retain electronic
6 records of pertinent identification information col-
7 lected from requestors who are not the registrants.
8 (9) Not later than 6 months after the date of
9 enactment of this Act, submit to Congress, a report
10 on whether there is a need for Federal laws to ad-
11 dress penalties for fraud and misuse of vital records
12 and whether violations are sufficiently enforced.

13 **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

14 (a) LEAD AGENCY.—The Secretary shall lead the im-
15 plementation of electronic verification of a person's birth
16 and death.
17 (b) REGULATIONS.—In carrying out subsection (a),
18 the Secretary shall issue regulations to establish a means
19 by which authorized Federal and State agency users with
20 a single interface will be able to generate an electronic
21 query to any participating vital records jurisdiction
22 throughout the Nation to verify the contents of a paper
23 birth certificate. Pursuant to the regulations, an electronic
24 response from the participating vital records jurisdiction
25 as to whether there is a birth record in their database that

matches the paper birth certificate will be returned to the user, along with an indication if the matching birth record has been flagged ''deceased''. The regulations shall take effect not later than 5 years after the date of enactment of this Act.

SEC. 3066. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this chapter.

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

SEC. 3067. AUTHORITY.

(a) PARTICIPATION WITH FEDERAL AGENCIES AND STATES.—All authority to issue regulations, certify standards, and issue grants under this chapter shall be carried out by the Secretary, with the concurrence of the Secretary of Health and Human Services and in consultation with State vital statistics offices and appropriate Federal agencies.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 3063(a)(1) if the State provides adequate justification for noncompliance.

Chapter 3—Measures To Enhance Privacy and Integrity of Social Security Account Numbers

SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.

(a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting ''(I)'' after ''(vi)''; and

(2) by adding at the end the following new subclause:

''(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license or motor vehicle registration or any other document issued by such State or political subdivision to an individual for purposes of identification of such individual or include on any such license, registration, or other document a magnetic strip, bar code,

or other means of communication which conveys such number (or derivative thereof).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to licenses, registrations, and other documents issued or reissued after 1 year after the date of the enactment of this Act.

SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.

(a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

(1) by inserting ''(I)'' after ''(ii)''; and

(2) by adding at the end the following new subclause:

''(II) With respect to an application for a social security account number for an individual, other than for purposes of enumeration at birth, the Commissioner shall require independent verification of any birth record provided by the applicant in support of the application. The Commissioner may provide by regulation for reasonable exceptions from the requirement for independent verification under this subclause in any case in which the Commis-

1 sioner determines there is minimal opportunity for
2 fraud.''.
3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply with respect to applications filed
5 after 270 days after the date of the enactment of this Act.
6 (c) STUDY REGARDING APPLICATIONS FOR RE-
7 PLACEMENT SOCIAL SECURITY CARDS.—
8 (1) IN GENERAL.—As soon as practicable after
9 the date of the enactment of this Act, the Commis-
10 sioner of Social Security shall undertake a study to
11 test the feasibility and cost effectiveness of verifying
12 all identification documents submitted by an appli-
13 cant for a replacement social security card. As part
14 of such study, the Commissioner shall determine the
15 feasibility of, and the costs associated with, the de-
16 velopment of appropriate electronic processes for
17 third party verification of any such identification
18 documents which are issued by agencies and instru-
19 mentalities of the Federal Government and of the
20 States (and political subdivisions thereof).
21 (2) REPORT.—Not later than 2 years after the
22 date of the enactment of this Act, the Commissioner
23 shall report to the Committee on Ways and Means
24 of the House of Representatives and the Committee
25 on Finance of the Senate regarding the results of

the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for verifying identification documents submitted by applicants for replacement social security cards.

SEC. 3073. ENUMERATION AT BIRTH.

(a) IMPROVEMENT OF APPLICATION PROCESS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall transmit to each House

of the Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(b) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. Such study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner con-

siders necessary to implement needed improvements in the process for enumeration at birth.

SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC IDENTIFICATION IN CONNECTION WITH APPLICATIONS FOR BENEFITS, SOCIAL SECURITY ACCOUNT NUMBERS, AND SOCIAL SECURITY CARDS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to—

(1) determine the best method of requiring and obtaining photographic identification of applicants for old-age, survivors, and disability insurance benefits under title II of the Social Security Act, for a social security account number, or for a replacement social security card, and of providing for reasonable exceptions to any requirement for photographic identification of such applicants that may be necessary to promote efficient and effective administration of such title, and

(2) evaluate the benefits and costs of instituting such a requirement for photographic identification, including the degree to which the security and integrity of the old-age, survivors, and disability insurance program would be enhanced.

1 (b) REPORT.—Not later than 18 months after the
2 date of the enactment of this Act, the Commissioner shall
3 report to the Committee on Ways and Means of the House
4 of Representatives and the Committee on Finance of the
5 Senate regarding the results of the study undertaken
6 under subsection (a). Such report shall contain such rec-
7 ommendations for legislative changes as the Commissioner
8 considers necessary relating to requirements for photo-
9 graphic identification of applicants described in subsection
10 (a).

11 **SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE RE-**
12 **PLACEMENT SOCIAL SECURITY CARDS.**

13 (a) IN GENERAL.—Section 205(c)(2)(G) of the Social
14 Security Act (42 U.S.C. 405(c)(2)(G)) is amended by add-
15 ing at the end the following new sentence: ''The Commis-
16 sioner shall restrict the issuance of multiple replacement
17 social security cards to any individual to 3 per year and
18 to 10 for the life of the individual, except in any case in
19 which the Commissioner determines there is minimal op-
20 portunity for fraud.''.

21 (b) REGULATIONS AND EFFECTIVE DATE.—The
22 Commissioner of Social Security shall issue regulations
23 under the amendment made by subsection (a) not later
24 than 1 year after the date of the enactment of this Act.
25 Systems controls developed by the Commissioner pursuant

1 to such amendment shall take effect upon the earlier of
2 the issuance of such regulations or the end of such 1-year
3 period.

4 **SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SO-**
5 **CIAL SECURITY ACCOUNT NUMBERING SYS-**
6 **TEM TO SHOW WORK AUTHORIZATION STA-**
7 **TUS.**

8 (a) IN GENERAL.—As soon as practicable after the
9 date of the enactment of this Act, the Commissioner of
10 Social Security, in consultation with the Secretary of
11 Homeland Security, shall undertake a study to examine
12 the best method of modifying the social security account
13 number assigned to individuals who—

14 (1) are not citizens of the United States,

15 (2) have not been admitted for permanent resi-
16 dence, and

17 (3) are not authorized by the Secretary of
18 Homeland Security to work in the United States, or
19 are so authorized subject to one or more restrictions,
20 so as to include an indication of such lack of authorization
21 to work or such restrictions on such an authorization.

22 (b) REPORT.—Not later than 1 year after the date
23 of the enactment of this Act, the Commissioner shall re-
24 port to the Committee on Ways and Means of the House
25 of Representatives and the Committee on Finance of the

Senate regarding the results of the study undertaken under this section. Such report shall include the Commissioner's recommendations of feasible options for modifying the social security account number in the manner described in subsection (a).

Subtitle C—Targeting Terrorist Travel

SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS AND TRAVEL HISTORY DATABASE.

(a) IN GENERAL.—Not later than May 31, 2005, the Comptroller General of the United States, the Secretary of State, and the Secretary of Homeland Security each shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate the results of a separate study on the subjects described in subsection (c).

(b) STUDY.—The study submitted by the Secretary of State under subsection (a) shall be completed by the Office of Visa and Passport Control of the Department of State, in coordination with the appropriate officials of the Department of Homeland Security.

(c) CONTENTS.—The studies described in subsection (a) shall examine the feasibility, cost, potential benefits,

and relative importance to the objectives of tracking suspected terrorists' travel, and apprehending suspected terrorists, of each of the following:

(1) Requiring nationals of all countries to present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers.

(2) Creation of a database containing information on the lifetime travel history of each foreign national or United States citizen who might seek to enter the United States or another country at any time, in order that border and visa issuance officials may ascertain the travel history of a prospective entrant by means other than a passport.

(d) INCENTIVES.—The studies described in subsection (a) shall also make recommendations on incentives that might be offered to encourage foreign nations to participate in the initiatives described in paragraphs (1) and (2) of subsection (c).

SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) is amended—

1 (1) by striking ''October 31, 2000,'' and insert-
2 ing ''January 1, 2008,'';
3 (2) by striking ''5 additional'' and inserting ''up
4 to 25 additional'';
5 (3) by striking ''number of aliens'' and insert-
6 ing ''number of inadmissible aliens, especially aliens
7 who are potential terrorists,'';
8 (4) by striking ''who are inadmissible to the
9 United States.'' and inserting a period; and
10 (5) by striking ''Attorney General'' each place
11 such term appears and inserting ''Secretary of
12 Homeland Security''.
13 (b) REPORT.—Not later than June 30, 2006, the
14 Secretary of Homeland Security and the Secretary of
15 State shall report to the Committees on the Judiciary of
16 the House of Representatives and of the Senate, the Com-
17 mittee on International Relations of the House of Rep-
18 resentatives, and the Committee on Foreign Relations of
19 the Senate on the progress being made in implementing
20 the amendments made by subsection (a).
21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of
23 Homeland Security to carry out the amendments made by
24 subsection (a)—
25 (1) $24,000,000 for fiscal year 2005;

(2) $48,000,000 for fiscal year 2006; and

(3) $97,000,000 for fiscal year 2007.

SEC. 3083. IMMIGRATION SECURITY INITIATIVE.

(a) IN GENERAL.—Section 235A(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended—

(1) in the subsection heading, by inserting ''AND IMMIGRATION SECURITY INITIATIVE'' after ''PROGRAM''; and

(2) by adding at the end the following: ''Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) $25,000,000 for fiscal year 2005;

(2) $40,000,000 for fiscal year 2006; and

(3) $40,000,000 for fiscal year 2007.

SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such posi-

1 tions for which funds were allotted for the preceding fiscal
2 year.

3 (b) LIMITATION ON USE OF FOREIGN NATIONALS
4 FOR NONIMMIGRANT VISA SCREENING.—Section 222(d)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1202(d)) is amended by adding at the end the following:
7 ''All nonimmigrant visa applications shall be reviewed and
8 adjudicated by a consular officer.''.

9 (c) TRAINING FOR CONSULAR OFFICERS IN DETEC-
10 TION OF FRAUDULENT DOCUMENTS.—Section 305(a) of
11 the Enhanced Border Security and Visa Entry Reform Act
12 of 2002 (8 U.S.C. 1734(a)) is amended by adding at the
13 end the following: ''As part of the consular training pro-
14 vided to such officers by the Secretary of State, such offi-
15 cers shall also receive training in detecting fraudulent doc-
16 uments and general document forensics and shall be re-
17 quired as part of such training to work with immigration
18 officers conducting inspections of applicants for admission
19 into the United States at ports of entry.''.

20 (d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

21 (1) SURVEY REGARDING DOCUMENT FRAUD.—
22 The Secretary of State, in coordination with the Sec-
23 retary of Homeland Security, shall conduct a survey
24 of each diplomatic and consular post at which visas
25 are issued to assess the extent to which fraudulent

1 documents are presented by visa applicants to con-
2 sular officers at such posts.
3 (2) PLACEMENT OF SPECIALIST.—Not later
4 than July 31, 2005, the Secretary shall, in coordina-
5 tion with the Secretary of Homeland Security, iden-
6 tify 100 of such posts that experience the greatest
7 frequency of presentation of fraudulent documents
8 by visa applicants. The Secretary shall place in each
9 such post at least one full-time anti-fraud specialist
10 employed by the Department of State to assist the
11 consular officers at each such post in the detection
12 of such fraud.

13 **SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RE-**
14 **LATED ACTIVITY.**

15 Section 1028 of title 18, United States Code, relating
16 to penalties for fraud and related activity in connection
17 with identification documents and information, is
18 amended—
19 (1) in subsection (b)(1)(A)(i), by striking
20 ''issued by or under the authority of the United
21 States'' and inserting the following: ''as described in
22 subsection (d)'';
23 (2) in subsection (b)(2), by striking ''three
24 years'' and inserting ''six years'';

(3) in subsection (b)(3), by striking ''20 years'' and inserting ''25 years'';

(4) in subsection (b)(4), by striking ''25 years'' and inserting ''30 years''; and

(5) in subsection (c)(1), by inserting after ''United States'' the following: ''Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization,''.

SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of subsection (f) and inserting ''; or''; and

(2) by inserting after subsection (f) the following:

''(g) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to enter into, or remain in, the United States—''.

SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE DEPARTMENT OF STATE.

(a) LIMITATION.—Notwithstanding any other provision of law, the Secretary of State shall ensure, subject

to subsection (b), that the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) is carried out primarily to provide training to host nation security services for the specific purpose of ensuring the physical security and safety of United States Government facilities and personnel abroad (as well as foreign dignitaries and training related to the protection of such dignitaries), including security detail training and offenses related to passport or visa fraud.

(b) EXCEPTION.—The limitation contained in subsection (a) shall not apply, and the Secretary of State may expand the ATA program to include other types of antiterrorism assistance training, if the Secretary first obtains the approval of the Attorney General and provides written notification of such proposed expansion to the appropriate congressional committees.

(c) DEFINITION.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on International Relations and the Committee on the Judiciary of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS.

(a) FINDINGS.—Congress finds the following:

(1) International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.

(2) The international terrorists who planned and carried out the attack on the World Trade Center on February 26, 1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.

(3) The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles Inter-

national Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.

(4) Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.

(5) Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than one passport.

(6) Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner and several other hijackers whose passports did not survive the attacks on the World Trade Center and Pentagon were likely to have carried passports that were similarly manipulated.

(7) The National Commission on Terrorist Attacks upon the United States, (commonly referred to as the 9/11 Commission), stated that ''Targeting travel is at least as powerful a weapon against terrorists as targeting their money.''.

(b) INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—

(1) INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS.—The President shall lead efforts to track and curtail the travel of terrorists by supporting the drafting, adoption, and implementation of international agreements, and by supporting the expansion of existing international agreements, to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment existing United Nations and other international anti-terrorism efforts.

(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President shall seek, in the appropriate fora, the drafting, adoption, and implementation of an effective international agreement requiring—

(A) the establishment of a system to share information on lost, stolen, and fraudulent passports and other travel documents for the

1 purposes of preventing the undetected travel of
2 persons using such passports and other travel
3 documents that were obtained improperly;
4 (B) the establishment and implementation
5 of a real-time verification system of passports
6 and other travel documents with issuing au-
7 thorities;
8 (C) the assumption of an obligation by
9 countries that are parties to the agreement to
10 share with officials at ports of entry in any
11 such country information relating to lost, sto-
12 len, and fraudulent passports and other travel
13 documents;
14 (D) the assumption of an obligation by
15 countries that are parties to the agreement—
16 (i) to criminalize—
17 (I) the falsification or counter-
18 feiting of travel documents or breeder
19 documents for any purpose;
20 (II) the use or attempted use of
21 false documents to obtain a visa or
22 cross a border for any purpose;
23 (III) the possession of tools or
24 implements used to falsify or counter-
25 feit such documents;

(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

(V) the facilitation of travel by a terrorist; and

(VI) attempts to commit, including conspiracies to commit, the crimes specified above;

(ii) to impose significant penalties so as to appropriately punish violations and effectively deter these crimes; and

(iii) to limit the issuance of citizenship papers, passports, identification documents, and the like to persons whose identity is proven to the issuing authority, who have a bona fide entitlement to or need for such documents, and who are not issued such documents principally on account of a disproportional payment made by them or on their behalf to the issuing authority;

(E) the provision of technical assistance to State Parties to help them meet their obligations under the convention;

(F) the establishment and implementation of a system of self-assessments and peer re-

1 views to examine the degree of compliance with
2 the convention; and
3 (G) an agreement that would permit immi-
4 gration and border officials to confiscate a lost,
5 stolen, or falsified passport at ports of entry
6 and permit the traveler to return to the sending
7 country without being in possession of the lost,
8 stolen, or falsified passport, and for the deten-
9 tion and investigation of such traveler upon the
10 return of the traveler to the sending country.
11 (3) INTERNATIONAL CIVIL AVIATION ORGANIZA-
12 TION.—The United States shall lead efforts to track
13 and curtail the travel of terrorists by supporting ef-
14 forts at the International Civil Aviation Organization
15 to continue to strengthen the security features of
16 passports and other travel documents.
17 (c) REPORT.—
18 (1) IN GENERAL.—Not later than one year
19 after the date of the enactment of this Act, and at
20 least annually thereafter, the President shall submit
21 to the appropriate congressional committees a report
22 on progress toward achieving the goals described in
23 subsection (b).
24 (2) TERMINATION.—Paragraph (1) shall cease
25 to be effective when the President certifies to the

Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved.

SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION OF NAMES INTO THE ROMAN ALPHABET FOR INTERNATIONAL TRAVEL DOCUMENTS AND NAME-BASED WATCHLIST SYSTEMS.

(a) FINDINGS.—Congress finds that—

(1) the current lack of a single convention for translating Arabic names enabled some of the 19 hijackers of aircraft used in the terrorist attacks against the United States that occurred on September 11, 2001, to vary the spelling of their names to defeat name-based terrorist watchlist systems and to make more difficult any potential efforts to locate them; and

(2) although the development and utilization of terrorist watchlist systems using biometric identifiers will be helpful, the full development and utilization of such systems will take several years, and name-based terrorist watchlist systems will always be useful.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should seek to enter into an inter-

national agreement to modernize and improve standards for the translation of names into the Roman alphabet in order to ensure one common spelling for such names for international travel documents and name-based watchlist systems.

SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system required by applicable sections of—

(A) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(B) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(C) the Visa Waiver Permanent Program Act (Public Law 106–396);

(D) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(E) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107–56).

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the automated entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the entry and exit data system; and

(D) a description of plans for improved or added interoperability with any other databases or data systems.

(c) INTEGRATION REQUIREMENT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall integrate the biometric entry and exit data system with all databases and data systems maintained by the United States Citizenship and Immigration Services that process or contain information on aliens.

(d) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

1 (1) IN GENERAL.—The Secretary, in consulta-
2 tion with other appropriate agencies, shall establish
3 rules, guidelines, policies, and operating and audit-
4 ing procedures for collecting, removing, and updat-
5 ing data maintained in, and adding information to,
6 the entry and exit data system, and databases and
7 data systems linked to the entry and exit data sys-
8 tem, that ensure the accuracy and integrity of the
9 data.
10 (2) REQUIREMENTS.—The rules, guidelines,
11 policies, and procedures established under paragraph
12 (1) shall—
13 (A) incorporate a simple and timely meth-
14 od for—
15 (i) correcting errors; and
16 (ii) clarifying information known to
17 cause false hits or misidentification errors;
18 and
19 (B) include procedures for individuals to
20 seek corrections of data contained in the data
21 systems.
22 (e) EXPEDITING REGISTERED TRAVELERS ACROSS
23 INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the border can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—The term ''registered traveler program'' means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PLAN.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a plan to expedite the processing of registered travelers who enter and exit the United States through a single registered traveler program.

(B) INTEGRATION.—The registered traveler program developed under this paragraph shall be integrated into the automated biometric

1 entry and exit data system described in this
2 section.
3 (C) REVIEW AND EVALUATION.—In devel-
4 oping the program under this paragraph, the
5 Secretary shall—
6 (i) review existing programs or pilot
7 projects designed to expedite the travel of
8 registered travelers across the borders of
9 the United States;
10 (ii) evaluate the effectiveness of the
11 programs described in clause (i), the costs
12 associated with such programs, and the
13 costs to travelers to join such programs;
14 and
15 (iii) increase research and develop-
16 ment efforts to accelerate the development
17 and implementation of a single registered
18 traveler program.
19 (4) REPORT.—Not later than 1 year after the
20 date of the enactment of this Act, the Secretary
21 shall submit to the Congress a report describing the
22 Department's progress on the development and im-
23 plementation of the plan required by this subsection.
24 (f) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary, for

each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 3091. BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.

(a) INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.—With respect to the biometric entry/exit data system referred to in subsections (a) and (b), such systems shall—

(1) Ensure that the system's tracking capabilities encompass data related to all immigration benefits processing, including visa applications with the Department of State, immigration related filings with the Department of Labor, cases pending before the Executive Office for Immigration review, and matters pending or under investigation before the Department of Homeland Security.

(2) Utilize a biometric based identity number tied to an applicant's biometric algorithm established under the entry/exit system to track all immigration related matters concerning the applicant.

(3) Provide that all information about an applicant's immigration related history, including entry/exit history, can be queried through electronic means. Database access and usage guidelines shall

include stringent safeguards to prevent misuse of data.

(4) Provide real time updates to the database described in paragraph (3) including pertinent data from all agencies referenced in paragraph (1).

(5) Limit access to the database described in paragraph (4) (and any other database used for tracking immigration related processing and/or entry/exit) to personnel explicitly authorized to do so, and that any such access may be ascertained by authorized persons by review of the person's access authorization code or number.

(6) Provide continuing education in counterterrorism techniques, tools, and methods for all Federal personnel employed in the evaluation of immigration documents and immigration-related policy.

(b) ENTRY-EXIT SYSTEM GOALS.—The Department of Homeland Security shall continue to implement the system described in subsections (a) and (b), in such a way that it fulfills the following goals:

(1) Serves as a vital counterterrorism tool.

(2) Screens travelers efficiently and in a welcoming manner.

(3) Provides inspectors and related personnel with adequate real-time information.

(4) Ensures flexibility of training and security protocols to most effectively comply with security mandates.

(5) Integrates relevant databases and plans for database modifications to address volume increase and database usage.

(6) Improves database search capacities by utilizing language algorithms to detect alternate names.

(c) DEDICATED SPECIALISTS AND FRONT LINE PERSONNEL TRAINING.—In implementing the provisions of subsections (a), (b), and (c), the Department of Homeland Security and the Department of State shall—

(1) develop cross-training programs that focus on the scope and procedures of the entry/exit system;

(2) provide extensive community outreach and education on the entry/exit system procedures;

(3) provide clear and consistent eligibility guidelines for applicants in low-risk traveler programs; and

(4) establish ongoing training modules on immigration law to improve adjudications at our ports of entry, consulates, and embassies.

1 (d) INFORMATION ACCURACY STANDARDS.—
2 (1) Any information placed in the entry/exit
3 database shall be entered by authorized officers in
4 compliance with established procedures, as set forth
5 in section 407 of this Act, that guarantee the identi-
6 fication of the person making the database entry.
7 (2) The Secretary of Homeland Security, the
8 Secretary of State, and the Attorney General, after
9 consultation with directors of the relevant intel-
10 ligence agencies, shall standardize the information
11 and data collected from foreign nationals as well as
12 the procedures utilized to collect such data to ensure
13 that the information is consistent and of value to of-
14 ficials accessing that data across multiple agencies.
15 (e) ACCESSIBILITY.—The Secretary of Homeland Se-
16 curity, the Secretary of State, the Attorney General, and
17 the head of any other department or agency that possesses
18 authority to enter data related to the immigration status
19 of foreign nationals, including lawful permanent resident
20 aliens, or where such information could serve to impede
21 lawful admission of United States citizens to the United
22 States, shall each establish guidelines related to data entry
23 procedures. Such guidelines shall—
24 (1) strictly limit the agency personnel author-
25 ized to enter data into the system;

(2) identify classes of information to be designated as temporary or permanent entries, with corresponding expiration dates for temporary entries; and

(3) identify classes of prejudicial information requiring additional authority of supervisory personnel prior to entry.

(f) SYSTEM ADAPTABILITY.—

(1) Each agency authorized to enter data related to the immigration status of any persons identified in subsection (b) above shall develop and implement system protocols to—

(A) correct erroneous data entries in a timely and effective manner;

(B) clarify information known to cause false hits or misidentification errors; and

(C) update all relevant information that is dispositive to the adjudicatory or admission process.

(2) The President or agency director so designated by the President shall establish a clearinghouse bureau as part of the Department of Homeland Security to centralize and streamline the process through which members of the public can seek corrections to erroneous or inaccurate information

1 related to immigration status, or which otherwise
2 impedes lawful admission to the United States con-
3 tained in agency databases. Such process shall in-
4 clude specific time schedules for reviewing data cor-
5 rection requests, rendering decisions on such re-
6 quests, and implementing appropriate corrective ac-
7 tion in a timely manner.

8 (g) TRAINING.—Agency personnel authorized to
9 enter data pursuant to subsection (b)(1) shall undergo ex-
10 tensive training in immigration law and procedure.

11 (h) IMPLEMENTATION AUDIT.—The Secretary of the
12 Department of Homeland Security shall issue a report to
13 Congress within 6 months of enactment of this Act that
14 details activities undertaken to date to develop an entry-
15 exit system, areas in which the system currently does not
16 achieve the mandates set forth by this section, and the
17 funding, infrastructure, technology and other factors
18 needed to complete the system, as well as a detailed time
19 frame in which the completion of the system will be
20 achieved.

21 (i) REPORTS.—

22 (1) The Secretaries of the Departments of
23 State and Homeland Security jointly shall report bi-
24 annually to Congress on: Current infrastructure and
25 staffing at each port of entry and each consular

1 post, numbers of immigrant and nonimmigrant visas
2 issued, specify the numbers of individuals subject to
3 expedited removal at the ports of entry as well as
4 within 100 miles of the United States border, the
5 plan for enhanced database review at entry, the
6 number of suspected terrorists and criminals inter-
7 cepted utilizing the entry/exit system and the mon-
8 eys spent in the preceding fiscal year to achieve the
9 mandates of this section, areas in which they failed
10 to achieve these mandates, and the steps they are
11 taking to address these deficiencies. For ports of
12 entry, similar information shall be provided includ-
13 ing the number of I–94s issued, immigrant visa ad-
14 missions made, and nonimmigrant admissions.
15 (2) No later than 120 days after enactment of
16 this Act, the Secretary of Homeland Security and
17 the Secretary of State, after consultation with the
18 Director of the National Institute of Standards and
19 Technology and the Commission on Interoperable
20 Data Sharing, shall issue a report addressing the
21 following areas:
22 (A) The status of agency compliance with
23 the mandates set forth in section 202 (''Inter-
24 operable Law Enforcement and Intelligence
25 Data System with Name-Matching Capacity

and Training'') of the Enhanced Border Security and Visa Entry Reform Act (Public Law 107–173).

(B) The status of agency compliance with section 201(c)(3) (''Protections Regarding Information and Uses Thereof'') of the Enhanced Border Security and Visa Entry Reform Act (Public Law 107–173).

(3) No later than 1 year after enactment of this Act, the Secretary of Homeland Security, the Secretary of State, the Attorney General, and the head of any other department or agency bound by the mandates in this Act, shall issue both individual status reports and a joint status report detailing compliance with each mandate contained in this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3092. ENHANCED RESPONSIBILITIES OF THE COORDINATOR FOR COUNTERTERRORISM.

(a) DECLARATION OF UNITED STATES POLICY.—Congress declares that it shall be the policy of the United States to—

(1) make combating terrorist travel and those who assist them a priority for the United States counterterrorism policy; and

(2) ensure that the information relating to individuals who help facilitate terrorist travel by creating false passports, visas, documents used to obtain such travel documents, and other documents are fully shared within the United States Government and, to the extent possible, with and from foreign governments, in order to initiate United States and foreign prosecutions of such individuals.

(b) AMENDMENT.—Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)) is amended by adding at the end the following:

"(C) ADDITIONAL DUTIES RELATING TO TERRORIST TRAVEL.—In addition to the principal duties of the Coordinator described in subparagraph (B), the Coordinator shall analyze methods used by terrorists to travel internationally, develop policies with respect to curtailing terrorist travel, and coordinate such policies with the appropriate bureaus and other entities of the Department of State, other United States Government agencies, the Human Traf-

ficking and Smuggling Center, and foreign governments.''.

SEC. 3093. ESTABLISHMENT OF OFFICE OF VISA AND PASSPORT SECURITY IN THE DEPARTMENT OF STATE.

(a) ESTABLISHMENT.—There is established within the Bureau of Diplomatic Security of the Department of State an Office of Visa and Passport Security (in this section referred to as the ''Office'').

(b) HEAD OF OFFICE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the head of the Office shall be an individual who shall have the rank and status of Deputy Assistant Secretary of State for Diplomatic Security (in this section referred to as the ''Deputy Assistant Secretary'').

(2) RECRUITMENT.—The Under Secretary of State for Management shall chose the Deputy Assistant Secretary from among individuals who are Diplomatic Security Agents.

(3) QUALIFICATIONS.—The Diplomatic Security Agent chosen to serve as the Deputy Assistant Secretary shall have expertise and experience in investigating and prosecuting visa and passport fraud.

(c) DUTIES.—

(1) PREPARATION OF STRATEGIC PLAN.—

(A) IN GENERAL.—The Deputy Assistant Secretary, in coordination with the appropriate officials of the Department of Homeland Security, shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations at home and in foreign countries that are involved in the fraudulent production, distribution, use, or other similar activity—

(i) of a United States visa or United States passport;

(ii) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(iii) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(B) EMPHASIS.—Such plan shall—

(i) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in Section 219 of the Im-

1 migration and Nationality Act (8 U.S.C.
2 1189));
3 (ii) require the development of a stra-
4 tegic training course under the
5 Antiterrorism Assistance Training (ATA)
6 program of the Department of State (or
7 any successor or related program) under
8 chapter 8 of part II of the Foreign Assist-
9 ance Act of 1961 (22 U.S.C. 2349aa et
10 seq.) (or other relevant provisions of law)
11 to train participants in the identification of
12 fraudulent documents and the forensic de-
13 tection of such documents which may be
14 used to obtain unlawful entry into the
15 United States; and
16 (iii) determine the benefits and costs
17 of providing technical assistance to foreign
18 governments to ensure the security of pass-
19 ports, visas, and related documents and to
20 investigate, arrest, and prosecute individ-
21 uals who facilitate travel by the creation of
22 false passports and visas, documents to ob-
23 tain such passports and visas, and other
24 types of travel documents.

1 (2) DUTIES OF OFFICE.—The Office shall have
2 the following duties:
3 (A) ANALYSIS OF METHODS.—Analyze
4 methods used by terrorists to travel internation-
5 ally, particularly the use of false or altered trav-
6 el documents to illegally enter foreign countries
7 and the United States, and advise the Bureau
8 of Consular Affairs on changes to the visa
9 issuance process that could combat such meth-
10 ods, including the introduction of new tech-
11 nologies into such process.
12 (B) IDENTIFICATION OF INDIVIDUALS AND
13 DOCUMENTS.—Identify, in cooperation with the
14 Human Trafficking and Smuggling Center, in-
15 dividuals who facilitate travel by the creation of
16 false passports and visas, documents used to
17 obtain such passports and visas, and other
18 types of travel documents, and ensure that the
19 appropriate agency is notified for further inves-
20 tigation and prosecution or, in the case of such
21 individuals abroad for which no further inves-
22 tigation or prosecution is initiated, ensure that
23 all appropriate information is shared with for-
24 eign governments in order to facilitate inves-

1 tigation, arrest, and prosecution of such individ-
2 uals.
3 (C) IDENTIFICATION OF FOREIGN COUN-
4 TRIES NEEDING ASSISTANCE.—Identify foreign
5 countries that need technical assistance, such as
6 law reform, administrative reform, prosecutorial
7 training, or assistance to police and other inves-
8 tigative services, to ensure passport, visa, and
9 related document security and to investigate,
10 arrest, and prosecute individuals who facilitate
11 travel by the creation of false passports and
12 visas, documents used to obtain such passports
13 and visas, and other types of travel documents.
14 (D) INSPECTION OF APPLICATIONS.—Ran-
15 domly inspect visa and passport applications for
16 accuracy, efficiency, and fraud, especially at
17 high terrorist threat posts, in order to prevent
18 a recurrence of the issuance of visas to those
19 who submit incomplete, fraudulent, or otherwise
20 irregular or incomplete applications.
21 (3) REPORT.—Not later than 90 days after the
22 date of the enactment of this Act, the Deputy As-
23 sistant Secretary shall submit to Congress a report
24 containing—

(A) a description of the strategic plan prepared under paragraph (1); and

(B) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

Subtitle D—Terrorist Travel

SEC. 3101. INFORMATION SHARING AND COORDINATION.

The Secretary of Homeland Security shall establish a mechanism to—

(1) ensure the coordination and dissemination of terrorist travel intelligence and operational information among the appropriate agencies within the Department of Homeland Security, including the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, the Bureau of Citizenship and Immigration Services, the Transportation Security Administration, the Coast Guard, and other agencies as directed by the Secretary; and

(2) ensure the sharing of terrorist travel intelligence and operational information with the Depart-

ment of State, the National Counterterrorism Center, and other appropriate Federal agencies.

SEC. 3102. TERRORIST TRAVEL PROGRAM.

The Secretary of Homeland Security shall establish a program to—

(1) analyze and utilize information and intelligence regarding terrorist travel tactics, patterns, trends, and practices; and

(2) disseminate that information to all frontline Department of Homeland Security personnel who are at ports of entry or between ports of entry, to immigration benefits offices, and, in coordination with the Secretary of State, to appropriate individuals at United States embassies and consulates.

SEC. 3103. TRAINING PROGRAM.

(a) REVIEW, EVALUATION, AND REVISION OF EXISTING TRAINING PROGRAMS.—The Secretary of Homeland Security shall—

(1) review and evaluate the training currently provided to Department of Homeland Security personnel and, in consultation with the Secretary of State, relevant Department of State personnel with respect to travel and identity documents, and techniques, patterns, and trends associated with terrorist travel; and

(2) develop and implement a revised training program for border, immigration, and consular officials in order to teach such officials how to effectively detect, intercept, and disrupt terrorist travel.

(b) REQUIRED TOPICS OF REVISED PROGRAMS.—The training program developed under subsection (a)(2) shall include training in the following areas:

(1) Methods for identifying fraudulent and genuine travel documents.

(2) Methods for detecting terrorist indicators on travel documents and other relevant identity documents.

(3) Recognizing travel patterns, tactics, and behaviors exhibited by terrorists.

(4) Effectively utilizing information contained in databases and data systems available to the Department of Homeland Security.

(5) Other topics determined to be appropriate by the Secretary of Homeland Security in consultation with the Secretary of State or the National Intelligence Director.

SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.

(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of

Homeland Security, in consultation with the Secretary of State, shall submit to the Congress a plan to ensure that the Department of Homeland Security and the Department of State acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(b) INTEROPERABILITY REQUIREMENT.—To the extent possible, technologies to be acquired and deployed under the plan shall be compatible with current systems used by the Department of Homeland Security to detect and identify fraudulent documents and genuine documents.

(c) PASSPORT SCREENING.—The plan shall address the feasibility of using such technologies to screen passports submitted for identification purposes to a United States consular, border, or immigration official.

Subtitle E—Maritime Security Requirements

SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARITIME SECURITY REQUIREMENTS.

(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—Section 70103(a) of the 46, United States Code, is amended by striking ''The Secretary'' and inserting ''Not later than December 31, 2004, the Secretary''.

(b) FACILITY AND VESSEL VULNERABILITY ASSESSMENTS.—Section 70102(b)(1) of the 46, United States Code, is amended by striking ", the Secretary" and inserting "and by not later than December 31, 2004, the Secretary".

(c) TRANSPORTATION SECURITY CARD REGULATIONS.—Section 70105(a) of the 46, United States Code, is amended by striking "The Secretary" and inserting "Not later than December 31, 2004, the Secretary".

TITLE IV—INTERNATIONAL COOPERATION AND COORDINATION

Subtitle A—Attack Terrorists and Their Organizations

CHAPTER 1—PROVISIONS RELATING TO TERRORIST SANCTUARIES

SEC. 4001. UNITED STATES POLICY ON TERRORIST SANCTUARIES.

It is the sense of Congress that it should be the policy of the United States—

(1) to identify and prioritize foreign countries that are or that could be used as terrorist sanctuaries;

(2) to assess current United States resources being provided to such foreign countries;

(3) to develop and implement a coordinated strategy to prevent terrorists from using such foreign countries as sanctuaries; and

(4) to work in bilateral and multilateral fora to prevent foreign countries from being used as terrorist sanctuaries.

SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to Congress a report that describes a strategy for addressing and, where possible, eliminating terrorist sanctuaries.

(2) CONTENT.—The report required under this subsection shall include the following:

(A) A list that prioritizes each actual and potential terrorist sanctuary and a description of activities in the actual and potential sanctuaries.

(B) An outline of strategies for preventing the use of, disrupting, or ending the use of such sanctuaries.

(C) A detailed description of efforts, including an assessment of successes and setbacks, by the United States to work with other

countries in bilateral and multilateral fora to address or eliminate each actual or potential terrorist sanctuary and disrupt or eliminate the security provided to terrorists by each such sanctuary.

(D) A description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries.

(b) SUBSEQUENT REPORTS.—

(1) REQUIREMENT OF REPORTS.—Section 140(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)(1)) is amended—

(A) by striking ''(1)'' and inserting ''(1)(A)'';

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(C) in subparagraph (A)(iii) (as redesignated), by adding ''and'' at the end; and

(D) by adding at the end the following:

''(B) detailed assessments with respect to each foreign country whose territory is being used or could potentially be used as a sanctuary for terrorists or terrorist organizations;''.

(2) PROVISIONS TO BE INCLUDED IN REPORT.—Section 140(b) of such Act (22 U.S.C. 2656f(b)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)''; and

(ii) by striking ''and'' at the end;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

''(2) with respect to subsection (a)(1)(B)—

''(A) the extent of knowledge by the government of the country with respect to terrorist activities in the territory of the country; and

''(B) the actions by the country—

''(i) to eliminate each terrorist sanctuary in the territory of the country;

''(ii) to cooperate with United States antiterrorism efforts; and

''(iii) to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country;'';

(D) by striking the period at the end of paragraph (3) (as redesignated) and inserting a semicolon; and

(E) by inserting after paragraph (3) (as redesignated) the following:

''(4) a strategy for addressing and, where possible, eliminating terrorist sanctuaries that shall include—

''(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

''(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

''(C) a description of efforts by the United States to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

''(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries;

"(5) an update of the information contained in the report required to be transmitted to Congress pursuant to section 4002(a)(2) of the 9/11 Recommendations Implementation Act;

"(6) to the extent practicable, complete statistical information on the number of individuals, including United States citizens and dual nationals, killed, injured, or kidnapped by each terrorist group during the preceding calendar year; and

"(7) an analysis, as appropriate, relating to trends in international terrorism, including changes in technology used, methods and targets of attacks, demographic information on terrorists, and other appropriate information.".

(3) DEFINITIONS.—Section 140(d) of such Act (22 U.S.C. 2656f(d)) is amended—

(A) in paragraph (2), by striking "and" at the end;

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

(C) by adding at the end the following:

"(4) the term 'territory' and 'territory of the country' means the land, waters, and airspace of the country; and

"(5) the term 'terrorist sanctuary' or 'sanctuary' means an area in the territory of a country that is used by a terrorist group with the express or implied consent of the government of the country—

"(A) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

"(B) to provide transit through the country.".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, by April 30, 2006, and by April 30 of each subsequent year.

SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE TERRORIST SANCTUARIES.

(a) AMENDMENTS.—Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

1 ''(B) Any part of the territory of the country is
2 being used as a sanctuary for terrorists or terrorist
3 organizations.'';
4 (2) in paragraph (3), by striking ''paragraph
5 (1)(A)'' and inserting ''subparagraph (A) or (B) of
6 paragraph (1)'';
7 (3) by redesignating paragraph (5) as para-
8 graph (6);
9 (4) by inserting after paragraph (4) the fol-
10 lowing:
11 ''(5) A determination made by the Secretary of State
12 under paragraph (1)(B) may not be rescinded unless the
13 President submits to the Speaker of the House of Rep-
14 resentatives and the chairman of the Committee on Bank-
15 ing, Housing, and Urban Affairs and the chairman of the
16 Committee on Foreign Relations of the Senate before the
17 proposed rescission would take effect a report certifying
18 that the government of the country concerned —
19 ''(A) is taking concrete, verifiable steps to elimi-
20 nate each terrorist sanctuary in the territory of the
21 country;
22 ''(B) is cooperating with United States
23 antiterrorism efforts; and
24 ''(C) is taking all appropriate actions to prevent
25 the proliferation of and trafficking in weapons of

mass destruction in and through the territory of the country.''; and

(5) by inserting after paragraph (6) (as redesignated) the following:

''(7) In this subsection—

''(A) the term 'territory of the country' means the land, waters, and airspace of the country; and

''(B) the term 'terrorist sanctuary' or 'sanctuary' means an area in the territory of a country that is used by a terrorist group with the express or implied consent of the government of the country—

''(i) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

''(ii) to provide transit through the country.''.

(b) IMPLEMENTATION.—The President shall implement the amendments made by subsection (a) by exercising the authorities the President has under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

CHAPTER 2—OTHER PROVISIONS

SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS CONTROL AND NONPROLIFERATION ADVISORY BOARD.

(a) REQUIREMENT.—Not later than December 31, 2004, the Secretary of State shall appoint individuals to the Arms Control and Nonproliferation Advisory Board to fill all vacancies in the membership of the Board that exist on the date of the enactment of this Act.

(b) CONSULTATION.—Appointments to the Board under subsection (a) shall be made in consultation with the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 4012. REVIEW OF UNITED STATES POLICY ON PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND CONTROL OF STRATEGIC WEAPONS.

(a) REVIEW.—

(1) IN GENERAL.—The Undersecretary of State for Arms Control and International Security shall instruct the Arms Control and Nonproliferation Advisory Board (in this section referred to as the ''Advisory Board'') to carry out a review of existing policies of the United States relating to the proliferation

of weapons of mass destruction and the control of strategic weapons.

(2) COMPONENTS.—The review required under this subsection shall contain at a minimum the following:

(A) An identification of all major deficiencies in existing United States policies relating to the proliferation of weapons of mass destruction and the control of strategic weapons.

(B) Proposals that contain a range of options that if implemented would adequately address any significant threat deriving from the deficiencies in existing United States policies described in subparagraph (A).

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than June 15, 2005, the Advisory Board shall prepare and submit to the Undersecretary of State for Arms Control and International Security an interim report that contains the initial results of the review carried out pursuant to subsection (a).

(2) FINAL REPORT.—Not later than December 1, 2005, the Advisory Board shall prepare and submit to the Undersecretary of State for Arms Control and International Security, and to the Committee on

International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, a final report that contains the comprehensive results of the review carried out pursuant to subsection (a).

(c) EXPERTS AND CONSULTANTS.— In carrying out this section, the Advisory Board may procure temporary and intermittent services of experts and consultants, including experts and consultants from nongovernmental organizations, under section 3109(b) of title 5, United States Code.

(d) FUNDING AND OTHER RESOURCES.—The Secretary of State shall provide to the Advisory Board an appropriate amount of funding and other resources to enable the Advisory Board to carry out this section.

SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT ACTS OF INTERNATIONAL TERRORISM.

Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)), as amended by section 3091(b), is further amended by adding at the end the following:

"(D) ADDITIONAL DUTIES RELATING TO INTERNATIONAL AGREEMENTS TO INTERDICT ACTS OF INTERNATIONAL TERRORISM.—

1 "(i) IN GENERAL.—In addition to the
2 principal duties of the Coordinator de-
3 scribed in subparagraph (B), the Coordi-
4 nator, in consultation with relevant United
5 States Government agencies, shall seek to
6 negotiate on a bilateral basis international
7 agreements under which parties to an
8 agreement work in partnership to address
9 and interdict acts of international ter-
10 rorism.
11 "(ii) TERMS OF INTERNATIONAL
12 AGREEMENT.—It is the sense of Congress
13 that—
14 "(I) each party to an inter-
15 national agreement referred to in
16 clause (i)—
17 "(aa) should be in full com-
18 pliance with United Nations Se-
19 curity Council Resolution 1373
20 (September 28, 2001), other ap-
21 propriate international agree-
22 ments relating to antiterrorism
23 measures, and such other appro-
24 priate criteria relating to
25 antiterrorism measures;

"(bb) should sign and adhere to a 'Counterterrorism Pledge' and a list of 'Interdiction Principles', to be determined by the parties to the agreement;

"(cc) should identify assets and agree to multilateral efforts that maximizes the country's strengths and resources to address and interdict acts of international terrorism or the financing of such acts;

"(dd) should agree to joint training exercises among the other parties to the agreement; and

"(ee) should agree to the negotiation and implementation of other relevant international agreements and consensus-based international standards; and

"(II) an international agreement referred to in clause (i) should contain provisions that require the parties to the agreement—

"(aa) to identify regions throughout the world that are emerging terrorist threats;

"(bb) to establish terrorism interdiction centers in such regions and other regions, as appropriate;

"(cc) to deploy terrorism prevention teams to such regions, including United States-led teams; and

"(dd) to integrate intelligence, military, and law enforcement personnel from countries that are parties to the agreement in order to work directly with the regional centers described in item (bb) and regional teams described in item (cc).".

SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.

It is the sense of Congress that the President should pursue by all appropriate diplomatic means with countries that are participating in the Coalition to fight terrorism

the development of an effective approach toward the detention and humane treatment of captured terrorists. The effective approach referred to in this section may, as appropriate, draw on Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva on August 12, 1949 (6 UST 3316).

SEC. 4015. SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should make the substantial reduction of illegal drug production and trafficking in Afghanistan a priority in the Global War on Terrorism;

(2) the Secretary of Defense, in coordination with the Secretary of State, Attorney General, and the heads of other appropriate Federal agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal

drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

(A) the progress made towards substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of this Act.

Subtitle B—Prevent the Continued Growth of Terrorism

CHAPTER 1—UNITED STATES PUBLIC DIPLOMACY

SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC DIPLOMACY STRATEGY.

(a) IN GENERAL.—The Secretary of State, in coordination with all appropriate Federal agencies, shall submit to the Committee on International Relations of the House

of Representatives and the Committee on Foreign Relations of the Senate an annual assessment of the impact of public diplomacy efforts on target audiences. Each assessment shall review the United States public diplomacy strategy worldwide and by region, including an examination of the allocation of resources and an evaluation and assessment of the progress in, and barriers to, achieving the goals set forth under previous plans submitted under this section. Not later than March 15 of every year, the Secretary shall submit the assessment required by this subsection.

(b) FURTHER ACTION.— On the basis of such review, the Secretary, in coordination with all appropriate Federal agencies, shall submit, as part of the annual budget submission, a public diplomacy strategy plan which specifies goals, agency responsibilities, and necessary resources and mechanisms for achieving such goals during the next fiscal year. The plan may be submitted in classified form.

SEC. 4022. PUBLIC DIPLOMACY TRAINING.

(a) STATEMENT OF POLICY.—It should be the policy of the United States:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) United States chiefs of mission should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and should be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training on public diplomacy and the tools and technology of mass communication.

(b) PERSONNEL.—

(1) QUALIFICATIONS.—In the recruitment, training, and assignment of members of the Foreign Service, the Secretary of State shall emphasize the importance of public diplomacy and applicable skills and techniques. The Secretary shall consider the priority recruitment into the Foreign Service, at middle-level entry, of individuals with expertise and professional experience in public diplomacy, mass communications, or journalism. The Secretary shall give special consideration to individuals with language facility and experience in particular countries and regions.

(2) LANGUAGES OF SPECIAL INTEREST.—The Secretary of State shall seek to increase the number

of Foreign Service officers proficient in languages spoken in predominantly Muslim countries. Such increase shall be accomplished through the recruitment of new officers and incentives for officers in service.

SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM COUNTRIES.

(a) DECLARATION OF POLICY.—Congress declares that the United States should commit to a long-term and sustainable investment in promoting engagement with people of all levels of society in countries with predominantly Muslim populations, particularly with youth and those who influence youth. Such an investment should make use of the talents and resources in the private sector and should include programs to increase the number of people who can be exposed to the United States and its fundamental ideas and values in order to dispel misconceptions. Such programs should include youth exchange programs, young ambassadors programs, international visitor programs, academic and cultural exchange programs, American Corner programs, library programs, journalist exchange programs, sister city programs, and other programs related to people-to-people diplomacy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should significantly increase

its investment in the people-to-people programs described in subsection (a).

SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PROMOTION IN FOREIGN SERVICE.

(a) IN GENERAL.—Section 603(b) of the Foreign Service Act of 1980 (22 U.S.C. 4003(b)) is amended by adding at the end the following new sentences: ''The precepts for such selection boards shall also consider whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has served in at least one position in which the primary responsibility of such member was related to public diplomacy. A member may not be promoted into or within the Senior Foreign Service if such member has not served in at least one such position.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2009.

CHAPTER 2—UNITED STATES MULTILATERAL DIPLOMACY

SEC. 4031. PURPOSE.

It is the purpose of this chapter to strengthen United States leadership and effectiveness at international organizations and multilateral institutions.

SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAUCUS.

(a) IN GENERAL.—The President, acting through the Secretary of State and the relevant United States chiefs of mission, shall—

(1) continue to strongly support and seek to expand the work of the democracy caucus at the United Nations General Assembly and the United Nations Human Rights Commission; and

(2) seek to establish a democracy caucus at the United Nations Conference on Disarmament and at other broad-based international organizations.

(b) PURPOSES OF THE CAUCUS.—A democracy caucus at an international organization should—

(1) forge common positions, including, as appropriate, at the ministerial level, on matters of concern before the organization and work within and across regional lines to promote agreed positions;

(2) work to revise an increasingly outmoded system of membership selection, regional voting, and decision making; and

(3) establish a rotational leadership agreement to provide member countries an opportunity, for a set period of time, to serve as the designated president of the caucus, responsible for serving as its voice in each organization.

SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.

(a) UNITED STATES POLICY.—The President, acting through the Secretary of State and the relevant United States chiefs of mission, shall use the voice, vote, and influence of the United States to—

(1) where appropriate, reform the criteria for leadership and, in appropriate cases, for membership, at all United Nations bodies and at other international organizations and multilateral institutions to which the United States is a member so as to exclude countries that violate the principles of the specific organization;

(2) make it a policy of the United Nations and other international organizations and multilateral institutions of which the United States is a member that a member country may not stand in nomination for membership or in nomination or in rotation for a leadership position in such bodies if the member country is subject to sanctions imposed by the United Nations Security Council; and

(3) work to ensure that no member country stand in nomination for membership, or in nomination or in rotation for a leadership position in such organizations, or for membership on the United Nations Security Council, if the member country is sub-

1 ject to a determination under section 6(j)(1)(A) of
2 the Export Administration Act of 1979 (50 U.S.C.
3 App. 2405(j)(1)(A)), section 620A(a) of the Foreign
4 Assistance Act of 1961 (22 U.S.C. 2371(a)), or sec-
5 tion 40(d) of the Arms Export Control Act (22
6 U.S.C. 2780(d)).
7 (b) REPORT TO CONGRESS.—Not later than 15 days
8 after a country subject to a determination under one or
9 more of the provisions of law specified in subsection (a)(3)
10 is selected for membership or a leadership post in an inter-
11 national organization of which the United States is a
12 member or for membership on the United Nations Secu-
13 rity Council, the Secretary of State shall submit to the
14 Committee on International Relations of the House of
15 Representatives and the Committee on Foreign Relations
16 of the Senate a report on any steps taken pursuant to
17 subsection (a)(3).
18 **SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLO-**
19 **MACY.**
20 (a) TRAINING PROGRAMS.—Section 708 of the For-
21 eign Service Act of 1980 (22 U.S.C. 4028) is amended
22 by adding at the end the following new subsection:
23 ''(c) TRAINING IN MULTILATERAL DIPLOMACY.—
24 ''(1) IN GENERAL.—The Secretary shall estab-
25 lish a series of training courses for officers of the

1 Service, including appropriate chiefs of mission, on
2 the conduct of diplomacy at international organiza-
3 tions and other multilateral institutions and at
4 broad-based multilateral negotiations of inter-
5 national instruments.

6 ''(2) PARTICULAR PROGRAMS.—The Secretary
7 shall ensure that the training described in paragraph
8 (1) is provided at various stages of the career of
9 members of the service. In particular, the Secretary
10 shall ensure that after January 1, 2006—

11 ''(A) officers of the Service receive training
12 on the conduct of diplomacy at international or-
13 ganizations and other multilateral institutions
14 and at broad-based multilateral negotiations of
15 international instruments as part of their train-
16 ing upon entry into the Service; and

17 ''(B) officers of the Service, including
18 chiefs of mission, who are assigned to United
19 States missions representing the United States
20 to international organizations and other multi-
21 lateral institutions or who are assigned in
22 Washington, D.C., to positions that have as
23 their primary responsibility formulation of pol-
24 icy towards such organizations and institutions
25 or towards participation in broad-based multi-

lateral negotiations of international instruments, receive specialized training in the areas described in paragraph (1) prior to beginning of service for such assignment or, if receiving such training at that time is not practical, within the first year of beginning such assignment.''.

(b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The Secretary shall ensure that employees of the Department of State who are members of the civil service and who are assigned to positions described in section 708(c) of the Foreign Service Act of 1980 (as amended by subsection (a)) receive training described in such section.

(c) CONFORMING AMENDMENTS.—Section 708 of such Act is further amended—

(1) in subsection (a), by striking ''(a) The'' and inserting ''(a) TRAINING ON HUMAN RIGHTS.—The''; and

(2) in subsection (b), by striking ''(b) The'' and inserting ''(b) TRAINING ON REFUGEE LAW AND RELIGIOUS PERSECUTION.—The''.

SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OFFICE ON MULTILATERAL NEGOTIATIONS.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of State is authorized to establish, within the Bureau of International Organizational Affairs, an Office on Multi-

1 lateral Negotiations to be headed by a Special Representa-
2 tive for Multilateral Negotiations (in this section referred
3 to as the ''Special Representative'').

4 (b) APPOINTMENT.—The Special Representative
5 shall be appointed by the President and shall have the
6 rank of Ambassador-at-Large. At the discretion of the
7 President another official at the Department may serve
8 as the Special Representative.

9 (c) STAFFING.—The Special Representative shall
10 have a staff of Foreign Service and civil service officers
11 skilled in multilateral diplomacy.

12 (d) DUTIES.—The Special Representative shall have
13 the following responsibilities:

14 (1) IN GENERAL.—The primary responsibility
15 of the Special Representative shall be to assist in the
16 organization of, and preparation for, United States
17 participation in multilateral negotiations, including
18 advocacy efforts undertaken by the Department of
19 State and other United States Government agencies.

20 (2) CONSULTATIONS.—The Special Representa-
21 tive shall consult with Congress, international orga-
22 nizations, nongovernmental organizations, and the
23 private sector on matters affecting multilateral nego-
24 tiations.

(3) ADVISORY ROLE.—The Special Representative shall advise the Assistant Secretary for International Organizational Affairs and, as appropriate, the Secretary of State, regarding advocacy at international organizations, multilateral institutions, and negotiations, and shall make recommendations regarding—

(A) effective strategies (and tactics) to achieve United States policy objectives at multilateral negotiations;

(B) the need for and timing of high level intervention by the President, the Secretary of State, the Deputy Secretary of State, and other United States officials to secure support from key foreign government officials for United States positions at such organizations, institutions, and negotiations; and

(C) the composition of United States delegations to multilateral negotiations.

(4) ANNUAL DIPLOMATIC MISSIONS OF MULTILATERAL ISSUES.—The Special Representative, in coordination with the Assistant Secretary for International Organizational Affairs, shall organize annual diplomatic missions to appropriate foreign countries to conduct consultations between principal

officers responsible for advising the Secretary of State on international organizations and high-level representatives of the governments of such foreign countries to promote the United States agenda at the United Nations General Assembly and other key international fora (such as the United Nations Human Rights Commission).

(5) LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.—The Special Representative, in coordination with the Assistant Secretary of International Organizational Affairs, shall direct the efforts of the United States to reform the criteria for leadership of and membership in international organizations as described in section 4033.

(6) PARTICIPATION IN MULTILATERAL NEGOTIATIONS.—The Secretary of State may direct the Special Representative to serve as a member of a United States delegation to any multilateral negotiation.

CHAPTER 3—OTHER PROVISIONS

SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.

(a) FINDINGS.—Congress finds the following:

(1) During the 2003–2004 school year, the Office of Overseas Schools of the Department of State is financially assisting 189 elementary and secondary schools in foreign countries.

(2) American-sponsored elementary and secondary schools are located in more than 20 countries with significant Muslim populations in the Near East, Africa, South Asia, Central Asia, and East Asia.

(3) American-sponsored elementary and secondary schools provide an American-style education in English, with curricula that typically include an emphasis on the development of critical thinking and analytical skills.

(b) PURPOSE.—The United States has an interest in increasing the level of financial support provided to American-sponsored elementary and secondary schools in predominantly Muslim countries, in order to—

(1) increase the number of students in such countries who attend such schools;

(2) increase the number of young people who may thereby gain at any early age an appreciation for the culture, society, and history of the United States; and

1 (3) increase the number of young people who
2 may thereby improve their proficiency in the English
3 language.
4 (c) PILOT PROGRAM AUTHORIZED.—The Secretary
5 of State, acting through the Director of the Office of Over-
6 seas Schools of the Department of State, may conduct a
7 pilot program to make grants to American-sponsored ele-
8 mentary and secondary schools in predominantly Muslim
9 countries for the purpose of providing full or partial merit-
10 based scholarships to students from lower- and middle-in-
11 come families of such countries to attend such schools.
12 (d) DETERMINATION OF ELIGIBLE STUDENTS.—For
13 purposes of expending grant funds, an American-spon-
14 sored elementary and secondary school that receives a
15 grant under subsection (c) is authorized to establish cri-
16 teria to be implemented by such school to determine what
17 constitutes lower- and middle-income families in the coun-
18 try (or region of the country, if regional variations in in-
19 come levels in the country are significant) in which such
20 school is located.
21 (e) RESTRICTION ON USE OF FUNDS.—Amounts ap-
22 propriated to the Secretary of State pursuant to the au-
23 thorization of appropriations in subsection (h) shall be
24 used for the sole purpose of making grants under this sec-
25 tion, and may not be used for the administration of the

1 Office of Overseas Schools of the Department of State or
2 for any other activity of the Office.

3 (f) VOLUNTARY PARTICIPATION.—Nothing in this
4 section shall be construed to require participation in the
5 pilot program by an American-sponsored elementary or
6 secondary school in a predominantly Muslim country.

7 (g) REPORT.—Not later than April 15, 2006, the
8 Secretary shall submit to the Committee on International
9 Relations of the House of Representatives and the Com-
10 mittee on Foreign Relations of the Senate a report on the
11 pilot program. The report shall assess the success of the
12 program, examine any obstacles encountered in its imple-
13 mentation, and address whether it should be continued,
14 and if so, provide recommendations to increase its effec-
15 tiveness.

16 (h) FUNDING.—There are authorized to be appro-
17 priated to the Secretary of State such sums as may be
18 necessary for each of fiscal years 2005, 2006, and 2007
19 to carry out this section.

20 **SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

21 (a) FINDINGS.—Congress makes the following find-
22 ings:

23 (1) Freedom of speech and freedom of the press
24 are fundamental human rights.

(2) The United States has a national interest in promoting these freedoms by supporting free media abroad, which is essential to the development of free and democratic societies consistent with our own.

(3) Free media is undermined, endangered, or nonexistent in many repressive and transitional societies around the world, including in Eurasia, Africa, and the Middle East.

(4) Individuals lacking access to a plurality of free media are vulnerable to misinformation and propaganda and are potentially more likely to adopt anti-American views.

(5) Foreign governments have a responsibility to actively and publicly discourage and rebut unprofessional and unethical media while respecting journalistic integrity and editorial independence.

(b) STATEMENTS OF POLICY.—It shall be the policy of the United States, acting through the Secretary of State, to—

(1) ensure that the promotion of press freedoms and free media worldwide is a priority of United States foreign policy and an integral component of United States public diplomacy;

(2) respect the journalistic integrity and editorial independence of free media worldwide; and

1 (3) ensure that widely accepted standards for
2 professional and ethical journalistic and editorial
3 practices are employed when assessing international
4 media.
5 (c) GRANTS TO PRIVATE SECTOR GROUP TO ESTAB-
6 LISH MEDIA NETWORK.—
7 (1) IN GENERAL.—Grants made available to the
8 National Endowment for Democracy (NED) pursu-
9 ant to paragraph (3) shall be used by NED to pro-
10 vide funding to a private sector group to establish
11 and manage a free and independent media network
12 in accordance with paragraph (2).
13 (2) PURPOSE.—The purpose of the network
14 shall be to provide an effective forum to convene a
15 broad range of individuals, organizations, and gov-
16 ernmental participants involved in journalistic activi-
17 ties and the development of free and independent
18 media to—
19 (A) fund a clearinghouse to collect and
20 share information concerning international
21 media development and training;
22 (B) improve research in the field of media
23 assistance and program evaluation to better in-
24 form decisions regarding funding and program
25 design for government and private donors;

(C) explore the most appropriate use of existing means to more effectively encourage the involvement of the private sector in the field of media assistance; and

(D) identify effective methods for the development of a free and independent media in societies in transition.

(3) FUNDING.—For grants made by the Department of State to NED as authorized by the National Endowment for Democracy Act (Pub. L. 98–164, 97 Stat. 1039), there are authorized to be appropriated to the Secretary of State such sums as may be necessary for each of fiscal years 2005, 2006, and 2007 to carry out this section.

SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA COVERAGE OF THE UNITED STATES.

(a) FINDINGS.—Congress finds the following:

(1) Biased or false media coverage of the United States and its allies is a significant factor encouraging terrorist acts against the people of the United States.

(2) Public diplomacy efforts designed to encourage an accurate understanding of the people of the United States and the policies of the United States are unlikely to succeed if foreign publics are sub-

1 jected to unrelenting biased or false local media cov-
2 erage of the United States.
3 (3) Where freedom of the press exists in foreign
4 countries the United States can combat biased or
5 false media coverage by responding in the foreign
6 media or by communicating directly to foreign
7 publics in such countries.
8 (4) Foreign governments which encourage bi-
9 ased or false media coverage of the United States
10 bear a significant degree of responsibility for cre-
11 ating a climate within which terrorism can flourish.
12 Such governments are responsible for encouraging
13 biased or false media coverage if they—
14 (A) issue direct or indirect instructions to
15 the media to publish biased or false information
16 regarding the United States;
17 (B) make deliberately biased or false
18 charges expecting that such charges will be dis-
19 seminated; or
20 (C) so severely constrain the ability of the
21 media to express criticism of any such govern-
22 ment that one of the few means of political ex-
23 pression available is criticism of the United
24 States.
25 (b) STATEMENTS OF POLICY.—

(1) FOREIGN GOVERNMENTS.—It shall be the policy of the United States to regard foreign governments as knowingly engaged in unfriendly acts toward the United States if such governments—

(A) instruct their state-owned or influenced media to include content that is anti-American or prejudicial to the foreign and security policies of the United States; or

(B) make deliberately false charges regarding the United States or permit false or biased charges against the United States to be made while constraining normal political discourse.

(2) SEEKING MEDIA ACCESS; RESPONDING TO FALSE CHARGES.—It shall be the policy of the United States to—

(A) seek access to the media in foreign countries on terms no less favorable than those afforded any other foreign entity or on terms available to the foreign country in the United States; and

(B) combat biased or false media coverage in foreign countries of the United States and its allies by responding in the foreign media or by communicating directly to foreign publics.

1 (c) RESPONSIBILITIES REGARDING BIASED OR
2 FALSE MEDIA COVERAGE.—
3 (1) SECRETARY OF STATE.—The Secretary of
4 State shall instruct chiefs of mission to report on
5 and combat biased or false media coverage origi-
6 nating in or received in foreign countries to which
7 such chiefs are posted. Based on such reports and
8 other information available to the Secretary, the
9 Secretary shall prioritize efforts to combat such
10 media coverage, giving special attention to audiences
11 where fostering popular opposition to terrorism is
12 most important and such media coverage is most
13 prevalent.
14 (2) CHIEFS OF MISSION.—Chiefs of mission
15 shall have the following responsibilities:
16 (A) Chiefs of mission shall give strong pri-
17 ority to combatting biased or false media re-
18 ports in foreign countries to which such chiefs
19 are posted regarding the United States.
20 (B) Chiefs of mission posted to foreign
21 countries in which freedom of the press exists
22 shall inform the governments of such countries
23 of the policies of the United States regarding
24 biased or false media coverage of the United
25 States, and shall make strong efforts to per-

1 suade such governments to change policies that
2 encourage such media coverage.
3 (d) REPORTS.—Not later than 120 days after the
4 date of the enactment of this Act and at least annually
5 thereafter until January 1, 2015, the Secretary shall sub-
6 mit to the Committee on International Relations of the
7 House of Representatives and the Committee on Foreign
8 Relations of the Senate a report regarding the major
9 themes of biased or false media coverage of the United
10 States in foreign countries, the actions taken to persuade
11 foreign governments to change policies that encourage
12 such media coverage (and the results of such actions), and
13 any other actions taken to combat such media coverage
14 in foreign countries.
15 **SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.**
16 (a) REPORT.—Not later than 180 days after the date
17 of the enactment of this Act, the President shall transmit
18 to the Committee on International Relations of the House
19 of Representatives and the Committee on Foreign Rela-
20 tions of the Senate a report on the strategy of the United
21 States to expand its outreach to foreign Muslim audiences
22 through broadcast media.
23 (b) CONTENT.—The report required under subsection
24 (a) shall contain the following:

(1) An assessment of the Broadcasting Board of Governors and the public diplomacy activities of the Department of State with respect to outreach to foreign Muslim audiences through broadcast media.

(2) An outline of recommended actions that the United States should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizeable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(3) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in Muslim countries in order to present those programs to a much broader Muslim audience than is currently reached.

(4) An assessment of providing a training program in media and press affairs for members of the Foreign Service.

SEC. 4045. OFFICE RELOCATION.

As soon as practicable after the date of the enactment of this Act, the Secretary of State shall take such actions as are necessary to consolidate within the Harry S. Tru-

man Building all offices of the Department of State that are responsible for the conduct of public diplomacy, including the Bureau of Educational and Cultural Affairs.

SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOCRACIES FOR MUSLIM COUNTRIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States—

(1) should work with the Community of Democracies to discuss, develop, and refine policies and assistance programs to support and promote political, economic, judicial, educational, and social reforms in Muslim countries;

(2) should, as part of that effort, secure support to require countries seeking membership in the Community of Democracies to be in full compliance with the Community's criteria for participation, as established by the Community's Convening Group, should work to ensure that the criteria are part of a legally binding document, and should urge other donor countries to use compliance with the criteria as a basis for determining diplomatic and economic relations (including assistance programs) with such participating countries; and

(3) should seek support for international contributions to the Community of Democracies and

should seek authority for the Community's Convening Group to oversee adherence and compliance of participating countries with the criteria.

(b) MIDDLE EAST PARTNERSHIP INITIATIVE AND BROADER MIDDLE EAST AND NORTH AFRICA INITIATIVE .—Amounts made available to carry out the Middle East Partnership Initiative and the Broader Middle East and North Africa Initiative may be made available to the Community of Democracies in order to strengthen and expand its work with Muslim countries.

(c) REPORT.—The Secretary of State shall include in the annual report entitled ''Supporting Human Rights and Democracy: The U.S. Record'' a description of efforts by the Community of Democracies to support and promote political, economic, judicial, educational, and social reforms in Muslim countries and the extent to which such countries meet the criteria for participation in the Community of Democracies.

Subtitle C—Reform of Designation of Foreign Terrorist Organizations

SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) PERIOD OF DESIGNATION.—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Subject to paragraphs (5) and (6), a" and inserting "A"; and

(B) by striking "for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B)" and inserting "until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c)";

(2) by striking subparagraph (B) and inserting the following:

"(B) REVIEW OF DESIGNATION UPON PETITION.—

"(i) IN GENERAL.—The Secretary shall review the designation of a foreign terrorist organization under the procedures set forth in clauses (iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

"(ii) PETITION PERIOD.—For purposes of clause (i)—

"(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2

1 years after the date on which the des-
2 ignation was made; or
3 ''(II) if the designated organiza-
4 tion has previously filed a petition for
5 revocation under this subparagraph,
6 the petition period begins 2 years
7 after the date of the determination
8 made under clause (iv) on that peti-
9 tion.
10 ''(iii) PROCEDURES.—Any foreign ter-
11 rorist organization that submits a petition
12 for revocation under this subparagraph
13 must provide evidence in that petition that
14 the relevant circumstances described in
15 paragraph (1) have changed in such a
16 manner as to warrant revocation with re-
17 spect to the organization.
18 ''(iv) DETERMINATION.—
19 ''(I) IN GENERAL.—Not later
20 than 180 days after receiving a peti-
21 tion for revocation submitted under
22 this subparagraph, the Secretary shall
23 make a determination as to such rev-
24 ocation.

"(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

"(III) PUBLICATION OF DETERMINATION.—A determination made by the Secretary under this clause shall be published in the Federal Register.

"(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6)."; and

(3) by adding at the end the following:

"(C) OTHER REVIEW OF DESIGNATION.—

"(i) IN GENERAL.—If in a 6-year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist or-

ganization in order to determine whether such designation should be revoked pursuant to paragraph (6).

"(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

"(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.".

(b) ALIASES.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) AMENDMENTS TO A DESIGNATION.—

"(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary

finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.

"(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

"(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

"(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).".

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Section 219 of the Immigration and Nationality Act (8
3 U.S.C. 1189) is amended—
4 (1) in subsection (a)—
5 (A) in paragraph (3)(B), by striking ''sub-
6 section (b)'' and inserting ''subsection (c)'';
7 (B) in paragraph (6)(A)—
8 (i) in the matter preceding clause (i),
9 by striking ''or a redesignation made under
10 paragraph (4)(B)'' and inserting ''at any
11 time, and shall revoke a designation upon
12 completion of a review conducted pursuant
13 to subparagraphs (B) and (C) of para-
14 graph (4)''; and
15 (ii) in clause (i), by striking ''or redes-
16 ignation'';
17 (C) in paragraph (7), by striking '', or the
18 revocation of a redesignation under paragraph
19 (6),''; and
20 (D) in paragraph (8)—
21 (i) by striking '', or if a redesignation
22 under this subsection has become effective
23 under paragraph (4)(B),''; and
24 (ii) by striking ''or redesignation'';
25 and

(2) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking ''of the designation in the Federal Register,'' and all that follows through ''review of the designation'' and inserting ''in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated organization may seek judicial review'';

(B) in paragraph (2), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation'';

(C) in paragraph (3), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation''; and

(D) in paragraph (4), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation'' each place that term appears.

(d) SAVINGS PROVISION.—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term ''designation'', as used in that section, includes all redesigna-

tions made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE COUNTRY REPORTS ON TERRORISM OF INFORMATION ON TERRORIST GROUPS THAT SEEK WEAPONS OF MASS DESTRUCTION AND GROUPS THAT HAVE BEEN DESIGNATED AS FOREIGN TERRORIST ORGANIZATIONS.

(a) INCLUSION IN REPORTS.—Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction,'' after ''during the preceding five years,''; and

(B) by inserting ''any group designated by the Secretary as a foreign terrorist organization under section 219 of the Immigration and Na-

1 tionality Act (8 U.S.C. 1189),'' after ''Export
2 Administration Act of 1979,'';
3 (2) in subsection (b)(1)(C)(iii), by striking
4 ''and'' at the end;
5 (3) in subsection (b)(1)(C)—
6 (A) by redesignating clause (iv) as clause
7 (v); and
8 (B) by inserting after clause (iii) the fol-
9 lowing new clause:
10 ''(iv) providing weapons of mass de-
11 struction, or assistance in obtaining or de-
12 veloping such weapons, to terrorists or ter-
13 rorist groups; and''; and
14 (4) in subsection (b)(3) (as redesignated by sec-
15 tion 4002(b)(2)(B) of this Act)—
16 (A) by redesignating subparagraphs (C),
17 (D), and (E) as (D), (E), and (F), respectively;
18 and
19 (B) by inserting after subparagraph (B)
20 the following new subparagraph:
21 ''(C) efforts by those groups to obtain or
22 develop weapons of mass destruction;''.
23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply beginning with the first report
25 under section 140 of the Foreign Relations Authorization

Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), submitted more than one year after the date of the enactment of this Act.

Subtitle D—Afghanistan Freedom Support Act Amendments of 2004

SEC. 4061. SHORT TITLE.

This subtitle may be cited as the ''Afghanistan Freedom Support Act Amendments of 2004''.

SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANISTAN.

(a) FINDINGS.—Congress finds that—

(1) the Final Report of the National Commission on Terrorist Attacks Upon the United States criticized the provision of United States assistance to Afghanistan for being too inflexible; and

(2) the Afghanistan Freedom Support Act of 2002 (Public Law 107–327; 22 U.S.C. 7501 et seq.) contains provisions that provide for flexibility in the provision of assistance for Afghanistan and are not subject to the requirements of typical foreign assistance programs and provide for the designation of a coordinator to oversee United States assistance for Afghanistan.

(b) DESIGNATION OF COORDINATOR.—Section 104(a) of the Afghanistan Freedom Support Act of 2002

(22 U.S.C. 7514(a)) is amended in the matter preceding paragraph (1) by striking ''is strongly urged to'' and inserting ''shall''.

(c) OTHER MATTERS.—Section 104 of such Act (22 U.S.C. 7514) is amended by adding at the end the following:

''(e) PROGRAM PLAN.—The coordinator designated under subsection (a) shall annually submit to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate the Administration's plan for assistance to Afghanistan together with a description of such assistance in prior years.

''(d) COORDINATION WITH INTERNATIONAL COMMUNITY.—The coordinator designated under subsection (a) shall work with the international community, including multilateral organizations and international financial institutions, and the Government of Afghanistan to ensure that assistance to Afghanistan is implemented in a coherent, consistent, and efficient manner to prevent duplication and waste.''.

SEC. 4063. GENERAL PROVISIONS RELATING TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.

(a) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL AND SOCIAL DEVELOPMENT.—

(1) DECLARATION OF POLICY.—Congress reaffirms the authorities contained in title I of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.; relating to economic and democratic development assistance for Afghanistan).

(2) PROVISION OF ASSISTANCE.—Section 103(a) of such Act (22 U.S.C. 7513(a)) is amended in the matter preceding paragraph (1) by striking ''section 512 of Public Law 107–115 or any other similar'' and inserting ''any other''.

(b) DECLARATIONS OF POLICY.—Congress makes the following declarations:

(1) The United States reaffirms the support that it and other countries expressed for the report entitled ''Securing Afghanistan's Future'' in their Berlin Declaration of April 2004. The United States should help enable the growth needed to create an economically sustainable Afghanistan capable of the poverty reduction and social development foreseen in the report.

(2) The United States supports the parliamentary elections to be held in Afghanistan by April 2005 and will help ensure that such elections are not undermined by warlords or narcotics traffickers.

(3)(A) The United States continues to urge North Atlantic Treaty Organization members and other friendly countries to make much greater military contributions toward securing the peace in Afghanistan.

(B) The United States should continue to lead in the security domain by, among other things, providing logistical support to facilitate those contributions.

(C) In coordination with the Government of Afghanistan, the United States should urge others, and act itself, to increase efforts to promote disarmament, demobilization, and reintegration efforts, to enhance counternarcotics activities, to expand deployments of Provincial Reconstruction Teams, and to increase training of Afghanistan's National Army and its police and border security forces.

(c) LONG-TERM STRATEGY.—

(1) STRATEGY.—Title III of such Act (22 U.S.C. 7551 et seq.) is amended by adding at the end the following:

"SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR AFGHANISTAN.

''(a) STRATEGY.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004, the President shall formulate and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a 5-year strategy for Afghanistan that includes specific and measurable goals, timeframes for accomplishing such goals, and specific resource levels necessary for accomplishing such goals for addressing the long-term development and security needs of Afghanistan, including sectors such as agriculture and irrigation, parliamentary and democratic development, the judicial system and rule of law, human rights, education, health, telecommunications, electricity, women's rights, counter-narcotics, police, border security, anti-corruption, and other law-enforcement activities.

"(2) ADDITIONAL REQUIREMENT.—The strategy shall also delineate responsibilities for achieving such goals and identify and address possible external factors that could significantly affect the achievement of such goals.

"(b) IMPLEMENTATION.—Not later than 30 days after the date of the transmission of the strategy required

by subsection (a), the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Defense shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a written 5-year action plan to implement the strategy developed pursuant to subsection (a). Such action plan shall include a description and schedule of the program evaluations that will monitor progress toward achieving the goals described in subsection (a).

''(c) REVIEW.—The Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Defense shall carry out an annual review of the strategy required by subsection (a) and the action plan required by subsection (b).

''(d) MONITORING.—The report required by section 206(c)(2) of this Act shall include—

''(1) a description of progress toward implementation of both the strategy required by subsection (a) and the action plan required by subsection (b); and

''(2) a description of any changes to the strategy or action plan since the date of the submission of the last report required by such section.''.

(2) CLERICAL AMENDMENT.—The table of contents for such Act (22 U.S.C. 7501 note) is amended by adding after the item relating to section 303 the following:

"Sec. 304. Formulation of long-term strategy for Afghanistan.".

SEC. 4064. RULE OF LAW AND RELATED ISSUES.

Section 103(a)(5)(A) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amended—

(1) in clause (v), to read as follows:

"(v) support for the activities of the Government of Afghanistan to develop modern legal codes and court rules, to provide for the creation of legal assistance programs, and other initiatives to promote the rule of law in Afghanistan;";

(2) in clause (xii), to read as follows:

"(xii) support for the effective administration of justice at the national, regional, and local levels, including programs to improve penal institutions and the rehabilitation of prisoners, to establish a responsible and community-based police force, and to rehabilitate or construct courthouses and detention facilities;"; and

(3) in clause (xiii), by striking ''and'' at the end;

(4) in clause (xiv), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(xv) assistance for the protection of Afghanistan's culture, history, and national identity, including with the rehabilitation of Afghanistan's museums and sites of cultural significance.''.

SEC. 4065. MONITORING OF ASSISTANCE.

Section 108 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7518) is amended by adding at the end the following:

''(c) MONITORING OF ASSISTANCE FOR AFGHANISTAN.—

''(1) REPORT.—Not later than January 15, 2005, and every six months thereafter, the Secretary of State, in consultation with the Administrator for the United States Agency for International Development, shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the obligations and expenditures of

United States assistance for Afghanistan from all United States Government agencies.

"(2) SUBMISSION OF INFORMATION FOR REPORT.—The head of each United States Government agency referred to in paragraph (1) shall provide on a timely basis to the Secretary of State such information as the Secretary may reasonably require to allow the Secretary to prepare and submit the report required by such paragraph.".

SEC. 4066. UNITED STATES POLICY TO SUPPORT DISARMAMENT OF PRIVATE MILITIAS AND TO SUPPORT EXPANSION OF INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.

(a) DISARMAMENT OF PRIVATE MILITIAS.—Section 103 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513) is amended by adding at the end the following:

"(d) UNITED STATES POLICY RELATING TO DISARMAMENT OF PRIVATE MILITIAS.—

"(1) IN GENERAL.—It shall be the policy of the United States to take immediate steps to provide active support for the disarmament, demobilization, and reintegration of armed soldiers, particularly

1 child soldiers, in Afghanistan, in close consultation
2 with the President of Afghanistan.
3 ''(2) REPORT.—The report required by section
4 206(c)(2) of this Act shall include a description of
5 the progress to implement paragraph (1).''.
6 (b) INTERNATIONAL PEACEKEEPING AND SECURITY
7 OPERATIONS.—Section 103 of such Act (22 U.S.C.
8 7513(d)), as amended by subsection (a), is further amend-
9 ed by adding at the end the following:
10 ''(e) UNITED STATES POLICY RELATING TO INTER-
11 NATIONAL PEACEKEEPING AND SECURITY OPER-
12 ATIONS.—It shall be the policy of the United States to
13 make every effort to support the expansion of inter-
14 national peacekeeping and security operations in Afghani-
15 stan in order to—
16 ''(1) increase the area in which security is pro-
17 vided and undertake vital tasks related to promoting
18 security, such as disarming warlords, militias, and
19 irregulars, and disrupting opium production; and
20 ''(2) safeguard highways in order to allow the
21 free flow of commerce and to allow material assist-
22 ance to the people of Afghanistan, and aid personnel
23 in Afghanistan, to move more freely.''.

SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.

Section 206(d)(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as follows:

"(1) EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

"(A) EFFORTS.—The President shall encourage, and, as authorized by law, enable other countries to actively participate in expanded international peacekeeping and security operations in Afghanistan, especially through the provision of military personnel for extended periods of time.

"(B) REPORTS.—The President shall prepare and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on efforts carried out pursuant to subparagraph (A). The first report under this subparagraph shall be transmitted not later than 60 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004 and subsequent re-

ports shall be transmitted every six months thereafter and may be included in the report required by section 206(c)(2) of this Act.''.

SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN.

(a) COUNTERNARCOTICS EFFORTS.—The Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) is amended—

(1) by redesignating—

(A) title III as title IV; and

(B) sections 301 through 304 as sections 401 through 404, respectively; and

(2) by inserting after title II the following:

''TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN

''SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EFFORTS.

''In addition to programs established pursuant to section 103(a)(3) of this Act or other similar programs, the President is authorized and encouraged to implement specific initiatives to assist in the eradication of poppy cultivation and the disruption of heroin production in Afghanistan, such as—

"(1) promoting alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers;

"(2) enhancing the ability of farmers to bring legitimate agricultural goods to market;

"(3) notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), assistance, including nonlethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2006 through 2008, for salaries for special counternarcotics police and supporting units;

"(4) training the Afghan National Army in counternarcotics activities; and

"(5) creating special counternarcotics courts, prosecutors, and places of incarceration.".

(b) CLERICAL AMENDMENTS.—The table of contents for such Act (22 U.S.C. 7501 note) is amended—

(1) by redesignating—

(A) the item relating to title III as the item relating to title IV; and

(B) the items relating to sections 301 through 304 as the items relating to sections 401 through 404; and

(2) by inserting after the items relating to title II the following:

"TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN

"Sec. 301. Assistance for counternarcotics efforts.".

SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.

(a) TECHNICAL AMENDMENT.—Section 103(a)(7)(A)(xii) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(7)(A)(xii)) is amended by striking "National" and inserting "Afghan Independent".

(b) REPORTING REQUIREMENT.—Section 206(c)(2) of such Act (22 U.S.C. 7536(c)(2)) is amended in the matter preceding subparagraph (A) by striking "2007" and inserting "2012".

SEC. 4070. REPEAL.

Section 620D of the Foreign Assistance Act of 1961 (22 U.S.C. 2374; relating to prohibition on assistance to Afghanistan) is hereby repealed.

Subtitle E—Provisions Relating to Saudi Arabia and Pakistan

SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATIONSHIP WITH SAUDI ARABIA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the relationship between the United States and Saudi Arabia should include a more robust dialogue between the people and Government of the United States and the people and Government of Saudi Arabia in order to provide for a reevaluation of, and improvements to, the relationship by both sides.

(b) REPORT.—

(1) IN GENERAL.— Not later than one year after the date of the enactment of this Act, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a strategy for collaboration with the people and Government of Saudi Arabia on subjects of mutual interest and importance to the United States.

(2) CONTENTS.—The strategy required under paragraph (1) shall include the following provisions:

(A) A framework for security cooperation in the fight against terrorism, with special ref-

erence to combating terrorist financing and an examination of the origins of modern terrorism.

(B) A framework for political and economic reform in Saudi Arabia and throughout the Middle East.

(C) An examination of steps that should be taken to reverse the trend toward extremism in Saudi Arabia and other Muslim countries and throughout the Middle East.

(D) A framework for promoting greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East.

SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE OF PAKISTAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, over a long-term period, help to ensure a promising, stable, and secure future for Pakistan, and should in particular provide assistance to encourage and enable Pakistan—

(1) to continue and improve upon its commitment to combating extremists;

(2) to seek to resolve any outstanding difficulties with its neighbors and other countries in its region;

(3) to continue to make efforts to fully control its territory and borders;

(4) to progress towards becoming a more effective and participatory democracy;

(5) to participate more vigorously in the global marketplace and to continue to modernize its economy;

(6) to take all necessary steps to halt the spread of weapons of mass destruction;

(7) to continue to reform its education system; and

(8) to, in other ways, implement a general strategy of moderation.

(b) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress a detailed proposed strategy for the future, long-term, engagement of the United States with Pakistan.

SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.

The Act entitled ''An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes'', approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), as amended by section 2213 of the Emergency Supplemental Appropriations Act for De-

fense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1232), is further amended—

(1) in section 1(b)—

(A) in the heading, by striking "FISCAL YEAR 2004" and inserting "FISCAL YEARS 2005 AND 2006"; and

(B) in paragraph (1), by striking "2004" and inserting "2005 or 2006";

(2) in section 3(2), by striking "and 2004," and inserting "2004, 2005, and 2006"; and

(3) in section 6, by striking "2004" and inserting "2006".

Subtitle F—Oversight Provisions

SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.

(a) AVAILABILITY OF TREATIES AND INTERNATIONAL AGREEMENTS.—Section 112a of title 1, United States Code, is amended by adding at the end the following:

"(d) The Secretary of State shall cause to be published in slip form or otherwise made publicly available through the Internet website of the Department of State each treaty or international agreement proposed to be published in the compilation entitled 'United States Treaties and Other International Agreements' not later than

180 days after the date on which the treaty or agreement enters into force.''.

(b) TRANSMISSION TO CONGRESS.—Section 112b(a) of title 1, United States Code (commonly referred to as the ''Case-Zablocki Act''), is amended—

(1) in the first sentence, by striking ''has entered into force'' and inserting ''has been signed or entered into force''; and

(2) in the second sentence, by striking ''Committee on Foreign Affairs'' and inserting ''Committee on International Relations''.

(c) REPORT.—Section 112b of title 1, United States Code, 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)(1) The Secretary of State shall submit to Congress on an annual basis a report that contains an index of all international agreements (including oral agreements), listed by country, date, title, and summary of each such agreement (including a description of the duration of activities under the agreement and the agreement itself), that the United States—

1 ''(A) has signed, proclaimed, or with reference
2 to which any other final formality has been executed,
3 or that has been extended or otherwise modified,
4 during the preceding calendar year; and
5 ''(B) has not been published, or is not proposed
6 to be published, in the compilation entitled 'United
7 States Treaties and Other International Agree-
8 ments'.
9 ''(2) The report described in paragraph (1) may be
10 submitted in classified form.''.
11 (d) DETERMINATION OF INTERNATIONAL AGREE-
12 MENT.—Subsection (e) of section 112b of title 1, United
13 States Code, (as redesignated) is amended—
14 (1) by striking ''(e) The Secretary of State''
15 and inserting ''(e)(1) Subject to paragraph (2), the
16 Secretary of State''; and
17 (2) by adding at the end the following:
18 ''(2)(A) An arrangement shall constitute an inter-
19 national agreement within the meaning of this section
20 (other than subsection (c) of this section) irrespective of
21 the duration of activities under the arrangement or the
22 arrangement itself.
23 ''(B) Arrangements that constitute an international
24 agreement within the meaning of this section (other than

1 subsection (c) of this section) include, but are not limited
2 to, the following:
3 ''(i) A bilateral or multilateral counterterrorism
4 agreement.
5 ''(ii) A bilateral agreement with a country that
6 is subject to a determination under section
7 6(j)(1)(A) of the Export Administration Act of 1979
8 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of
9 the Foreign Assistance Act of 1961 (22 U.S.C.
10 2371(a)), or section 40(d) of the Arms Export Con-
11 trol Act (22 U.S.C. 2780(d)).''.
12 (e) ENFORCEMENT OF REQUIREMENTS.—Section
13 139(b) of the Foreign Relations Authorization Act, Fiscal
14 Years 1988 and 1989 is amended to read as follows:
15 ''(b) EFFECTIVE DATE.—Subsection (a) shall take
16 effect 60 days after the date of the enactment of the 9/
17 11 Recommendations Implementation Act and shall apply
18 during fiscal years 2005, 2006, and 2007.''.

Subtitle G—Additional Protections of United States Aviation System from Terrorist Attacks

SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL FLIGHT DECK OFFICERS.

The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals and Federal flight deck officers on international flights.

SEC. 4102. FEDERAL AIR MARSHAL TRAINING.

Section 44917 of title 49, United States Code, is amended by adding at the end the following:

"(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

"(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

"(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of

foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against appropriate records in the consolidated and integrated terrorist watchlists of the Federal Government.

"(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.".

SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).

(a) UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.—

(1) TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

1 (2) TO LIMIT THE PROLIFERATION OF
2 MANPADS.—The President is encouraged to seek to
3 enter into agreements with the governments of for-
4 eign countries that, at a minimum, would—
5 (A) prohibit the entry into force of a
6 MANPADS manufacturing license agreement
7 and MANPADS co-production agreement, other
8 than the entry into force of a manufacturing li-
9 cense or co-production agreement with a coun-
10 try that is party to such an agreement;
11 (B) prohibit, except pursuant to transfers
12 between governments, the export of a
13 MANPADS, including any component, part, ac-
14 cessory, or attachment thereof, without an indi-
15 vidual validated license; and
16 (C) prohibit the reexport or retransfer of a
17 MANPADS, including any component, part, ac-
18 cessory, or attachment thereof, to a third per-
19 son, organization, or government unless the
20 written consent of the government that ap-
21 proved the original export or transfer is first
22 obtained.
23 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—
24 The President should continue to pursue further
25 strong international diplomatic and cooperative ef-

1 forts, including bilateral and multilateral treaties, in
2 the appropriate forum to assure the destruction of
3 excess, obsolete, and illicit stocks of MANPADSs
4 worldwide.

5 (4) REPORTING AND BRIEFING REQUIRE-
6 MENT.—

7 (A) PRESIDENT'S REPORT.—Not later
8 than 180 days after the date of enactment of
9 this Act, the President shall transmit to the ap-
10 propriate congressional committees a report
11 that contains a detailed description of the sta-
12 tus of diplomatic efforts under paragraphs (1),
13 (2), and (3) and of efforts by the appropriate
14 United States agencies to comply with the rec-
15 ommendations of the General Accounting Office
16 set forth in its report GAO–04–519, entitled
17 ''Nonproliferation: Further Improvements
18 Needed in U.S. Efforts to Counter Threats
19 from Man-Portable Air Defense Systems''.

20 (B) ANNUAL BRIEFINGS.—Annually after
21 the date of submission of the report under sub-
22 paragraph (A) and until completion of the dip-
23 lomatic and compliance efforts referred to in
24 subparagraph (A), the Secretary of State shall

1 brief the appropriate congressional committees
2 on the status of such efforts.
3 (b) FAA AIRWORTHINESS CERTIFICATION OF MIS-
4 SILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—
5 (1) IN GENERAL.—As soon as practicable, but
6 not later than the date of completion of Phase II of
7 the Department of Homeland Security's counter-
8 man-portable air defense system (MANPADS) devel-
9 opment and demonstration program, the Adminis-
10 trator of the Federal Aviation Administration shall
11 establish a process for conducting airworthiness and
12 safety certification of missile defense systems for
13 commercial aircraft certified as effective and func-
14 tional by the Department of Homeland Security.
15 The process shall require a certification by the Ad-
16 ministrator that such systems can be safely inte-
17 grated into aircraft systems and ensure airworthi-
18 ness and aircraft system integrity.
19 (2) CERTIFICATION ACCEPTANCE.—Under the
20 process, the Administrator shall accept the certifi-
21 cation of the Department of Homeland Security that
22 a missile defense system is effective and functional
23 to defend commercial aircraft against MANPADSs.
24 (3) EXPEDITIOUS CERTIFICATION.—Under the
25 process, the Administrator shall expedite the air-

worthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(4) REPORTS.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

(c) PROGRAMS TO REDUCE MANPADS.—

(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of

1 the programs being pursued under subsection (a).
2 Annually thereafter until the programs are no longer
3 needed, the Secretary of State shall brief the appro-
4 priate congressional committees on the status of pro-
5 grams.
6 (3) FUNDING.—There are authorized to be ap-
7 propriated such sums as may be necessary to carry
8 out this section.
9 (d) MANPADS VULNERABILITY ASSESSMENTS RE-
10 PORT.—
11 (1) IN GENERAL.—Not later than one year
12 after the date of enactment of this Act, the Sec-
13 retary of Homeland Security shall transmit to the
14 Committee on Transportation and Infrastructure of
15 the House of Representatives and the Committee on
16 Commerce, Science, and Transportation of the Sen-
17 ate a report describing the Department of Homeland
18 Security's plans to secure airports and the aircraft
19 arriving and departing from airports against
20 MANPADSs attacks.
21 (2) MATTERS TO BE ADDRESSED.—The Sec-
22 retary's report shall address, at a minimum, the fol-
23 lowing:
24 (A) The status of the Department's efforts
25 to conduct MANPADSs vulnerability assess-

1 ments at United States airports at which the
2 Department is conducting assessments.
3 (B) How intelligence is shared between the
4 United States intelligence agencies and Federal,
5 State, and local law enforcement to address the
6 MANPADS threat and potential ways to im-
7 prove such intelligence sharing.
8 (C) Contingency plans that the Depart-
9 ment has developed in the event that it receives
10 intelligence indicating a high threat of a
11 MANPADS attack on aircraft at or near
12 United States airports.
13 (D) The feasibility and effectiveness of im-
14 plementing public education and neighborhood
15 watch programs in areas surrounding United
16 States airports in cases in which intelligence re-
17 ports indicate there is a high risk of
18 MANPADS attacks on aircraft.
19 (E) Any other issues that the Secretary
20 deems relevant.
21 (3) FORMAT.—The report required by this sub-
22 section may be submitted in a classified format.
23 (e) DEFINITIONS.—In this section, the following defi-
24 nitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term ''MANPADS'' means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

Subtitle H—Improving International Standards and Cooperation to Fight Terrorist Financing

SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.

(a) COMMENDATION.—The Congress commends the Secretary of the Treasury for success and leadership in establishing international standards for fighting terrorist finance through multilateral organizations, including the Financial Action Task Force (FATF) at the Organization for Economic Cooperation and Development, the International Monetary Fund, the International Bank for Reconstruction and Development, and the regional multilateral development banks.

(b) POLICY GUIDANCE.—The Congress encourages the Secretary of the Treasury to direct the United States Executive Director at each international financial institution to use the voice and vote of the United States to urge the institution, and encourages the Secretary of the Treasury to use the voice and vote of the United States in other multilateral financial policymaking bodies, to—

(1) provide funding for the implementation of FATF anti-money laundering and anti-terrorist financing standards; and

(2) promote economic development in the Middle East.

SEC. 4112. EXPANDED REPORTING REQUIREMENT FOR THE SECRETARY OF THE TREASURY.

(a) IN GENERAL.—Section 1701(b) of the International Financial Institutions Act (22 U.S.C. 262r(b)) is amended—

(1) by striking ''and'' at the end of paragraph (10); and

(2) by redesignating paragraph (11) as paragraph (12) and inserting after paragraph (10) the following:

''(11) an assessment of—

''(A) the progress made by the International Terrorist Finance Coordinating Council in developing policies to be pursued with the international financial institutions and other multilateral financial policymaking bodies regarding anti-terrorist financing initiatives;

''(B) the progress made by the United States in negotiations with the international financial institutions and other multilateral financial policymaking bodies to set common anti-terrorist financing standards;

"(C) the extent to which the international financial institutions and other multilateral financial policymaking bodies have adopted anti-terrorist financing standards advocated by the United States; and

"(D) whether and how the international financial institutions are contributing to the fight against the financing of terrorist activities; and".

(b) OTHER MULTILATERAL POLICYMAKING BODIES DEFINED.—Section 1701(c) of such Act (22 U.S.C. 262r(c)) is amended by adding at the end the following:

"(5) OTHER MULTILATERAL FINANCIAL POLICYMAKING BODIES.—The term 'other multilateral financial policymaking bodies' means—

"(A) the Financial Action Task Force at the Organization for Economic Cooperation and Development;

"(B) the international network of financial intelligence units known as the 'Egmont Group';

"(C) the United States, Canada, the United Kingdom, France, Germany, Italy, Japan, and Russia, when meeting as the Group of Eight; and

"(D) any other multilateral financial policymaking group in which the Secretary of the Treasury represents the United States.".

SEC. 4113. INTERNATIONAL TERRORIST FINANCE COORDINATING COUNCIL.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish and convene an interagency council, to be known as the "International Terrorist Finance Coordinating Council" (in this section referred to as the "Council"), which shall advise the Secretary on policies to be pursued by the United States at meetings of the international financial institutions and other multilateral financial policymaking bodies, regarding the development of international anti-terrorist financing standards.

(b) MEETINGS.—

(1) ATTENDEES.—

(A) GENERAL ATTENDEES.—The Secretary of the Treasury (or a representative of the Secretary of the Treasury) and the Secretary of State (or a representative of the Secretary of State) shall attend each Council meeting.

(B) OTHER ATTENDEES.—The Secretary of the Treasury shall determine which other officers of the Federal Government shall attend a

Council meeting, on the basis of the issues to be raised for consideration at the meeting. The Secretary shall include in the meeting representatives from all relevant Federal agencies with authority to address the issues.

(2) SCHEDULE.—Not less frequently than annually, the Secretary of the Treasury shall convene Council meetings at such times as the Secretary deems appropriate, based on the notice, schedule, and agenda items of the international financial institutions and other multilateral financial policymaking bodies.

SEC. 4114. DEFINITIONS.

In this subtitle:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term ''international financial institutions'' has the meaning given in section 1701(c)(2) of the International Financial Institutions Act.

(2) OTHER MULTILATERAL FINANCIAL POLICYMAKING BODIES.—The term ''other multilateral financial policymaking bodies'' means—

(A) the Financial Action Task Force at the Organization for Economic Cooperation and Development;

(B) the international network of financial intelligence units known as the ''Egmont Group'';

(C) the United States, Canada, the United Kingdom, France, Germany, Italy, Japan, and Russia, when meeting as the Group of Eight; and

(D) any other multilateral financial policy-making group in which the Secretary of the Treasury represents the United States.

TITLE V—GOVERNMENT RESTRUCTURING

Subtitle A—Faster and Smarter Funding for First Responders

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the ''Faster and Smarter Funding for First Responders Act of 2004''.

SEC. 5002. FINDINGS.

The Congress finds the following:

(1) In order to achieve its objective of minimizing the damage, and assisting in the recovery, from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to respond to a terrorist attack.

(2) First responder funding is not reaching the men and women of our Nation's first response teams quickly enough, and sometimes not at all.

(3) To reform the current bureaucratic process so that homeland security dollars reach the first responders who need it most, it is necessary to clarify and consolidate the authority and procedures of the Department of Homeland Security that support first responders.

(4) Ensuring adequate resources for the new national mission of homeland security, without degrading the ability to address effectively other types of major disasters and emergencies, requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-September 11 priorities, on the other.

(5) While a discrete homeland security grant making process is necessary to ensure proper focus on the unique aspects of terrorism prevention, preparedness, and response, it is essential that State and local strategies for utilizing such grants be integrated, to the greatest extent practicable, with existing State and local emergency management plans.

(6) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation's greatest threats, vulnerabilities, and consequences.

(7) The Nation's first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(8) An essential prerequisite to achieving the Nation's homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(9) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial

resources required to fulfill them, and to direct funding to meet those needs and to measure preparedness levels on a national scale.

(10) To facilitate progress in achieving, maintaining, and enhancing essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(12) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

(13) An important aspect of essential capabilities is measurability, so that it is possible to deter-

mine how prepared a State or local government is now, and what additional steps it needs to take, in order to respond to acts of terrorism.

(14) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equipment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"Sec. 1801. Definitions.
"Sec. 1802. Faster and smarter funding for first responders.
"Sec. 1803. Essential capabilities for first responders.
"Sec. 1804. Task Force on Essential Capabilities for First Responders.
"Sec. 1805. Covered grant eligibility and criteria.
"Sec. 1806. Use of funds and accountability requirements.
"Sec. 1807. National standards for first responder equipment and training."; and

(2) by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"SEC. 1801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the First Responder Grants Board established under section 1805(f).

''(2) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1802.

''(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

''(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

''(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

''(C)(i) is located on, or within 5 miles of, an international border or waterway;

"(ii) is located within 5 miles of a facility within a critical infrastructure sector identified in section 1803(c)(2);

"(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

"(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

"(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

"(5) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

"(6) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning,

1 training, and equipment across a variety of dis-
2 ciplines needed to effectively and efficiently prevent,
3 prepare for, and respond to acts of terrorism con-
4 sistent with established practices.

5 ''(7) FIRST RESPONDER.—The term 'first re-
6 sponder' shall have the same meaning as the term
7 'emergency response provider'.

8 ''(8) INDIAN TRIBE.—The term 'Indian tribe'
9 means any Indian tribe, band, nation, or other orga-
10 nized group or community, including any Alaskan
11 Native village or regional or village corporation as
12 defined in or established pursuant to the Alaskan
13 Native Claims Settlement Act (43 U.S.C. 1601 et
14 seq.), which is recognized as eligible for the special
15 programs and services provided by the United States
16 to Indians because of their status as Indians.

17 ''(9) REGION.—The term 'region' means—

18 ''(A) any geographic area consisting of all
19 or parts of 2 or more contiguous States, coun-
20 ties, municipalities, or other local governments
21 that have a combined population of at least
22 1,650,000 or have an area of not less than
23 20,000 square miles, and that, for purposes of
24 an application for a covered grant, is rep-
25 resented by 1 or more governments or govern-

1 mental agencies within such geographic area,
2 and that is established by law or by agreement
3 of 2 or more such governments or governmental
4 agencies in a mutual aid agreement; or
5 "(B) any other combination of contiguous
6 local government units (including such a com-
7 bination established by law or agreement of two
8 or more governments or governmental agencies
9 in a mutual aid agreement) that is formally cer-
10 tified by the Secretary as a region for purposes
11 of this Act with the consent of—
12 "(i) the State or States in which they
13 are located, including a multi-State entity
14 established by a compact between two or
15 more States; and
16 "(ii) the incorporated municipalities,
17 counties, and parishes that they encom-
18 pass.
19 "(10) TASK FORCE.—The term 'Task Force'
20 means the Task Force on Essential Capabilities for
21 First Responders established under section 1804.
22 **"SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
23 **SPONDERS.**
24 "(a) COVERED GRANTS.—This title applies to grants
25 provided by the Department to States, regions, or directly

1 eligible tribes for the primary purpose of improving the
2 ability of first responders to prevent, prepare for, respond
3 to, or mitigate threatened or actual terrorist attacks, espe-
4 cially those involving weapons of mass destruction, admin-
5 istered under the following:

6 "(1) STATE HOMELAND SECURITY GRANT PRO-
7 GRAM.—The State Homeland Security Grant Pro-
8 gram of the Department, or any successor to such
9 grant program.

10 "(2) URBAN AREA SECURITY INITIATIVE.—The
11 Urban Area Security Initiative of the Department,
12 or any successor to such grant program.

13 "(3) LAW ENFORCEMENT TERRORISM PREVEN-
14 TION PROGRAM.—The Law Enforcement Terrorism
15 Prevention Program of the Department, or any suc-
16 cessor to such grant program.

17 "(4) CITIZEN CORPS PROGRAM.—The Citizen
18 Corps Program of the Department, or any successor
19 to such grant program.

20 "(b) EXCLUDED PROGRAMS.—This title does not
21 apply to or otherwise affect the following Federal grant
22 programs or any grant under such a program:

23 "(1) NONDEPARTMENT PROGRAMS.—Any Fed-
24 eral grant program that is not administered by the
25 Department.

"(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

"(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

"SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

"(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

"(1) IN GENERAL.—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

1 "(A) the Task Force on Essential Capabili-
2 ties for First Responders established under sec-
3 tion 1804;
4 "(B) the Under Secretaries for Emergency
5 Preparedness and Response, Border and Trans-
6 portation Security, Information Analysis and
7 Infrastructure Protection, and Science and
8 Technology, and the Director of the Office for
9 Domestic Preparedness;
10 "(C) the Secretary of Health and Human
11 Services;
12 "(D) other appropriate Federal agencies;
13 "(E) State and local first responder agen-
14 cies and officials; and
15 "(F) consensus-based standard making or-
16 ganizations responsible for setting standards
17 relevant to the first responder community.
18 "(2) DEADLINES.—The Secretary shall—
19 "(A) establish essential capabilities under
20 paragraph (1) within 30 days after receipt of
21 the report under section 1804(b); and
22 "(B) regularly update such essential capa-
23 bilities as necessary, but not less than every 3
24 years.

"(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that a detailed description of the essential capabilities established under paragraph (1) is provided promptly to the States and to the Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments within their jurisdictions.

"(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

"(1) SPECIFICITY.—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department's goals for terrorism preparedness based upon—

"(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States;

"(B) the types of threats, vulnerabilities, geography, size, and other factors that the Sec-

1 retary has determined to be applicable to each
2 different type of community; and
3 "(C) the principles of regional coordination
4 and mutual aid among State and local govern-
5 ments.
6 "(2) FLEXIBILITY.—The establishment of es-
7 sential capabilities shall be sufficiently flexible to
8 allow State and local government officials to set pri-
9 orities based on particular needs, while reaching na-
10 tionally determined terrorism preparedness levels
11 within a specified time period.
12 "(3) MEASURABILITY.—The establishment of
13 essential capabilities shall be designed to enable
14 measurement of progress towards specific terrorism
15 preparedness goals.
16 "(4) COMPREHENSIVENESS.—The determina-
17 tion of essential capabilities for terrorism prepared-
18 ness shall be made within the context of a com-
19 prehensive State emergency management system.
20 "(c) FACTORS TO BE CONSIDERED.—
21 "(1) IN GENERAL.—In establishing essential ca-
22 pabilities under subsection (a)(1), the Secretary spe-
23 cifically shall consider the variables of threat, vulner-
24 ability, and consequences with respect to the Na-
25 tion's population (including transient commuting

and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

"(2) CRITICAL INFRASTRUCTURE SECTORS.—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:

"(A) Agriculture.

"(B) Banking and finance.

"(C) Chemical industries.

"(D) The defense industrial base.

"(E) Emergency services.

"(F) Energy.

"(G) Food.

"(H) Government.

"(I) Postal and shipping.

"(J) Public health.

"(K) Information and telecommunications networks.

"(L) Transportation.

"(M) Water.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

"(3) TYPES OF THREAT.—The Secretary specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the Nation, urban and rural:

"(A) Biological threats.

"(B) Nuclear threats.

"(C) Radiological threats.

"(D) Incendiary threats.

"(E) Chemical threats.

"(F) Explosives.

"(G) Suicide bombers.

"(H) Cyber threats.

"(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

"(4) CONSIDERATION OF ADDITIONAL FACTORS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.

"SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

"(a) ESTABLISHMENT.—To assist the Secretary in establishing essential capabilities under section 1803(a)(1), the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Essential Capabilities for First Responders.

"(b) REPORT.—

"(1) IN GENERAL.—The Task Force shall submit to the Secretary, not later than 9 months after its establishment by the Secretary under subsection (a) and every 3 years thereafter, a report on its recommendations for essential capabilities for preparedness for terrorism.

"(2) CONTENTS.—The report shall—

1 "(A) include a priority ranking of essential
2 capabilities in order to provide guidance to the
3 Secretary and to the Congress on determining
4 the appropriate allocation of, and funding levels
5 for, first responder needs;
6 "(B) set forth a methodology by which any
7 State or local government will be able to deter-
8 mine the extent to which it possesses or has ac-
9 cess to the essential capabilities that States and
10 local governments having similar risks should
11 obtain;
12 "(C) describe the availability of national
13 voluntary consensus standards, and whether
14 there is a need for new national voluntary con-
15 sensus standards, with respect to first re-
16 sponder training and equipment;
17 "(D) include such additional matters as
18 the Secretary may specify in order to further
19 the terrorism preparedness capabilities of first
20 responders; and
21 "(E) include such revisions to the contents
22 of past reports as are necessary to take into ac-
23 count changes in the most current risk assess-
24 ment available by the Directorate for Informa-
25 tion Analysis and Infrastructure Protection or

other relevant information as determined by the Secretary.

"(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

"(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

"(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent or prepare for terrorist attacks.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geo-

1 graphic and substantive cross section of govern-
2 mental and nongovernmental first responder dis-
3 ciplines from the State and local levels, including as
4 appropriate—
5 "(A) members selected from the emergency
6 response field, including fire service and law en-
7 forcement, hazardous materials response, emer-
8 gency medical services, and emergency manage-
9 ment personnel (including public works per-
10 sonnel routinely engaged in emergency re-
11 sponse);
12 "(B) health scientists, emergency and in-
13 patient medical providers, and public health
14 professionals, including experts in emergency
15 health care response to chemical, biological, ra-
16 diological, and nuclear terrorism, and experts in
17 providing mental health care during emergency
18 response operations;
19 "(C) experts from Federal, State, and local
20 governments, and the private sector, rep-
21 resenting standards-setting organizations, in-
22 cluding representation from the voluntary con-
23 sensus codes and standards development com-
24 munity, particularly those with expertise in first
25 responder disciplines; and

1 "(D) State and local officials with exper-
2 tise in terrorism preparedness, subject to the
3 condition that if any such official is an elected
4 official representing one of the two major polit-
5 ical parties, an equal number of elected officials
6 shall be selected from each such party.
7 "(2) COORDINATION WITH THE DEPARTMENT
8 OF HEALTH AND HEALTH SERVICES.—In the selec-
9 tion of members of the Task Force who are health
10 professionals, including emergency medical profes-
11 sionals, the Secretary shall coordinate the selection
12 with the Secretary of Health and Human Services.
13 "(3) EX OFFICIO MEMBERS.—The Secretary
14 and the Secretary of Health and Human Services
15 shall each designate one or more officers of their re-
16 spective Departments to serve as ex officio members
17 of the Task Force. One of the ex officio members
18 from the Department of Homeland Security shall be
19 the designated officer of the Federal Government for
20 purposes of subsection (e) of section 10 of the Fed-
21 eral Advisory Committee Act (5 App. U.S.C.).
22 "(d) APPLICABILITY OF FEDERAL ADVISORY COM-
23 MITTEE ACT.—Notwithstanding section 871(a), the Fed-
24 eral Advisory Committee Act (5 U.S.C. App.), including
25 subsections (a), (b), and (d) of section 10 of such Act,

and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

"SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.

"(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

"(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for first responders established by the Secretary under section 1803.

"(c) STATE HOMELAND SECURITY PLANS.—

"(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

"(A) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

"(B) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

"(C) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

1 ''(D) describes how the State intends—
2 ''(i) to address such needs at the city,
3 county, regional, tribal, State, and inter-
4 state level, including a precise description
5 of any regional structure the State has es-
6 tablished for the purpose of organizing
7 homeland security preparedness activities
8 funded by covered grants;
9 ''(ii) to use all Federal, State, and
10 local resources available for the purpose of
11 addressing such needs; and
12 ''(iii) to give particular emphasis to
13 regional planning and cooperation, includ-
14 ing the activities of multijurisdictional
15 planning agencies governed by local offi-
16 cials, both within its jurisdictional borders
17 and with neighboring States;
18 ''(E) is developed in consultation with and
19 subject to appropriate comment by local govern-
20 ments within the State; and
21 ''(F) with respect to the emergency pre-
22 paredness of first responders, addresses the
23 unique aspects of terrorism as part of a com-
24 prehensive State emergency management plan.

1 "(2) APPROVAL BY SECRETARY.—The Sec-
2 retary may not award any covered grant to a State
3 unless the Secretary has approved the applicable
4 State homeland security plan.
5 "(d) CONSISTENCY WITH STATE PLANS.—The Sec-
6 retary shall ensure that each covered grant is used to sup-
7 plement and support, in a consistent and coordinated
8 manner, the applicable State homeland security plan or
9 plans.
10 "(e) APPLICATION FOR GRANT.—
11 "(1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, any State, region, or di-
13 rectly eligible tribe may apply for a covered grant by
14 submitting to the Secretary an application at such
15 time, in such manner, and containing such informa-
16 tion as is required under this subsection, or as the
17 Secretary may reasonably require.
18 "(2) DEADLINES FOR APPLICATIONS AND
19 AWARDS.—All applications for covered grants must
20 be submitted at such time as the Secretary may rea-
21 sonably require for the fiscal year for which they are
22 submitted. The Secretary shall award covered grants
23 pursuant to all approved applications for such fiscal
24 year as soon as practicable, but not later than
25 March 1 of such year.

1 "(3) AVAILABILITY OF FUNDS.—All funds
2 awarded by the Secretary under covered grants in a
3 fiscal year shall be available for obligation through
4 the end of the subsequent fiscal year.
5 "(4) MINIMUM CONTENTS OF APPLICATION.—
6 The Secretary shall require that each applicant in-
7 clude in its application, at a minimum—
8 "(A) the purpose for which the applicant
9 seeks covered grant funds and the reasons why
10 the applicant needs the covered grant to meet
11 the essential capabilities for terrorism prepared-
12 ness within the State, region, or directly eligible
13 tribe to which the application pertains;
14 "(B) a description of how, by reference to
15 the applicable State homeland security plan or
16 plans under subsection (c), the allocation of
17 grant funding proposed in the application, in-
18 cluding, where applicable, the amount not
19 passed through under section 1806(g)(1), would
20 assist in fulfilling the essential capabilities spec-
21 ified in such plan or plans;
22 "(C) a statement of whether a mutual aid
23 agreement applies to the use of all or any por-
24 tion of the covered grant funds;

"(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

"(E) if the applicant is a region—

"(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

"(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

"(iii) a designation of a specific individual to serve as regional liaison;

"(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

"(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

"(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

1 "(5) REGIONAL APPLICATIONS.—
2 "(A) RELATIONSHIP TO STATE APPLICA-
3 TIONS.—A regional application—
4 "(i) shall be coordinated with an ap-
5 plication submitted by the State or States
6 of which such region is a part;
7 "(ii) shall supplement and avoid dupli-
8 cation with such State application; and
9 "(iii) shall address the unique regional
10 aspects of such region's terrorism pre-
11 paredness needs beyond those provided for
12 in the application of such State or States.
13 "(B) STATE REVIEW AND SUBMISSION.—
14 To ensure the consistency required under sub-
15 section (d) and the coordination required under
16 subparagraph (A) of this paragraph, an appli-
17 cant that is a region must submit its applica-
18 tion to each State of which any part is included
19 in the region for review and concurrence prior
20 to the submission of such application to the
21 Secretary. The regional application shall be
22 transmitted to the Secretary through each such
23 State within 30 days of its receipt, unless the
24 Governor of such a State notifies the Secretary,
25 in writing, that such regional application is in-

1 consistent with the State's homeland security
2 plan and provides an explanation of the reasons
3 therefor.

4 "(C) DISTRIBUTION OF REGIONAL
5 AWARDS.—If the Secretary approves a regional
6 application, then the Secretary shall distribute
7 a regional award to the State or States submit-
8 ting the applicable regional application under
9 subparagraph (B), and each such State shall,
10 not later than the end of the 45-day period be-
11 ginning on the date after receiving a regional
12 award, pass through to the region all covered
13 grant funds or resources purchased with such
14 funds, except those funds necessary for the
15 State to carry out its responsibilities with re-
16 spect to such regional application; *Provided*
17 That, in no such case shall the State or States
18 pass through to the region less than 80 percent
19 of the regional award.

20 "(D) CERTIFICATIONS REGARDING DIS-
21 TRIBUTION OF GRANT FUNDS TO REGIONS.—
22 Any State that receives a regional award under
23 subparagraph (C) shall certify to the Secretary,
24 by not later than 30 days after the expiration
25 of the period described in subparagraph (C)

with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

"(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

"(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

"(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

"(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the re-

1 gional application and to improve the re-
2 gion's access to covered grants; and
3 "(iii) administer, in consultation with
4 State, local, regional, and private officials
5 within the region, covered grants awarded
6 to the region.
7 "(6) TRIBAL APPLICATIONS.—
8 "(A) SUBMISSION TO THE STATE OR
9 STATES.—To ensure the consistency required
10 under subsection (d), an applicant that is a di-
11 rectly eligible tribe must submit its application
12 to each State within the boundaries of which
13 any part of such tribe is located for direct sub-
14 mission to the Department along with the appli-
15 cation of such State or States.
16 "(B) OPPORTUNITY FOR STATE COM-
17 MENT.—Before awarding any covered grant to
18 a directly eligible tribe, the Secretary shall pro-
19 vide an opportunity to each State within the
20 boundaries of which any part of such tribe is lo-
21 cated to comment to the Secretary on the con-
22 sistency of the tribe's application with the
23 State's homeland security plan. Any such com-
24 ments shall be submitted to the Secretary con-

1 currently with the submission of the State and
2 tribal applications.
3 "(C) FINAL AUTHORITY.—The Secretary
4 shall have final authority to determine the con-
5 sistency of any application of a directly eligible
6 tribe with the applicable State homeland secu-
7 rity plan or plans, and to approve any applica-
8 tion of such tribe. The Secretary shall notify
9 each State within the boundaries of which any
10 part of such tribe is located of the approval of
11 an application by such tribe.
12 "(D) TRIBAL LIAISON.—A tribal liaison
13 designated under paragraph (4)(G) shall—
14 "(i) coordinate with Federal, State,
15 local, regional, and private officials con-
16 cerning terrorism preparedness;
17 "(ii) develop a process for receiving
18 input from Federal, State, local, regional,
19 and private sector officials to assist in the
20 development of the application of such
21 tribe and to improve the tribe's access to
22 covered grants; and
23 "(iii) administer, in consultation with
24 State, local, regional, and private officials,
25 covered grants awarded to such tribe.

1 "(E) LIMITATION ON THE NUMBER OF DI-
2 RECT GRANTS.—The Secretary may make cov-
3 ered grants directly to not more than 20 di-
4 rectly eligible tribes per fiscal year.
5 "(F) TRIBES NOT RECEIVING DIRECT
6 GRANTS.—An Indian tribe that does not receive
7 a grant directly under this section is eligible to
8 receive funds under a covered grant from the
9 State or States within the boundaries of which
10 any part of such tribe is located, consistent with
11 the homeland security plan of the State as de-
12 scribed in subsection (c). If a State fails to
13 comply with section 1806(g)(1), the tribe may
14 request payment under section 1806(h)(3) in
15 the same manner as a local government.
16 "(7) EQUIPMENT STANDARDS.—If an applicant
17 for a covered grant proposes to upgrade or purchase,
18 with assistance provided under the grant, new equip-
19 ment or systems that do not meet or exceed any ap-
20 plicable national voluntary consensus standards es-
21 tablished by the Secretary under section 1807(a),
22 the applicant shall include in the application an ex-
23 planation of why such equipment or systems will
24 serve the needs of the applicant better than equip-
25 ment or systems that meet or exceed such standards.

1 "(f) FIRST RESPONDER GRANTS BOARD.—
2 "(1) ESTABLISHMENT OF BOARD.—The Sec-
3 retary shall establish a First Responder Grants
4 Board, consisting of—
5 "(A) the Secretary;
6 "(B) the Under Secretary for Emergency
7 Preparedness and Response;
8 "(C) the Under Secretary for Border and
9 Transportation Security;
10 "(D) the Under Secretary for Information
11 Analysis and Infrastructure Protection;
12 "(E) the Under Secretary for Science and
13 Technology; and
14 "(F) the Director of the Office for Domes-
15 tic Preparedness.
16 "(2) CHAIRMAN.—
17 "(A) IN GENERAL.—The Secretary shall be
18 the Chairman of the Board.
19 "(B) EXERCISE OF AUTHORITIES BY DEP-
20 UTY SECRETARY.—The Deputy Secretary of
21 Homeland Security may exercise the authorities
22 of the Chairman, if the Secretary so directs.
23 "(3) RANKING OF GRANT APPLICATIONS.—
24 "(A) PRIORITIZATION OF GRANTS.—The
25 Board—

1 "(i) shall evaluate and annually
2 prioritize all pending applications for cov-
3 ered grants based upon the degree to
4 which they would, by achieving, maintain-
5 ing, or enhancing the essential capabilities
6 of the applicants on a nationwide basis,
7 lessen the threat to, vulnerability of, and
8 consequences for persons and critical infra-
9 structure; and
10 "(ii) in evaluating the threat to per-
11 sons and critical infrastructure for pur-
12 poses of prioritizing covered grants, shall
13 give greater weight to threats of terrorism
14 based on their specificity and credibility,
15 including any pattern of repetition.
16 "(B) MINIMUM AMOUNTS.—After evalu-
17 ating and prioritizing grant applications under
18 subparagraph (A), the Board shall ensure that,
19 for each fiscal year—
20 "(i) each of the States, other than the
21 Virgin Islands, American Samoa, Guam,
22 and the Northern Mariana Islands, that
23 has an approved State homeland security
24 plan receives no less than 0.25 percent of
25 the funds available for covered grants for

that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C);

"(ii) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under subparagraph (C) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C);

"(iii) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the

1 prioritization of needs under subsection
2 (c)(1)(C); and
3 "(iv) directly eligible tribes collectively
4 receive no less than 0.08 percent of the
5 funds available for covered grants for such
6 fiscal year for purposes of addressing the
7 needs identified in the applications of such
8 tribes, consistent with the homeland secu-
9 rity plan of each State within the bound-
10 aries of which any part of any such tribe
11 is located, except that this clause shall not
12 apply with respect to funds available for a
13 fiscal year if the Secretary receives less
14 than 5 applications for such fiscal year
15 from such tribes under subsection
16 (e)(6)(A) or does not approve at least one
17 such application.
18 "(C) ADDITIONAL HIGH-RISK QUALIFYING
19 CRITERIA.—For purposes of subparagraph
20 (B)(ii), additional high-risk qualifying criteria
21 consist of—
22 "(i) having a significant international
23 land border; or

"(ii) adjoining a body of water within North America through which an international boundary line extends.

"(4) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under subsection (e)(5)(C) shall not be considered in calculating the minimum State award under paragraph (3)(B) of this subsection.

"(5) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

"SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

"(a) IN GENERAL.—A covered grant may be used for—

"(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness and response;

"(2) exercises to strengthen terrorism preparedness and response;

"(3) training for prevention (including detection) of, preparedness for, or response to attacks in-

volving weapons of mass destruction, including training in the use of equipment and computer software;

"(4) developing or updating response plans;

"(5) establishing or enhancing mechanisms for sharing terrorism threat information;

"(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;

"(7) additional personnel costs resulting from—

"(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

"(B) travel to and participation in exercises and training in the use of equipment and on prevention activities;

"(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities; and

"(D) personnel engaged exclusively in counterterrorism and intelligence activities notwithstanding the date such personnel were hired;

"(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

"(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

"(A) $1,000,000 per project; or

"(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

"(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that

1 complies with prevailing grant guidance of the De-
2 partment for interoperable communications;
3 ''(11) educational curricula development for
4 first responders to ensure that they are prepared for
5 terrorist attacks;
6 ''(12) training and exercises to assist public ele-
7 mentary and secondary schools in developing and
8 implementing programs to instruct students regard-
9 ing age-appropriate skills to prepare for and respond
10 to an act of terrorism;
11 ''(13) paying of administrative expenses directly
12 related to administration of the grant, except that
13 such expenses may not exceed 3 percent of the
14 amount of the grant;
15 ''(14) reimbursement for overtime and other
16 fixed costs incurred for homeland security purposes
17 after September 11, 2001; and
18 ''(15) other appropriate activities as determined
19 by the Secretary.
20 ''(b) PROHIBITED USES.—Funds provided as a cov-
21 ered grant may not be used—
22 ''(1) to supplant State or local funds;
23 ''(2) to construct buildings or other physical fa-
24 cilities;
25 ''(3) to acquire land; or

1 "(4) for any State or local government cost
2 sharing contribution.
3 "(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
4 section shall be construed to preclude State and local gov-
5 ernments from using covered grant funds in a manner
6 that also enhances first responder preparedness for emer-
7 gencies and disasters unrelated to acts of terrorism, if
8 such use assists such governments in achieving essential
9 capabilities for terrorism preparedness established by the
10 Secretary under section 1803.
11 "(d) REIMBURSEMENT OF COSTS.—In addition to
12 the activities described in subsection (a), a covered grant
13 may be used to provide a reasonable stipend to paid-on-
14 call or volunteer first responders who are not otherwise
15 compensated for travel to or participation in training cov-
16 ered by this section. Any such reimbursement shall not
17 be considered compensation for purposes of rendering
18 such a first responder an employee under the Fair Labor
19 Standards Act of 1938 (29 U.S.C. 201 et seq.).
20 "(e) ASSISTANCE REQUIREMENT.—The Secretary
21 may not request that equipment paid for, wholly or in
22 part, with funds provided as a covered grant be made
23 available for responding to emergencies in surrounding
24 States, regions, and localities, unless the Secretary under-

1 takes to pay the costs directly attributable to transporting
2 and operating such equipment during such response.
3 "(f) FLEXIBILITY IN UNSPENT HOMELAND SECU-
4 RITY GRANT FUNDS.—Upon request by the recipient of
5 a covered grant, the Secretary may authorize the grantee
6 to transfer all or part of funds provided as the covered
7 grant from uses specified in the grant agreement to other
8 uses authorized under this section, if the Secretary deter-
9 mines that such transfer is in the interests of homeland
10 security.
11 "(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
12 ITIES.—
13 "(1) PASS-THROUGH.—The Secretary shall re-
14 quire a recipient of a covered grant that is a State
15 to obligate or otherwise make available to local gov-
16 ernments, first responders, and other local groups,
17 to the extent required under the State homeland se-
18 curity plan or plans specified in the application for
19 the grant, not less than 80 percent of the grant
20 funds, resources purchased with the grant funds
21 having a value equal to at least 80 percent of the
22 amount of the grant, or a combination thereof, by
23 not later than the end of the 45-day period begin-
24 ning on the date the grant recipient receives the
25 grant funds.

1 "(2) COST SHARING.—
2 "(A) IN GENERAL.—The Federal share of
3 the costs of an activity carried out with a cov-
4 ered grant to a State, region, or directly eligible
5 tribe awarded after the 2-year period beginning
6 on the date of the enactment of this section
7 shall not exceed 75 percent.
8 "(B) INTERIM RULE.—The Federal share
9 of the costs of an activity carried out with a
10 covered grant awarded before the end of the 2-
11 year period beginning on the date of the enact-
12 ment of this section shall be 100 percent.
13 "(C) IN-KIND MATCHING.—Each recipient
14 of a covered grant may meet the matching re-
15 quirement under subparagraph (A) by making
16 in-kind contributions of goods or services that
17 are directly linked with the purpose for which
18 the grant is made, including, but not limited to,
19 any necessary personnel overtime, contractor
20 services, administrative costs, equipment fuel
21 and maintenance, and rental space.
22 "(3) CERTIFICATIONS REGARDING DISTRIBU-
23 TION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—
24 Any State that receives a covered grant shall certify
25 to the Secretary, by not later than 30 days after the

1 expiration of the period described in paragraph (1)
2 with respect to the grant, that the State has made
3 available for expenditure by local governments, first
4 responders, and other local groups the required
5 amount of grant funds pursuant to paragraph (1).
6 ''(4) QUARTERLY REPORT ON HOMELAND SECU-
7 RITY SPENDING.—The Federal share described in
8 paragraph (2)(A) may be increased by up to 2 per-
9 cent for any State, region, or directly eligible tribe
10 that, not later than 30 days after the end of each
11 fiscal quarter, submits to the Secretary a report on
12 that fiscal quarter. Each such report must include,
13 for each recipient of a covered grant or a pass-
14 through under paragraph (1)—
15 ''(A) the amount obligated to that recipient
16 in that quarter;
17 ''(B) the amount expended by that recipi-
18 ent in that quarter; and
19 ''(C) a summary description of the items
20 purchased by such recipient with such amount.
21 ''(5) ANNUAL REPORT ON HOMELAND SECU-
22 RITY SPENDING.—Each recipient of a covered grant
23 shall submit an annual report to the Secretary not
24 later than 60 days after the end of each fiscal year.
25 Each recipient of a covered grant that is a region

must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

"(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

"(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

"(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

"(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expend-

1 iture of grant funds during the preceding fiscal
2 year.
3 "(E) The extent to which essential capa-
4 bilities identified in the applicable State home-
5 land security plan or plans remain unmet.
6 "(6) INCLUSION OF RESTRICTED ANNEXES.—A
7 recipient of a covered grant may submit to the Sec-
8 retary an annex to the annual report under para-
9 graph (5) that is subject to appropriate handling re-
10 strictions, if the recipient believes that discussion in
11 the report of unmet needs would reveal sensitive but
12 unclassified information.
13 "(7) PROVISION OF REPORTS.—The Secretary
14 shall ensure that each annual report under para-
15 graph (5) is provided to the Under Secretary for
16 Emergency Preparedness and Response and the Di-
17 rector of the Office for Domestic Preparedness.
18 "(h) INCENTIVES TO EFFICIENT ADMINISTRATION
19 OF HOMELAND SECURITY GRANTS.—
20 "(1) PENALTIES FOR DELAY IN PASSING
21 THROUGH LOCAL SHARE.—If a recipient of a cov-
22 ered grant that is a State fails to pass through to
23 local governments, first responders, and other local
24 groups funds or resources required by subsection

1 (g)(1) within 45 days after receiving funds under
2 the grant, the Secretary may—
3 "(A) reduce grant payments to the grant
4 recipient from the portion of grant funds that
5 is not required to be passed through under sub-
6 section (g)(1);
7 "(B) terminate payment of funds under
8 the grant to the recipient, and transfer the ap-
9 propriate portion of those funds directly to local
10 first responders that were intended to receive
11 funding under that grant; or
12 "(C) impose additional restrictions or bur-
13 dens on the recipient's use of funds under the
14 grant, which may include—
15 "(i) prohibiting use of such funds to
16 pay the grant recipient's grant-related
17 overtime or other expenses;
18 "(ii) requiring the grant recipient to
19 distribute to local government beneficiaries
20 all or a portion of grant funds that are not
21 required to be passed through under sub-
22 section (g)(1); or
23 "(iii) for each day that the grant re-
24 cipient fails to pass through funds or re-
25 sources in accordance with subsection

(g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

"(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1805(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

"(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a

1 covered grant awarded to a State in which the
2 local government is located, if—
3 "(i) the local government will use the
4 amount paid to expedite planned enhance-
5 ments to its terrorism preparedness as de-
6 scribed in any applicable State homeland
7 security plan or plans;
8 "(ii) the State has failed to pass
9 through funds or resources in accordance
10 with subsection (g)(1); and
11 "(iii) the local government complies
12 with subparagraphs (B) and (C).
13 "(B) SHOWING REQUIRED.—To receive a
14 payment under this paragraph, a local govern-
15 ment must demonstrate that—
16 "(i) it is identified explicitly as an ul-
17 timate recipient or intended beneficiary in
18 the approved grant application;
19 "(ii) it was intended by the grantee to
20 receive a severable portion of the overall
21 grant for a specific purpose that is identi-
22 fied in the grant application;
23 "(iii) it petitioned the grantee for the
24 funds or resources after expiration of the
25 period within which the funds or resources

were required to be passed through under subsection (g)(1); and

"(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

"(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

"(i) shall not affect any payment to another local government under this paragraph; and

"(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

"(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

"(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by December 31 of each year—

"(1) describing in detail the amount of Federal funds provided as covered grants that were directed

to each State, region, and directly eligible tribe in the preceding fiscal year;

"(2) containing information on the use of such grant funds by grantees; and

"(3) describing—

"(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established under section 1803(a) as a result of the expenditure of covered grant funds during the preceding fiscal year; and

"(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established under section 1803(a).

"SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

"(a) EQUIPMENT STANDARDS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for

the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

"(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

"(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

"(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

"(D) shall cover all appropriate uses of the equipment.

"(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

"(A) Thermal imaging equipment.

"(B) Radiation detection and analysis equipment.

"(C) Biological detection and analysis equipment.

1 "(D) Chemical detection and analysis
2 equipment.
3 "(E) Decontamination and sterilization
4 equipment.
5 "(F) Personal protective equipment, in-
6 cluding garments, boots, gloves, and hoods and
7 other protective clothing.
8 "(G) Respiratory protection equipment.
9 "(H) Interoperable communications, in-
10 cluding wireless and wireline voice, video, and
11 data networks.
12 "(I) Explosive mitigation devices and ex-
13 plosive detection and analysis equipment.
14 "(J) Containment vessels.
15 "(K) Contaminant-resistant vehicles.
16 "(L) Such other equipment for which the
17 Secretary determines that national voluntary
18 consensus standards would be appropriate.
19 "(b) TRAINING STANDARDS.—
20 "(1) IN GENERAL.—The Secretary, in consulta-
21 tion with the Under Secretaries for Emergency Pre-
22 paredness and Response and Science and Tech-
23 nology and the Director of the Office for Domestic
24 Preparedness, shall support the development of, pro-
25 mulgate, and regularly update as necessary national

1 voluntary consensus standards for first responder
2 training carried out with amounts provided under
3 covered grant programs, that will enable State and
4 local government first responders to achieve optimal
5 levels of terrorism preparedness as quickly as prac-
6 ticable. Such standards shall give priority to pro-
7 viding training to—
8 "(A) enable first responders to prevent,
9 prepare for, respond to, and mitigate terrorist
10 threats, including threats from chemical, bio-
11 logical, nuclear, and radiological weapons and
12 explosive devices capable of inflicting significant
13 human casualties; and
14 "(B) familiarize first responders with the
15 proper use of equipment, including software,
16 developed pursuant to the standards established
17 under subsection (a).
18 "(2) REQUIRED CATEGORIES.—In carrying out
19 paragraph (1), the Secretary specifically shall in-
20 clude the following categories of first responder ac-
21 tivities:
22 "(A) Regional planning.
23 "(B) Joint exercises.
24 "(C) Intelligence collection, analysis, and
25 sharing.

1 "(D) Emergency notification of affected
2 populations.
3 "(E) Detection of biological, nuclear, radi-
4 ological, and chemical weapons of mass destruc-
5 tion.
6 "(F) Such other activities for which the
7 Secretary determines that national voluntary
8 consensus training standards would be appro-
9 priate.
10 "(3) CONSISTENCY.—In carrying out this sub-
11 section, the Secretary shall ensure that such training
12 standards are consistent with the principles of emer-
13 gency preparedness for all hazards.
14 "(c) CONSULTATION WITH STANDARDS ORGANIZA-
15 TIONS.—In establishing national voluntary consensus
16 standards for first responder equipment and training
17 under this section, the Secretary shall consult with rel-
18 evant public and private sector groups, including—
19 "(1) the National Institute of Standards and
20 Technology;
21 "(2) the National Fire Protection Association;
22 "(3) the National Association of County and
23 City Health Officials;
24 "(4) the Association of State and Territorial
25 Health Officials;

1 "(5) the American National Standards Insti-
2 tute;
3 "(6) the National Institute of Justice;
4 "(7) the Inter-Agency Board for Equipment
5 Standardization and Interoperability;
6 "(8) the National Public Health Performance
7 Standards Program;
8 "(9) the National Institute for Occupational
9 Safety and Health;
10 "(10) ASTM International;
11 "(11) the International Safety Equipment Asso-
12 ciation;
13 "(12) the Emergency Management Accredita-
14 tion Program; and
15 "(13) to the extent the Secretary considers ap-
16 propriate, other national voluntary consensus stand-
17 ards development organizations, other interested
18 Federal, State, and local agencies, and other inter-
19 ested persons.
20 "(d) COORDINATION WITH SECRETARY OF HHS.—
21 In establishing any national voluntary consensus stand-
22 ards under this section for first responder equipment or
23 training that involve or relate to health professionals, in-
24 cluding emergency medical professionals, the Secretary

shall coordinate activities under this section with the Secretary of Health and Human Services.''.

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking ''includes'' and all that follows and inserting ''includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.''.

(c) TEMPORARY LIMITATIONS ON APPLICATION.—

(1) 1-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as amended by subsection (a), shall not apply during the 1-year period beginning on the date of the enactment of this Act:

(A) Subsections (b), (c), and (e)(4)(A) and (B) of section 1805.

(B) In section 1805(f)(3)(A), the phrase '', by enhancing the essential capabilities of the applicants,''.

(2) 2-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Se-

curity Act of 2002, as amended by subsection (a), shall not apply during the 2-year period beginning on the date of the enactment of this Act:

(A) Subparagraphs (D) and (E) of section 1806(g)(5).

(B) Section 1806(i)(3).

SEC. 5004. MODIFICATION OF HOMELAND SECURITY ADVISORY SYSTEM.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.

''(a) IN GENERAL.—The Secretary shall revise the Homeland Security Advisory System referred to in section 201(d)(7) to require that any designation of a threat level or other warning shall be accompanied by a designation of the geographic regions or economic sectors to which the designation applies.

''(b) REPORTS.—The Secretary shall report to the Congress annually by not later than December 31 each year regarding the geographic region-specific warnings and economic sector-specific warnings issued during the preceding fiscal year under the Homeland Security Advisory System referred to in section 201(d)(7), and the

bases for such warnings. The report shall be submitted in unclassified form and may, as necessary, include a classified annex.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 202 the following:

''203. Homeland Security Advisory System.''.

SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.

Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking ''and'' after the semicolon at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following:

''(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.''.

SEC. 5006. SUPERSEDED PROVISION.

This subtitle supersedes section 1014 of Public Law 107–56.

SEC. 5007. SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.

(a) FINDING.—The Congress finds that—

(1) many first responders working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(2) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the first responder community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN CORPS COUNCILS.

(a) FINDING.—The Congress finds that Citizen Corps councils help to enhance local citizen participation in terrorism preparedness by coordinating multiple Citizen Corps programs, developing community action plans, assessing possible threats, and identifying local resources.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that individual Citizen Corps councils should

1 seek to enhance the preparedness and response capabilities
2 of all organizations participating in the councils, including
3 by providing funding to as many of their participating or-
4 ganizations as practicable to promote local terrorism pre-
5 paredness programs.

6 **SEC. 5009. STUDY REGARDING NATIONWIDE EMERGENCY**
7 **NOTIFICATION SYSTEM.**

8 (a) STUDY.—The Secretary of Homeland Security, in
9 consultation with the heads of other appropriate Federal
10 agencies and representatives of providers and participants
11 in the telecommunications industry, shall conduct a study
12 to determine whether it is cost-effective, efficient, and fea-
13 sible to establish and implement an emergency telephonic
14 alert notification system that will—

15 (1) alert persons in the United States of immi-
16 nent or current hazardous events caused by acts of
17 terrorism; and

18 (2) provide information to individuals regarding
19 appropriate measures that may be undertaken to al-
20 leviate or minimize threats to their safety and wel-
21 fare posed by such events.

22 (b) TECHNOLOGIES TO CONSIDER.—In conducting
23 the study, the Secretary shall consider the use of the tele-
24 phone, wireless communications, and other existing com-
25 munications networks to provide such notification.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report regarding the conclusions of the study.

SEC. 5010. REQUIRED COORDINATION.

The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

Subtitle B—Government Reorganization Authority

SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY REORGANIZATION PLANS.

(a) REORGANIZATION PLANS.—Section 903(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) the abolition of all or a part of the functions of an agency;".

(b) REPEAL OF LIMITATIONS.—Section 905 of title 5, United States Code, is amended to read as follows:

"§ 905. Limitation on authority.

''The authority to submit reorganization plans under this chapter is limited to the following organizational units:

''(1) The Office of the National Intelligence Director.

''(2) The Central Intelligence Agency.

''(3) The National Security Agency.

''(4) The Defense Intelligence Agency.

''(5) The National Geospatial-Intelligence Agency.

''(6) The National Reconnaissance Office.

''(7) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

''(8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

''(9) The Bureau of Intelligence and Research of the Department of State.

''(10) The Office of Intelligence Analysis of the Department of Treasury.

''(11) The elements of the Department of Homeland Security concerned with the analysis of

intelligence information, including the Office of Intelligence of the Coast Guard.

''(12) Such other elements of any other department or agency as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.''.

(c) REORGANIZATION PLANS.—903(a) of title 5, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' after the semicolon;

(2) in paragraph (6), by striking the period and inserting ''; or''; and

(3) by inserting after paragraph (6) the following:

''(7) the creation of an agency.''.

(d) APPLICATION OF CHAPTER.—Chapter 9 of title 5, United States Code, is amended by adding at the end the following:

''§ 913. Application of chapter

''This chapter shall apply to any reorganization plan transmitted to Congress in accordance with section 903(b) on or after the date of enactment of this section.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 9 of title 5, United States Code, is amended by adding after the item relating to section 912 the following:

"913. Application of chapter.".

(2) REFERENCES.—Chapter 9 of title 5, United States Code, is amended—

(A) in section 908(1), by striking "on or before December 31, 1984"; and (B) in section 910, by striking "Government Operations" each place it appears and inserting "Government Reform".

(3) DATE MODIFICATION.—Section 909 of title 5, United States Code, is amended in the first sentence by striking "19" and inserting "20".

SEC. 5022. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

(a) FINDING.—Congress finds that there is a public interest in protecting high-risk nonprofit organizations from international terrorist attacks that would disrupt the vital services such organizations provide to the people of the United States and threaten the lives and well-being of United States citizens who operate, utilize, and live or work in proximity to such organizations.

(b) PURPOSES.—The purposes of this section are to—

(1) establish within the Department of Homeland Security a program to protect United States citizens at or near high-risk nonprofit organizations from international terrorist attacks through loan guarantees and Federal contracts for security enhancements and technical assistance;

(2) establish a program within the Department of Homeland Security to provide grants to local governments to assist with incremental costs associated with law enforcement in areas in which there are a high concentration of high-risk nonprofit organizations vulnerable to international terrorist attacks; and

(3) establish an Office of Community Relations and Civic Affairs within the Department of Homeland Security to focus on security needs of high-risk nonprofit organizations with respect to international terrorist threats.

(c) AUTHORITY.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), as amended by this Act, is further amended by adding at the end the following:

"TITLE XIX—PROTECTION OF CITIZENS AT HIGH-RISK NON-PROFIT ORGANIZATIONS

"SEC. 1901. DEFINITIONS.

" In this title:

"(1) CONTRACT.—The term 'contract' means a contract between the Federal Government and a contractor selected from the list of certified contractors to perform security enhancements or provide technical assistance approved by the Secretary under this title.

"(2) FAVORABLE REPAYMENT TERMS.—The term 'favorable repayment terms' means the repayment terms of loans offered to nonprofit organizations under this title that—

"(A) are determined by the Secretary, in consultation with the Secretary of the Treasury, to be favorable under current market conditions;

"(B) have interest rates at least 1 full percentage point below the market rate; and

"(C) provide for repayment over a term not less than 25 years.

1 "(3) NONPROFIT ORGANIZATION.—The term
2 'nonprofit organization' means an organization
3 that—
4 "(A) is described under section 501(c)(3)
5 of the Internal Revenue Code of 1986 and ex-
6 empt from taxation under section 501(a) of
7 such Code; and
8 "(B) is designated by the Secretary under
9 section 1903(a).
10 "(4) SECURITY ENHANCEMENTS.—The term
11 'security enhancements'—
12 "(A) means the purchase and installation
13 of security equipment in real property (includ-
14 ing buildings and improvements), owned or
15 leased by a nonprofit organization, specifically
16 in response to the risk of attack at a nonprofit
17 organization by an international terrorist orga-
18 nization;
19 "(B) includes software security measures;
20 and
21 "(C) does not include enhancements that
22 would otherwise have been reasonably necessary
23 due to nonterrorist threats.
24 "(5) TECHNICAL ASSISTANCE.—The term 'tech-
25 nical assistance'—

"(A) means guidance, assessment, recommendations, and any other provision of information or expertise which assists nonprofit organizations in—

"(i) identifying security needs;

"(ii) purchasing and installing security enhancements;

"(iii) training employees to use and maintain security enhancements; or

"(iv) training employees to recognize and respond to international terrorist threats; and

"(B) does not include technical assistance that would otherwise have been reasonably necessary due to nonterrorist threats.

"SEC. 1902. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

"(a) IN GENERAL.—The Secretary may—

"(1) enter into contracts with certified contractors for security enhancements and technical assistance for nonprofit organizations; and

"(2) issue Federal loan guarantees to financial institutions in connection with loans made by such institutions to nonprofit organizations for security enhancements and technical assistance.

1 ''(b) LOANS.—The Secretary may guarantee loans
2 under this title—
3 ''(1) only to the extent provided for in advance
4 by appropriations Acts; and
5 ''(2) only to the extent such loans have favor-
6 able repayment terms.
7 **''SEC. 1903. ELIGIBILITY CRITERIA.**
8 ''(a) IN GENERAL.—The Secretary shall designate
9 nonprofit organizations as high-risk nonprofit organiza-
10 tions eligible for contracts or loans under this title based
11 on the vulnerability of the specific site of the nonprofit
12 organization to international terrorist attacks.
13 ''(b) VULNERABILITY DETERMINATION.—In deter-
14 mining vulnerability to international terrorist attacks and
15 eligibility for security enhancements or technical assist-
16 ance under this title, the Secretary shall consider—
17 ''(1) threats of international terrorist organiza-
18 tions (as designated by the State Department)
19 against any group of United States citizens who op-
20 erate or are the principal beneficiaries or users of
21 the nonprofit organization;
22 ''(2) prior attacks, within or outside the United
23 States, by international terrorist organizations
24 against the nonprofit organization or entities associ-

1 ated with or similarly situated as the nonprofit orga-
2 nization;
3 "(3) the symbolic value of the site as a highly
4 recognized United States cultural or historical insti-
5 tution that renders the site a possible target of
6 international terrorism;
7 "(4) the role of the nonprofit organization in
8 responding to international terrorist attacks; and
9 "(5) any recommendations of the applicable
10 State Homeland Security Authority established
11 under section 1906 or Federal, State, and local law
12 enforcement authorities.
13 "(c) DOCUMENTATION.—In order to be eligible for
14 security enhancements, technical assistance or loan guar-
15 antees under this title, the nonprofit organization shall
16 provide the Secretary with documentation that—
17 "(1) the nonprofit organization hosted a gath-
18 ering of at least 100 or more persons at least once
19 each month at the nonprofit organization site during
20 the preceding 12 months; or
21 "(2) the nonprofit organization provides serv-
22 ices to at least 500 persons each year at the non-
23 profit organization site.
24 "(d) TECHNICAL ASSISTANCE ORGANIZATIONS.—If 2
25 or more nonprofit organizations establish another non-

1 profit organization to provide technical assistance, that es-
2 tablished organization shall be eligible to receive security
3 enhancements and technical assistance under this title
4 based upon the collective risk of the nonprofit organiza-
5 tions it serves.

6 **"SEC. 1904. USE OF LOAN GUARANTEES.**

7 ''Funds borrowed from lending institutions, which
8 are guaranteed by the Federal Government under this
9 title, may be used for technical assistance and security en-
10 hancements.

11 **"SEC. 1905. NONPROFIT ORGANIZATION APPLICATIONS.**

12 ''(a) IN GENERAL.—A nonprofit organization desir-
13 ing assistance under this title shall submit a separate ap-
14 plication for each specific site needing security enhance-
15 ments or technical assistance.

16 ''(b) CONTENT.—Each application shall include—

17 ''(1) a detailed request for security enhance-
18 ments and technical assistance, from a list of ap-
19 proved enhancements and assistance issued by the
20 Secretary under this title;

21 ''(2) a description of the intended uses of funds
22 to be borrowed under Federal loan guarantees; and

23 ''(3) such other information as the Secretary
24 shall require.

"(c) JOINT APPLICATION.—Two or more nonprofit organizations located on contiguous sites may submit a joint application.

"SEC. 1906. REVIEW BY STATE HOMELAND SECURITY AUTHORITIES.

"(a) ESTABLISHMENT OF STATE HOMELAND SECURITY AUTHORITIES.—In accordance with regulations prescribed by the Secretary, each State may establish a State Homeland Security Authority to carry out this title.

"(b) APPLICATIONS.—

"(1) SUBMISSION.—Applications shall be submitted to the applicable State Homeland Security Authority.

"(2) EVALUATION.—After consultation with Federal, State, and local law enforcement authorities, the State Homeland Security Authority shall evaluate all applications using the criteria under section 1903 and transmit all qualifying applications to the Secretary ranked by severity of risk of international terrorist attack.

"(3) APPEAL.—An applicant may appeal the finding that an application is not a qualifying application to the Secretary under procedures that the Secretary shall issue by regulation not later than 90 days after the date of enactment of this title.

"SEC. 1907. SECURITY ENHANCEMENT AND TECHNICAL ASSISTANCE CONTRACTS AND LOAN GUARANTEES.

"(a) IN GENERAL.—Upon receipt of the applications, the Secretary shall select applications for execution of security enhancement and technical assistance contracts, or issuance of loan guarantees, giving preference to the nonprofit organizations determined to be at greatest risk of international terrorist attack based on criteria under section 1903.

"(b) SECURITY ENHANCEMENTS AND TECHNICAL ASSISTANCE; FOLLOWED BY LOAN GUARANTEES.—The Secretary shall execute security enhancement and technical assistance contracts for the highest priority applicants until available funds are expended, after which loan guarantees shall be made available for additional applicants determined to be at high risk, up to the authorized amount of loan guarantees. The Secretary may provide with respect to a single application a combination of such contracts and loan guarantees.

"(c) JOINT APPLICATIONS.—Special preference shall be given to joint applications submitted on behalf of multiple nonprofit organizations located in contiguous settings.

"(d) MAXIMIZING AVAILABLE FUNDS.—Subject to subsection (b), the Secretary shall execute security en-

1 hancement and technical assistance contracts in such
2 amounts as to maximize the number of high-risk appli-
3 cants nationwide receiving assistance under this title.

4 "(e) APPLICANT NOTIFICATION.—Upon selecting a
5 nonprofit organization for assistance under this title, the
6 Secretary shall notify the nonprofit organization that the
7 Federal Government is prepared to enter into a contract
8 with certified contractors to install specified security en-
9 hancements or provide specified technical assistance at the
10 site of the nonprofit organization.

11 "(f) CERTIFIED CONTRACTORS.—

12 "(1) IN GENERAL.—Upon receiving a notifica-
13 tion under subsection (e), the nonprofit organization
14 shall select a certified contractor to perform the
15 specified security enhancements, from a list of cer-
16 tified contractors issued and maintained by the Sec-
17 retary under subsection (j).

18 "(2) LIST.—The list referred to in paragraph
19 (1) shall be comprised of contractors selected on the
20 basis of—

21 "(A) technical expertise;

22 "(B) performance record including quality
23 and timeliness of work performed;

24 "(C) adequacy of employee criminal back-
25 ground checks; and

1 "(D) price competitiveness.
2 "(3) OTHER CERTIFIED CONTRACTORS.—The
3 Secretary shall include on the list of certified con-
4 tractors additional contractors selected by senior of-
5 ficials at State Homeland Security Authorities and
6 the chief executives of county and other local juris-
7 dictions. Such additional certified contractors shall
8 be selected on the basis of the criteria under para-
9 graph (2).
10 "(g) ENSURING THE AVAILABILITY OF CONTRAC-
11 TORS.—If the list of certified contractors under this sec-
12 tion does not include any contractors who can begin work
13 on the security enhancements or technical assistance with-
14 in 60 days after applicant notification, the nonprofit orga-
15 nization may submit a contractor not currently on the list
16 to the Secretary for the Secretary's review. If the Sec-
17 retary does not include the submitted contractor on the
18 list of certified contractors within 60 days after the sub-
19 mission and does not place an alternative contractor on
20 the list within the same time period (who would be avail-
21 able to begin the specified work within that 60-day pe-
22 riod), the Secretary shall immediately place the submitted
23 contractor on the list of certified contractors and such con-
24 tractor shall remain on such list until—
25 "(1) the specified work is completed; or

1 "(2) the Secretary can show cause why such
2 contractor may not retain certification, with such de-
3 terminations subject to review by the Comptroller
4 General of the United States.
5 "(h) CONTRACTS.—Upon selecting a certified con-
6 tractor to provide security enhancements and technical as-
7 sistance approved by the Secretary under this title, the
8 nonprofit organization shall notify the Secretary of such
9 selection. The Secretary shall deliver a contract to such
10 contractor within 10 business days after such notification.
11 "(i) CONTRACTS FOR ADDITIONAL WORK OR UP-
12 GRADES.—A nonprofit organization, using its own funds,
13 may enter into an additional contract with the certified
14 contractor, for additional or upgraded security enhance-
15 ments or technical assistance. Such additional contracts
16 shall be separate contracts between the nonprofit organi-
17 zation and the contractor.
18 "(j) EXPEDITING ASSISTANCE.—In order to expedite
19 assistance to nonprofit organizations, the Secretary
20 shall—
21 "(1) compile a list of approved technical assist-
22 ance and security enhancement activities within 45
23 days after the date of enactment of this title;
24 "(2) publish in the Federal Register within 60
25 days after such date of enactment a request for con-

tractors to submit applications to be placed on the list of certified contractors under this section;

"(3) after consultation with the Secretary of the Treasury, publish in the Federal Register within 60 days after such date of enactment, prescribe regulations setting forth the conditions under which loan guarantees shall be issued under this title, including application procedures, expeditious review of applications, underwriting criteria, assignment of loan guarantees, modifications, commercial validity, defaults, and fees; and

"(4) publish in the Federal Register within 120 days after such date of enactment (and every 30 days thereafter) a list of certified contractors, including those selected by State Homeland Security Authorities, county, and local officials, with coverage of all 50 States, the District of Columbia, and the territories.

"SEC. 1908. LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.

"(a) IN GENERAL.—The Secretary may provide grants to units of local government to offset incremental costs associated with law enforcement in areas where there is a high concentration of nonprofit organizations.

1 ''(b) USE.—Grant funds received under this section
2 may be used only for personnel costs or for equipment
3 needs specifically related to such incremental costs.
4 ''(c) MAXIMIZATION OF IMPACT.—The Secretary
5 shall award grants in such amounts as to maximize the
6 impact of available funds in protecting nonprofit organiza-
7 tions nationwide from international terrorist attacks.

8 **''SEC. 1909. OFFICE OF COMMUNITY RELATIONS AND CIVIC**
9 **AFFAIRS.**

10 ''(a) IN GENERAL.—There is established within the
11 Department, the Office of Community Relations and Civic
12 Affairs to administer grant programs for nonprofit organi-
13 zations and local law enforcement assistance.
14 ''(b) ADDITIONAL RESPONSIBILITIES.—The Office of
15 Community Relations and Civic Affairs shall—
16 ''(1) coordinate community relations efforts of
17 the Department;
18 ''(2) serve as the official liaison of the Secretary
19 to the nonprofit, human and social services, and
20 faith-based communities; and
21 ''(3) assist in coordinating the needs of those
22 communities with the Citizen Corps program.

"SEC. 1910. AUTHORIZATION OF APPROPRIATIONS AND LOAN GUARANTEES.

"(a) NONPROFIT ORGANIZATIONS PROGRAM.—There are authorized to be appropriated to the Department to carry out the nonprofit organization program under this title, $100,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

"(b) LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.—There are authorized to be appropriated to the Department for local law enforcement assistance grants under section 1908, $50,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

"(c) OFFICE OF COMMUNITY RELATIONS AND CIVIC AFFAIRS.—There are authorized to be appropriated to the Department for the Office of Community Relations and Civic Affairs under section 1909, $5,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

"(d) LOAN GUARANTEES.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 2005, 2006, and 2007, such amounts as may be required under the Federal Credit Act with respect to Federal loan guarantees authorized by

1 this title, which shall remain available until ex-
2 pended.
3 ''(2) LIMITATION.—The aggregate value of all
4 loans for which loan guarantees are issued under
5 this title by the Secretary may not exceed
6 $250,000,000 in each of fiscal years 2005, 2006,
7 and 2007.''.
8 (d) CLERICAL AMENDMENT.—The table of contents
9 under section 1(b) of the Homeland Security Act of 2002
10 (6 U.S.C. 101(b)) is amended by adding at the end the
11 following:

''TITLE XIX—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

''Sec. 1901. Definitions.
''Sec. 1902. Authority to enter into contracts and issue Federal loan guarantees.
''Sec. 1903. Eligibility criteria.
''Sec. 1904. Use of loan guarantees.
''Sec. 1905. Nonprofit organization applications.
''Sec. 1906. Review by State Homeland Security Authorities.
''Sec. 1907. Security enhancement and technical assistance contracts and loan guarantees.
''Sec. 1908. Local law enforcement assistance grants.
''Sec. 1909. Office of Community Relations and Civic Affairs.
''Sec. 1910. Authorization of appropriations and loan guarantees.''.

Subtitle C—Restructuring Relating to the Department of Homeland Security and Congressional Oversight

SEC. 5025. RESPONSIBILITIES OF COUNTERNARCOTICS OFFICE.

(a) AMENDMENT.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended to read as follows:

"SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

"(a) OFFICE.—There shall be in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate.

"(b) ASSIGNMENT OF PERSONNEL.—(1) The Secretary shall assign to the Office permanent staff and other appropriate personnel detailed from other subdivisions of the Department to carry out responsibilities under this section.

"(2) The Secretary shall designate senior employees from each appropriate subdivision of the Department that has significant counternarcotics responsibilities to act as a liaison between that subdivision and the Office of Counternarcotics Enforcement.

1 "(c) LIMITATION ON CONCURRENT EMPLOYMENT.—
2 Except as provided in subsection (d), the Director of the
3 Office of Counternarcotics Enforcement shall not be em-
4 ployed by, assigned to, or serve as the head of, any other
5 branch of the Federal Government, any State or local gov-
6 ernment, or any subdivision of the Department other than
7 the Office of Counternarcotics Enforcement.

8 "(d) ELIGIBILITY TO SERVE AS THE UNITED
9 STATES INTERDICTION COORDINATOR.—The Director of
10 the Office of Counternarcotics Enforcement may be ap-
11 pointed as the United States Interdiction Coordinator by
12 the Director of the Office of National Drug Control Policy,
13 and shall be the only person at the Department eligible
14 to be so appointed.

15 "(e) RESPONSIBILITIES.—The Secretary shall direct
16 the Director of the Office of Counternarcotics
17 Enforcement—

18 "(1) to coordinate policy and operations within
19 the Department, between the Department and other
20 Federal departments and agencies, and between the
21 Department and State and local agencies with re-
22 spect to stopping the entry of illegal drugs into the
23 United States;

1 ''(2) to ensure the adequacy of resources within
2 the Department for stopping the entry of illegal
3 drugs into the United States;
4 ''(3) to recommend the appropriate financial
5 and personnel resources necessary to help the De-
6 partment better fulfill its responsibility to stop the
7 entry of illegal drugs into the United States;
8 ''(4) within the JTTF construct to track and
9 sever connections between illegal drug trafficking
10 and terrorism; and
11 ''(5) to be a representative of the Department
12 on all task forces, committees, or other entities
13 whose purpose is to coordinate the counternarcotics
14 enforcement activities of the Department and other
15 Federal, state or local agencies.
16 ''(f) REPORTS TO CONGRESS.—
17 ''(1) ANNUAL BUDGET REVIEW.—The Director
18 of the Office of Counternarcotics Enforcement shall,
19 not later than 30 days after the submission by the
20 President to Congress of any request for expendi-
21 tures for the Department, submit to the Committees
22 on Appropriations and the authorizing committees of
23 jurisdiction of the House of Representatives and the
24 Senate a review and evaluation of such request. The
25 review and evaluation shall—

"(A) identify any request or subpart of any request that affects or may affect the counternarcotics activities of the Department or any of its subdivisions, or that affects the ability of the Department or any subdivision of the Department to meet its responsibility to stop the entry of illegal drugs into the United States;

"(B) describe with particularity how such requested funds would be or could be expended in furtherance of counternarcotics activities; and

"(C) compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year.

"(2) EVALUATION OF COUNTERNARCOTICS ACTIVITIES.—The Director of the Office of Counternarcotics Enforcement shall, not later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year. The review and evaluation shall—

"(A) describe the counternarcotics activities of the Department and each subdivision of

the Department (whether individually or in cooperation with other subdivisions of the Department, or in cooperation with other branches of the Federal Government or with State or local agencies), including the methods, procedures, and systems (including computer systems) for collecting, analyzing, sharing, and disseminating information concerning narcotics activity within the Department and between the Department and other Federal, State, and local agencies;

''(B) describe the results of those activities, using quantifiable data whenever possible;

''(C) state whether those activities were sufficient to meet the responsibility of the Department to stop the entry of illegal drugs into the United States, including a description of the performance measures of effectiveness that were used in making that determination; and

''(D) recommend, where appropriate, changes to those activities to improve the performance of the Department in meeting its responsibility to stop the entry of illegal drugs into the United States.

"(3) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of a review and evaluation described in the reports required in this subsection that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to Congress separately from the rest of the review and evaluation.".

(b) CONFORMING AMENDMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) A Director of the Office of Counter-narcotics Enforcement.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts appropriated for the Department of Homeland Security for Departmental management and operations for fiscal year 2005, there is authorized up to $6,000,000

to carry out section 878 of the Department of Homeland Security Act of 2002 (as amended by this section).

SEC. 5026. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

(a) IN GENERAL.—Subtitle E of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 411 and following) is amended by adding at the end the following:

"SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

"(a) IN GENERAL.—Each subdivision of the Department that is a National Drug Control Program Agency shall include as one of the criteria in its performance appraisal system, for each employee directly or indirectly involved in the enforcement of Federal, State, or local narcotics laws, the performance of that employee with respect to the enforcement of Federal, State, or local narcotics laws, relying to the greatest extent practicable on objective performance measures, including—

"(1) the contribution of that employee to seizures of narcotics and arrests of violators of Federal, State, or local narcotics laws; and

"(2) the degree to which that employee cooperated with or contributed to the efforts of other em-

1 ployees, either within the Department or other Fed-
2 eral, State, or local agencies, in counternarcotics en-
3 forcement.
4 ''(b) DEFINITIONS.—For purposes of this section—
5 ''(1) the term 'National Drug Control Program
6 Agency' means—
7 ''(A) a National Drug Control Program
8 Agency, as defined in section 702(7) of the Of-
9 fice of National Drug Control Policy Reauthor-
10 ization Act of 1998 (as last in effect); and
11 ''(B) any subdivision of the Department
12 that has a significant counternarcotics responsi-
13 bility, as determined by—
14 ''(i) the counternarcotics officer, ap-
15 pointed under section 878; or
16 ''(ii) if applicable, the counter-
17 narcotics officer's successor in function (as
18 determined by the Secretary); and
19 ''(2) the term 'performance appraisal system'
20 means a system under which periodic appraisals of
21 job performance of employees are made, whether
22 under chapter 43 of title 5, United States Code, or
23 otherwise.''.
24 (b) CLERICAL AMENDMENT.—The table of contents
25 for the Homeland Security Act of 2002 is amended by

1 inserting after the item relating to section 842 the fol-
2 lowing:

"Sec. 843. Use of counternarcotics enforcement activities in certain employee performance appraisals.".

3 **SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES ON**
4 **ADDRESSING HOMELAND SECURITY FOR THE**
5 **AMERICAN PEOPLE.**

6 (a) FINDINGS.—The House of Representatives finds
7 that—

8 (1) the House of Representatives created a Se-
9 lect Committee on Homeland Security at the start of
10 the 108th Congress to provide for vigorous congres-
11 sional oversight for the implementation and oper-
12 ation of the Department of Homeland Security;

13 (2) the House of Representatives also charged
14 the Select Committee on Homeland Security, includ-
15 ing its Subcommittee on Rules, with undertaking a
16 thorough and complete study of the operation and
17 implementation of the rules of the House, including
18 the rule governing committee jurisdiction, with re-
19 spect to the issue of homeland security and to make
20 their recommendations to the Committee on Rules;

21 (3) on February 11, 2003, the Committee on
22 Appropriations of the House of Representatives cre-
23 ated a new Subcommittee on Homeland Security
24 with jurisdiction over the Transportation Security

Administration, the Coast Guard, and other entities within the Department of Homeland Security to help address the integration of the Department of Homeland Security's 22 legacy agencies; and

(4) during the 108th Congress, the House of Representatives has taken several steps to help ensure its continuity in the event of a terrorist attack, including—

(A) adopting H.R. 2844, the Continuity of Representation Act, a bill to require States to hold expedited special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker in extraordinary circumstances;

(B) granting authority for joint-leadership recalls from a period of adjournment to an alternate place;

(C) allowing for anticipatory consent with the Senate to assemble in an alternate place;

(D) establishing the requirement that the Speaker submit to the Clerk a list of Members in the order in which each shall act as Speaker pro tempore in the case of a vacancy in the Office of Speaker (including physical inability of the Speaker to discharge his duties) until the

election of a Speaker or a Speaker pro tempore, exercising such authorities of the Speaker as may be necessary and appropriate to that end;

(E) granting authority for the Speaker to declare an emergency recess of the House subject to the call of the Chair when notified of an imminent threat to the safety of the House;

(F) granting authority for the Speaker, during any recess or adjournment of not more than three days, in consultation with the Minority Leader, to postpone the time for reconvening or to reconvene before the time previously appointed solely to declare the House in recess, in each case within the constitutional three-day limit;

(G) establishing the authority for the Speaker to convene the House in an alternate place within the seat of Government; and

(H) codifying the long-standing practice that the death, resignation, expulsion, disqualification, or removal of a Member results in an adjustment of the quorum of the House, which the Speaker shall announce to the House and which shall not be subject to appeal.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that the Committee on Rules should act upon the recommendations provided by the Select Committee on Homeland Security, and other committees of existing jurisdiction, regarding the jurisdiction over proposed legislation, messages, petitions, memorials and other matters relating to homeland security prior to or at the start of the 109th Congress.

Subtitle D—Improvements to Information Security

SEC. 5031. 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)''; and

(4) in section 11315(b)(2), by inserting ", secure," after "sound".

Subtitle E—Personnel Management Improvements

CHAPTER 1—APPOINTMENTS PROCESS REFORM

SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSITIONS.

(a) DEFINITION OF NATIONAL SECURITY POSITION.—For purposes of this section, the term "national security position" shall include—

(1) those positions that involve activities of the United States Government that are concerned with the protection of the Nation from foreign aggression, terrorism, or espionage, including development of defense plans or policies, intelligence or counterintelligence activities, and related activities concerned with the preservation of military strength of the United States and protection of the homeland; and

(2) positions that require regular use of, or access to, classified information.

(b) PUBLICATION IN THE FEDERAL REGISTER.—Not later than 60 days after the effective date of this section, the Director of the Office of Personnel Management shall publish in the Federal Register a list of offices that con-

1 stitute national security positions under section (a) for
2 which Senate confirmation is required by law, and the Di-
3 rector shall revise such list from time to time as appro-
4 priate.

5 (c) PRESIDENTIAL APPOINTMENTS.—(1) With re-
6 spect to appointment of individuals to offices identified
7 under section (b) and listed in sections 5315 or 5316 of
8 title 5, United States Code, which shall arise after the
9 publication of the list required by section (b), and notwith-
10 standing any other provision of law, the advice and con-
11 sent of the Senate shall not be required, but rather such
12 appointment shall be made by the President alone.

13 (2) With respect to appointment of individuals to of-
14 fices identified under section (b) and listed in sections
15 5313 or 5314 of title 5, United States Code, which shall
16 arise after the publication of the list required by section
17 (b), and notwithstanding any other provision of law, the
18 advice and consent of the Senate shall be required, except
19 that if 30 legislative days shall have expired from the date
20 on which a nomination is submitted to the Senate without
21 a confirmation vote occurring in the Senate, such appoint-
22 ment shall be made by the President alone.

23 (3) For the purposes of this subsection, the term
24 ''legislative day'' means a day on which the Senate is in
25 session.

SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.

Subsections (a) and (b) of section 3349a of title 5, United States Code, are amended to read as follows:

''(a) As used in this section—

''(1) the term 'inauguration day' means the date on which any person swears or affirms the oath of office as President; and

''(2) the term 'specified national security position' shall mean not more than 20 positions requiring Senate confirmation, not to include more than 3 heads of Executive Departments, which are designated by the President on or after an inauguration day as positions for which the duties involve substantial responsibility for national security.

''(b) With respect to any vacancy that exists during the 60-day period beginning on an inauguration day, except where the person swearing or affirming the oath of office was the President on the date preceding the date of swearing or affirming such oath of office, the 210-day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

''(1) 90 days after such transitional inauguration day; or

''(2) 90 days after the date on which the vacancy occurs.

"(c) With respect to any vacancy in any specified national security position that exists during the 60-day period beginning on an inauguration day, the requirements of subparagraphs (A) and (B) of section 3345(a)(3) shall not apply.".

SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting before title IV the following:

"TITLE III—INTELLIGENCE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 301. PERSONS REQUIRED TO FILE.

"(a) Within 30 days of assuming the position of an officer or employee described in subsection (e), an individual shall file a report containing the information described in section 302(b) unless the individual has left another position described in subsection (e) 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 executive branch, appointment to which

1 requires the advice and consent of the Senate, such indi-
2 vidual shall file a report containing the information de-
3 scribed in section 302(b). Such individual shall, not later
4 than the date of the first hearing to consider the nomina-
5 tion of such individual, make current the report filed pur-
6 suant to this paragraph by filing the information required
7 by section 302(a)(1)(A) with respect to income and hono-
8 raria received as of the date which occurs 5 days before
9 the date of such hearing. Nothing in this Act shall prevent
10 any congressional committee from requesting, as a condi-
11 tion of confirmation, any additional financial information
12 from any Presidential nominee whose nomination has been
13 referred to that committee.

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

20 ''(c) Any individual who is an officer or employee de-
21 scribed in subsection (e) during any calendar year and
22 performs the duties of his position or office for a period
23 in excess of 60 days in that calendar year shall file on
24 or before May 15 of the succeeding year a report con-
25 taining the information described in section 302(a).

1 "(d) Any individual who occupies a position described
2 in subsection (e) shall, on or before the 30th day after
3 termination of employment in such position, file a report
4 containing the information described in section 302(a)
5 covering the preceding calendar year if the report required
6 by subsection (c) has not been filed and covering the por-
7 tion of the calendar year in which such termination occurs
8 up to the date the individual left such office or position,
9 unless such individual has accepted employment in or
10 takes the oath of office for another position described in
11 subsection (e) or section 101(f).
12 "(e) The officers and employees referred to in sub-
13 sections (a), (c), and (d) are those employed in or under—
14 "(1) the Office of the National Intelligence Di-
15 rector; or
16 "(2) an element of the intelligence community,
17 as defined in section 3(4) of the National Security
18 Act of 1947 (50 U.S.C. 401a(4)).
19 "(f)(1) Reasonable extensions of time for filing any
20 report may be granted under procedures prescribed by the
21 Office of Government Ethics, but the total of such exten-
22 sions shall not exceed 90 days.
23 "(2)(A) In the case of an individual who is serving
24 in the Armed Forces, or serving in support of the Armed
25 Forces, in an area while that area is designated by the

1 President by Executive order as a combat zone for pur-
2 poses of section 112 of the Internal Revenue Code of
3 1986, the date for the filing of any report shall be ex-
4 tended so that the date is 180 days after the later of—
5 "(i) the last day of the individual's service
6 in such area during such designated period; or
7 "(ii) the last day of the individual's hos-
8 pitalization as a result of injury received or dis-
9 ease contracted while serving in such area.
10 "(B) The Office of Government Ethics, in consulta-
11 tion with the Secretary of Defense, may prescribe proce-
12 dures under this paragraph.
13 "(g) The Director of the Office of Government Ethics
14 may grant a publicly available request for a waiver of any
15 reporting requirement under this title with respect to an
16 individual if the Director determines that—
17 "(1) such individual is not a full-time employee
18 of the Government;
19 "(2) such individual is able to provide special
20 services needed by the Government;
21 "(3) it is unlikely that such individual's outside
22 employment or financial interests will create a con-
23 flict of interest; and
24 "(4) public financial disclosure by such indi-
25 vidual is not necessary in the circumstances.

1 ''(h)(1) The Director of the Office of Government
2 Ethics may establish procedures under which an incoming
3 individual can take actions to avoid conflicts of interest
4 while in office if the individual has holdings or other finan-
5 cial interests that raise conflict concerns.

6 ''(2) The actions referenced in paragraph (1) may in-
7 clude, but are not limited to, signed agreements with the
8 individual's employing agency, the establishment of blind
9 trusts, or requirements for divesting interests or holdings
10 while in office.

11 **''SEC. 302. CONTENTS OF REPORTS.**

12 ''(a) Each report filed pursuant to section 301 (c)
13 and (d) shall include a full and complete statement with
14 respect to the following:

15 ''(1)(A) The source, description, and category
16 of value of income (other than income referred to in
17 subparagraph (B)) from any source (other than
18 from current employment by the United States Gov-
19 ernment), received during the preceding calendar
20 year, aggregating more than $500 in value, except
21 that honoraria received during Government service
22 by an officer or employee shall include, in addition
23 to the source, the exact amount and the date it was
24 received.

1 "(B) The source and description of investment
2 income which may include but is not limited to divi-
3 dends, rents, interest, and capital gains, received
4 during the preceding calendar year which exceeds
5 $500 in amount or value.
6 "(C) The categories for reporting the amount
7 for income covered in subparagraphs (A) and (B)
8 are—
9 "(i) greater than $500 but not more than
10 $20,000;
11 "(ii) greater than $20,000 but not more
12 than $100,000;
13 "(iii) greater than $100,000 but not more
14 than $1,000,000;
15 "(iv) greater than $1,000,000 but not
16 more than $2,500,000; and
17 "(v) greater than $2,500,000.
18 "(2)(A) The identity of the source, a brief de-
19 scription, and the value of all gifts aggregating more
20 than the minimal value as established by section
21 7342(a)(5) of title 5, United States Code, or $250,
22 whichever is greater, received from any source other
23 than a relative of the reporting individual during the
24 preceding calendar year, except that any food, lodg-
25 ing, 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.

''(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. Notwithstanding the preceding sentence, individuals required to file pursuant to section 301(b) shall also report the aggregate sum of the outstanding balances of all revolving charge accounts as of any date that is within 30 days of the date of filing if the aggregate sum of those balances exceeds $20,000.

"(5) Except as provided in this paragraph, a brief description of any real property, other than

1 property used solely as a personal residence of the
2 reporting individual or his spouse, or stocks, bonds,
3 commodities futures, and other forms of securities,
4 if—
5 ''(A) purchased, sold, or exchanged during
6 the preceding calendar year;
7 ''(B) the value of the transaction exceeded
8 $5,000; and
9 ''(C) the property or security is not already
10 required to be reported as a source of income
11 pursuant to paragraph (1)(B) or as an asset
12 pursuant to paragraph (3).
13 ''(6)(A) The identity of all positions held on or
14 before the date of filing during the current calendar
15 year (and, for the first report filed by an individual,
16 during the 1-year period preceding such calendar
17 year) as an officer, director, trustee, partner, propri-
18 etor, representative, employee, or consultant of any
19 corporation, company, firm, partnership, or other
20 business enterprise, any nonprofit organization, any
21 labor organization, or any educational or other insti-
22 tution other than the United States Government.
23 This subparagraph shall not require the reporting of
24 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 in which, or the calendar year prior to 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.

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 or any information which the person for whom the services are provided has a reasonable expectation of privacy, 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

1 individual was directly involved in the provision of such
2 services.

3 "(7) A description of parties to and terms of
4 any agreement or arrangement with respect to (A)
5 future employment; (B) a leave of absence during
6 the period of the reporting individual's Government
7 service; (C) continuation of payments by a former
8 employer other than the United States Government;
9 and (D) continuing participation in an employee wel-
10 fare or benefit plan maintained by a former em-
11 ployer. The description of any formal agreement for
12 future employment shall include the date on which
13 that agreement was entered into.

14 "(8) The category of the total cash value of any
15 interest of the reporting individual in a qualified
16 blind trust.

17 "(b)(1) Each report filed pursuant to subsections (a)
18 and (b) of section 301 shall include a full and complete
19 statement with respect to the information required by—

20 "(A) paragraphs (1) and (6) of subsection (a)
21 for the year of filing and the preceding calendar
22 year,

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

1 "(C) paragraph (7) of subsection (a) as of the
2 filing date but for periods described in such para-
3 graph.
4 "(2)(A) In lieu of filling out 1 or more schedules of
5 a financial disclosure form, an individual may supply the
6 required information in an alternative format, pursuant
7 to either rules adopted by the Office of Government Ethics
8 or pursuant to a specific written determination by the Di-
9 rector of the Office of Government Ethics for a reporting
10 individual.
11 "(B) In lieu of indicating the category of amount or
12 value of any item contained in any report filed under this
13 title, a reporting individual may indicate the exact dollar
14 amount of such item.
15 "(c)(1) In the case of any individual referred to in
16 section 301(c), the Office of Government Ethics may by
17 regulation require a reporting period to include any period
18 in which the individual served as an officer or employee
19 described in section 301(e) and the period would not oth-
20 erwise be covered by any public report filed pursuant to
21 this title.
22 "(2) In the case of any individual referred to in sec-
23 tion 301(d), any reference to the preceding calendar year
24 shall be considered also to include that part of the cal-

1 endar year of filing up to the date of the termination of
2 employment.
3 "(d)(1) The categories for reporting the amount or
4 value of the items covered in subsection (a)(3) are—
5 "(A) greater than $5,000 but not more than
6 $15,000;
7 "(B) greater than $15,000 but not more than
8 $100,000;
9 "(C) greater than $100,000 but not more than
10 $1,000,000;
11 "(D) greater than $1,000,000 but not more
12 than $2,500,000; and
13 "(E) greater than $2,500,000.
14 "(2) For the purposes of subsection (a)(3) if the cur-
15 rent value of an interest in real property (or an interest
16 in a real estate partnership) is not ascertainable without
17 an appraisal, an individual may list (A) the date of pur-
18 chase and the purchase price of the interest in the real
19 property, or (B) the assessed value of the real property
20 for tax purposes, adjusted to reflect the market value of
21 the property used for the assessment if the assessed value
22 is computed at less than 100 percent of such market value,
23 but such individual shall include in his report a full and
24 complete description of the method used to determine such
25 assessed value, instead of specifying a category of value

1 pursuant to paragraph (1). If the current value of any
2 other item required to be reported under subsection (a)(3)
3 is not ascertainable without an appraisal, such individual
4 may list the book value of a corporation whose stock is
5 not publicly traded, the net worth of a business partner-
6 ship, the equity value of an individually owned business,
7 or with respect to other holdings, any recognized indica-
8 tion of value, but such individual shall include in his report
9 a full and complete description of the method used in de-
10 termining such value. In lieu of any value referred to in
11 the preceding sentence, an individual may list the assessed
12 value of the item for tax purposes, adjusted to reflect the
13 market value of the item used for the assessment if the
14 assessed value is computed at less than 100 percent of
15 such market value, but a full and complete description of
16 the method used in determining such assessed value shall
17 be included in the report.

18 ''(3) The categories for reporting the amount or value
19 of the items covered in paragraphs (4) and (8) of sub-
20 section (a) are—

21 ''(A) greater than $20,000 but not more than
22 $100,000;

23 ''(B) greater than $100,000 but not more than
24 $500,000;

1 "(C) greater than $500,000 but not more than
2 $1,000,000; and
3 "(D) greater than $1,000,000.
4 "(e)(1) Except as provided in subparagraph (F), each
5 report required by section 301 shall also contain informa-
6 tion listed in paragraphs (1) through (5) of subsection (a)
7 respecting the spouse or dependent child of the reporting
8 individual as follows:
9 "(A) The sources of earned income earned by
10 a spouse including honoraria which exceed $500 ex-
11 cept that, with respect to earned income if the
12 spouse is self-employed in business or a profession,
13 only the nature of such business or profession need
14 be reported.
15 "(B) All information required to be reported in
16 subsection (a)(1)(B) with respect to investment in-
17 come derived by a spouse or dependent child.
18 "(C) In the case of any gifts received by a
19 spouse or dependent child which are not received to-
20 tally independent of the relationship of the spouse or
21 dependent child to the reporting individual, the iden-
22 tity of the source and a brief description of gifts of
23 transportation, lodging, food, or entertainment and
24 a brief description and the value of other gifts.

1 "(D) In the case of any reimbursements re-
2 ceived by a spouse or dependent child which are not
3 received totally independent of the relationship of
4 the spouse or dependent child to the reporting indi-
5 vidual, the identity of the source and a brief descrip-
6 tion of each such reimbursement.
7 "(E) In the case of items described in para-
8 graphs (3) through (5) of subsection (a), all infor-
9 mation required to be reported under these para-
10 graphs other than items which the reporting indi-
11 vidual certifies (i) represent the spouse's or depend-
12 ent child's sole financial interest or responsibility
13 and which the reporting individual has no knowledge
14 of, (ii) are not in any way, past or present, derived
15 from the income, assets, or activities of the reporting
16 individual, and (iii) that he neither derives, nor ex-
17 pects to derive, any financial or economic benefit.
18 "(F) Reports required by subsections (a), (b),
19 and (c) of section 301 shall, with respect to the
20 spouse and dependent child of the reporting indi-
21 vidual, only contain information listed in paragraphs
22 (1), (3), and (4) of subsection (a).
23 "(2) No report shall be required with respect to a
24 spouse living separate and apart from the reporting indi-
25 vidual with the intention of terminating the marriage or

1 providing for permanent separation, or with respect to any
2 income or obligations of an individual arising from the dis-
3 solution of his marriage or the permanent separation from
4 his spouse.

5 "(f)(1) Except as provided in paragraph (2), each re-
6 porting individual shall report the information required to
7 be reported pursuant to subsections (a), (b), and (c) with
8 respect to the holdings of and the income from a trust
9 or other financial arrangement from which income is re-
10 ceived by, or with respect to which a beneficial interest
11 in principal or income is held by, such individual, his
12 spouse, or any dependent child.

13 "(2) A reporting individual need not report the hold-
14 ings of or the source of income from any of the holdings
15 of—

16 "(A) any qualified blind trust (as defined in
17 paragraph (3));

18 "(B) a trust—

19 "(i) which was not created directly by such
20 individual, his spouse, or any dependent child,
21 and

22 "(ii) the holdings or sources of income of
23 which such individual, his spouse, and any de-
24 pendent child have no knowledge; 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 entity under subsection (a)(1)(B).

"(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

1 "(III) is not a relative of any interested
2 party.
3 "(ii) Any officer or employee of a trustee or
4 other entity who is involved in the management or
5 control of the trust—
6 "(I) is independent of and not associated
7 with any interested party so that such officer or
8 employee cannot be controlled or influenced in
9 the administration of the trust by any inter-
10 ested party;
11 "(II) is not a partner of, or involved in any
12 joint venture or other investment with, any in-
13 terested party; and
14 "(III) is not a relative of any interested
15 party.
16 "(B) Any asset transferred to the trust by an
17 interested party is free of any restriction with re-
18 spect to its transfer or sale unless such restriction
19 is expressly approved by the Office of Government
20 Ethics.
21 "(C) The trust instrument which establishes the
22 trust provides that—
23 "(i) except to the extent provided in sub-
24 paragraph (B), the trustee in the exercise of his
25 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 in-

1 terested party to complete an individual tax re-
2 turn required by law or to provide the informa-
3 tion required by subsection (a)(1) of this sec-
4 tion, but such report shall not identify any
5 asset or holding;
6 ''(vi) except for communications which
7 solely consist of requests for distributions of
8 cash or other unspecified assets of the trust,
9 there shall be no direct or indirect communica-
10 tion between the trustee and an interested
11 party with respect to the trust unless such com-
12 munication is in writing and unless it relates
13 only (I) to the general financial interest and
14 needs of the interested party (including, but not
15 limited to, an interest in maximizing income or
16 long-term capital gain), (II) to the notification
17 of the trustee of a law or regulation subse-
18 quently applicable to the reporting individual
19 which prohibits the interested party from hold-
20 ing an asset, which notification directs that the
21 asset not be held by the trust, or (III) to direc-
22 tions to the trustee to sell all of an asset ini-
23 tially placed in the trust by an interested party
24 which in the determination of the reporting in-
25 dividual creates a conflict of interest or the ap-

1 pearance thereof due to the subsequent assump-
2 tion of duties by the reporting individual (but
3 nothing herein shall require any such direction);
4 and
5 ''(vii) the interested parties shall make no
6 effort to obtain information with respect to the
7 holdings of the trust, including obtaining a copy
8 of any trust tax return filed or any information
9 relating thereto except as otherwise provided in
10 this subsection.
11 ''(D) The proposed trust instrument and the
12 proposed trustee is approved by the Office of Gov-
13 ernment Ethics.
14 ''(E) For purposes of this subsection, 'inter-
15 ested party' means a reporting individual, his
16 spouse, and any minor or dependent child; 'broker'
17 has the meaning set forth in section 3(a)(4) of the
18 Securities and Exchange Act of 1934 (15 U.S.C.
19 78c(a)(4)); and 'investment adviser' includes any in-
20 vestment adviser who, as determined under regula-
21 tions prescribed by the supervising ethics office, is
22 generally involved in his role as such an adviser in
23 the management or control of trusts.
24 ''(4)(A) An asset placed in a trust by an interested
25 party shall be considered a financial interest of the report-

1 ing individual, for the purposes of any applicable conflict
2 of interest statutes, regulations, or rules of the Federal
3 Government (including section 208 of title 18, United
4 States Code), until such time as the reporting individual
5 is notified by the trustee that such asset has been disposed
6 of, or has a value of less than $1,000.

7 ''(B)(i) The provisions of subparagraph (A) shall not
8 apply with respect to a trust created for the benefit of
9 a reporting individual, or the spouse, dependent child, or
10 minor child of such a person, if the Office of Government
11 Ethics finds that—

12 ''(I) the assets placed in the trust consist of a
13 well-diversified portfolio of readily marketable securi-
14 ties;

15 ''(II) none of the assets consist of securities of
16 entities having substantial activities in the area of
17 the reporting individual's primary area of responsi-
18 bility;

19 ''(III) the trust instrument prohibits the trust-
20 ee, notwithstanding the provisions of paragraph
21 (3)(C) (iii) and (iv), from making public or inform-
22 ing any interested party of the sale of any securities;

23 ''(IV) the trustee is given power of attorney,
24 notwithstanding the provisions of paragraph
25 (3)(C)(v), to prepare on behalf of any interested

1 party the personal income tax returns and similar
2 returns which may contain information relating to
3 the trust; and
4 ''(V) except as otherwise provided in this para-
5 graph, the trust instrument provides (or in the case
6 of a trust which by its terms does not permit amend-
7 ment, the trustee, the reporting individual, and any
8 other interested party agree in writing) that the
9 trust shall be administered in accordance with the
10 requirements of this subsection and the trustee of
11 such trust meets the requirements of paragraph
12 (3)(A).
13 ''(ii) In any instance covered by subparagraph (B)
14 in which the reporting individual is an individual whose
15 nomination is being considered by a congressional com-
16 mittee, the reporting individual shall inform the congres-
17 sional committee considering his nomination before or dur-
18 ing the period of such individual's confirmation hearing
19 of his intention to comply with this paragraph.
20 ''(5)(A) The reporting individual shall, within 30
21 days after a qualified blind trust is approved by the Office
22 of Government Ethics, file with such office a copy of—
23 ''(i) the executed trust instrument of such trust
24 (other than those provisions which relate to the tes-
25 tamentary disposition of the trust assets), and

1 "(ii) a list of the assets which were transferred
2 to such trust, including the category of value of each
3 asset as determined under subsection (d).
4 This subparagraph shall not apply with respect to a trust
5 meeting the requirements for being considered a qualified
6 blind trust under paragraph (7).
7 "(B) The reporting individual shall, within 30 days
8 of transferring an asset (other than cash) to a previously
9 established qualified blind trust, notify the Office of Gov-
10 ernment Ethics of the identity of each such asset and the
11 category of value of each asset as determined under sub-
12 section (d) of this section.
13 "(C) Within 30 days of the dissolution of a qualified
14 blind trust, a reporting individual shall notify the Office
15 of Government Ethics of such dissolution.
16 "(D) Documents filed under subparagraphs (A), (B),
17 and (C) and the lists provided by the trustee of assets
18 placed in the trust by an interested party which have been
19 sold shall be made available to the public in the same man-
20 ner as a report is made available under section 305 and
21 the provisions of that section shall apply with respect to
22 such documents and lists.
23 "(E) A copy of each written communication with re-
24 spect to the trust under paragraph (3)(C)(vi) shall be filed
25 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); (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) 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) 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). 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

1 any individual who negligently violates the provisions of
2 subparagraph (A) or (B). The court in which such action
3 is brought may assess against such individual a civil pen-
4 alty in any amount not to exceed $5,000.

5 ''(7) Any trust may be considered to be a qualified
6 blind trust if—

7 ''(A) the trust instrument is amended to comply
8 with the requirements of paragraph (3) or, in the
9 case of a trust instrument which does not by its
10 terms permit amendment, the trustee, the reporting
11 individual, and any other interested party agree in
12 writing that the trust shall be administered in ac-
13 cordance with the requirements of this subsection
14 and the trustee of such trust meets the requirements
15 of paragraph (3)(A); except that in the case of any
16 interested party who is a dependent child, a parent
17 or guardian of such child may execute the agreement
18 referred to in this subparagraph;

19 ''(B) a copy of the trust instrument (except tes-
20 tamentary provisions) and a copy of the agreement
21 referred to in subparagraph (A), and a list of the as-
22 sets held by the trust at the time of approval by the
23 Office of Government Ethics, including the category
24 of value of each asset as determined under sub-
25 section (d), are filed with such office and made

1 available to the public as provided under paragraph
2 (5)(D); and
3 ''(C) the Director of the Office of Government
4 Ethics determines that approval of the trust ar-
5 rangement as a qualified blind trust is in the par-
6 ticular case appropriate to assure compliance with
7 applicable laws and regulations.
8 ''(8) A reporting individual shall not be required to
9 report the financial interests held by a widely held invest-
10 ment fund (whether such fund is a mutual fund, regulated
11 investment company, pension or deferred compensation
12 plan, or other investment fund), if—
13 ''(A)(i) the fund is publicly traded; or
14 ''(ii) the assets of the fund are widely diversi-
15 fied; and
16 ''(B) the reporting individual neither exercises
17 control over nor has the ability to exercise control
18 over the financial interests held by the fund.
19 ''(9)(A)(i) A reporting individual described in sub-
20 section (a) or (b) of section 301 shall not be required to
21 report the holdings or sources of income of any trust or
22 investment fund where—
23 ''(I) reporting would result in the disclosure of
24 assets or sources of income of another person whose

1 interests are not required to be reported by the re-
2 porting individual under this title;
3 ''(II) the disclosure of such assets and sources
4 of income is prohibited by contract or the assets and
5 sources of income are not otherwise publicly avail-
6 able; and
7 ''(III) the reporting individual has executed a
8 written ethics agreement which contains a general
9 description of the trust or investment fund and a
10 commitment to divest the interest in the trust or in-
11 vestment fund not later than 90 days after the date
12 of the agreement.
13 ''(ii) An agreement described under clause (i)(III)
14 shall be attached to the public financial disclosure which
15 would otherwise include a listing of the holdings or sources
16 of income from this trust or investment fund.
17 ''(B)(i) The provisions of subparagraph (A) shall
18 apply to an individual described in subsection (c) or (d)
19 of section 301 if—
20 ''(I) the interest in the trust or investment fund
21 is acquired involuntarily during the period to be cov-
22 ered by the report, such as through marriage or in-
23 heritance, and
24 ''(II) for an individual described in subsection
25 (c), the individual executes a written ethics agree-

1 ment containing a commitment to divest the interest
2 no later than 90 days after the date on which the
3 report is due.
4 ''(ii) An agreement described under clause (i)(II)
5 shall be attached to the public financial disclosure which
6 would otherwise include a listing of the holdings or sources
7 of income from this trust or investment fund.
8 ''(iii) Failure to divest within the time specified or
9 after an extension granted by the Director of the Office
10 of Government Ethics for good cause shown shall result
11 in an immediate requirement to report as specified in
12 paragraph (1).
13 ''(g) Political campaign funds, including campaign re-
14 ceipts and expenditures, need not be included in any re-
15 port filed pursuant to this title.
16 ''(h) A report filed pursuant to subsection (a), (c),
17 or (d) of section 301 need not contain the information de-
18 scribed in subparagraphs (A), (B), and (C) of subsection
19 (a)(2) with respect to gifts and reimbursements received
20 in a period when the reporting individual was not an offi-
21 cer or employee of the Federal Government.
22 ''(i) A reporting individual shall not be required
23 under this title to report—
24 ''(1) financial interests in or income derived
25 from—

1 "(A) any retirement system under title 5,
2 United States Code (including the Thrift Sav-
3 ings Plan under subchapter III of chapter 84 of
4 such title); or
5 "(B) any other retirement system main-
6 tained by the United States for officers or em-
7 ployees of the United States, including the
8 President, or for members of the uniformed
9 services; or
10 "(2) benefits received under the Social Security
11 Act (42 U.S.C. 301 et seq.).
12 "(j)(1) Every month, each designated agency ethics
13 officer shall submit to the Office of Government Ethics
14 notification of any waiver of criminal conflict of interest
15 laws granted to any individual in the preceding month
16 with respect to a filing under this title that is not confiden-
17 tial.
18 "(2) Every month, the Office of Government Ethics
19 shall make publicly available on the Internet—
20 "(A) all notifications of waivers submitted
21 under paragraph (1) in the preceding month; and
22 "(B) notification of all waivers granted by the
23 Office of Government Ethics in the preceding
24 month.

1 ''(k) A full copy of any waiver of criminal conflict
2 of interest laws granted shall be included with any filing
3 required under this title with respect to the year in which
4 the waiver is granted.

5 ''(l) The Office of Government Ethics shall provide
6 upon request any waiver on file for which notice has been
7 published.

8 **''SEC. 303. FILING OF REPORTS.**

9 ''(a) Except as otherwise provided in this section, the
10 reports required under this title shall be filed by the re-
11 porting individual with the designated agency ethics offi-
12 cial at the agency by which he is employed (or in the case
13 of an individual described in section 301(d), was em-
14 ployed) or in which he will serve. The date any report is
15 received (and the date of receipt of any supplemental re-
16 port) shall be noted on such report by such official.

17 ''(b) Reports required to be filed under this title by
18 the Director of the Office of Government Ethics shall be
19 filed in the Office of Government Ethics and, immediately
20 after being filed, shall be made available to the public in
21 accordance with this title.

22 ''(c) Reports required of members of the uniformed
23 services shall be filed with the Secretary concerned.

1 ''(d) The Office of Government Ethics shall develop
2 and make available forms for reporting the information
3 required by this title.

4 **''SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

5 ''(a) The Attorney General may bring a civil action
6 in any appropriate United States district court against
7 any individual who knowingly and willfully falsifies or who
8 knowingly and willfully fails to file or report any informa-
9 tion that such individual is required to report pursuant
10 to section 302. The court in which such action is brought
11 may assess against such individual a civil penalty in any
12 amount, not to exceed $10,000.

13 ''(b) The head of each agency, each Secretary con-
14 cerned, or the Director of the Office of Government Eth-
15 ics, as the case may be, shall refer to the Attorney General
16 the name of any individual which such official has reason-
17 able cause to believe has willfully failed to file a report
18 or has willfully falsified or willfully failed to file informa-
19 tion required to be reported.

20 ''(c) The President, the Vice President, the Secretary
21 concerned, or the head of each agency may take any ap-
22 propriate personnel or other action in accordance with ap-
23 plicable law or regulation against any individual failing to
24 file a report or falsifying or failing to report information
25 required to be reported.

1 ''(d)(1) Any individual who files a report required to
2 be filed under this title more than 30 days after the later
3 of—
4 ''(A) the date such report is required to be filed
5 pursuant to the provisions of this title and the rules
6 and regulations promulgated thereunder; or
7 ''(B) if a filing extension is granted to such in-
8 dividual under section 301(g), the last day of the fil-
9 ing extension period, shall, at the direction of and
10 pursuant to regulations issued by the Office of Gov-
11 ernment Ethics, pay a filing fee of $500. All such
12 fees shall be deposited in the miscellaneous receipts
13 of the Treasury. The authority under this paragraph
14 to direct the payment of a filing fee may be dele-
15 gated by the Office of Government Ethics to other
16 agencies in the executive branch.
17 ''(2) The Office of Government Ethics may waive the
18 filing fee under this subsection for good cause shown.
19 **''SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**
20 ''Any report filed with or transmitted to an agency
21 or the Office of Government Ethics pursuant to this title
22 shall be retained by such agency or Office, as the case
23 may be, for a period of 6 years after receipt of the report.
24 After such 6-year period the report shall be destroyed un-
25 less needed in an ongoing investigation, except that in the

1 case of an individual who filed the report pursuant to sec-
2 tion 301(b) and was not subsequently confirmed by the
3 Senate, such reports shall be destroyed 1 year after the
4 individual is no longer under consideration by the Senate,
5 unless needed in an ongoing investigation.

6 **"SEC. 306. REVIEW OF REPORTS.**

7 ''(a) Each designated agency ethics official or Sec-
8 retary concerned shall make provisions to ensure that each
9 report filed with him under this title is reviewed within
10 60 days after the date of such filing, except that the Direc-
11 tor of the Office of Government Ethics shall review only
12 those reports required to be transmitted to him under this
13 title within 60 days after the date of transmittal.

14 ''(b)(1) If after reviewing any report under subsection
15 (a), the Director of the Office of Government Ethics, the
16 Secretary concerned, or the designated agency ethics offi-
17 cial, as the case may be, is of the opinion that on the basis
18 of information contained in such report the individual sub-
19 mitting such report is in compliance with applicable laws
20 and regulations, he shall state such opinion on the report,
21 and shall sign such report.

22 ''(2) If the Director of the Office of Government Eth-
23 ics, the Secretary concerned, or the designated agency eth-
24 ics official after reviewing any report under subsection
25 (a)—

1 "(A) believes additional information is required
2 to be submitted to complete the form or to perform
3 a conflict of interest analysis, he shall notify the in-
4 dividual submitting such report what additional in-
5 formation is required and the time by which it must
6 be submitted, or
7 "(B) is of the opinion, on the basis of informa-
8 tion submitted, that the individual is not in compli-
9 ance with applicable laws and regulations, he shall
10 notify the individual, afford a reasonable opportunity
11 for a written or oral response, and after consider-
12 ation of such response, reach an opinion as to
13 whether or not, on the basis of information sub-
14 mitted, the individual is in compliance with such
15 laws and regulations.
16 "(3) If the Director of the Office of Government Eth-
17 ics, the Secretary concerned, or the designated agency eth-
18 ics official reaches an opinion under paragraph (2)(B)
19 that an individual is not in compliance with applicable
20 laws and regulations, the official shall notify the individual
21 of that opinion and, after an opportunity for personal con-
22 sultation (if practicable), determine and notify the indi-
23 vidual of which steps, if any, would in the opinion of such
24 official be appropriate for assuring compliance with such

1 laws and regulations and the date by which such steps
2 should be taken. Such steps may include, as appropriate—
3 ''(A) divestiture,
4 ''(B) restitution,
5 ''(C) the establishment of a blind trust,
6 ''(D) request for an exemption under section
7 208(b) of title 18, United States Code, or
8 ''(E) voluntary request for transfer, reassign-
9 ment, limitation of duties, or resignation.
10 The use of any such steps shall be in accordance with such
11 rules or regulations as the Office of Government Ethics
12 may prescribe.
13 ''(4) If steps for assuring compliance with applicable
14 laws and regulations are not taken by the date set under
15 paragraph (3) by a member of the Foreign Service or the
16 uniformed services, the Secretary concerned shall take ap-
17 propriate action.
18 ''(5) If steps for assuring compliance with applicable
19 laws and regulations are not taken by the date set under
20 paragraph (3) by any other officer or employee, the matter
21 shall be referred to the head of the appropriate agency
22 for appropriate action.
23 ''(6) The Office of Government Ethics may render
24 advisory opinions interpreting this title. Notwithstanding
25 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. 307. 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 listed in section 301(e) 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

1 301 shall not be required to file a confidential report pur-
2 suant to this subsection, except with respect to informa-
3 tion which is more extensive than information otherwise
4 required by this title. Section 305 shall not apply with re-
5 spect to any such report.

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

9 ''(3) Nothing in this subsection exempts any indi-
10 vidual otherwise covered by the requirement to file a public
11 financial disclosure report under this title from such re-
12 quirement.

13 ''(b) The provisions of this title requiring the report-
14 ing of information shall supersede any general require-
15 ment under any other provision of law or regulation with
16 respect to the reporting of information required for pur-
17 poses of preventing conflicts of interest or apparent con-
18 flicts of interest. Such provisions of this title shall not su-
19 persede the requirements of section 7342 of title 5, United
20 States Code.

21 ''(c) Nothing in this Act requiring reporting of infor-
22 mation shall be deemed to authorize the receipt of income,
23 gifts, or reimbursements; the holding of assets, liabilities,
24 or positions; or the participation in transactions that are
25 prohibited by law, Executive order, rule, or regulation.

"SEC. 308. 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. 309. DEFINITIONS.

''For the purposes of this title—

''(1) the term '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) the term 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

''(3) the term 'executive branch' includes—

''(A) each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office; and

1 "(B) any other entity or administrative
2 unit in the executive branch;
3 "(4) the term 'gift' means a payment, advance,
4 forbearance, rendering, or deposit of money, or any
5 thing of value, unless consideration of equal or
6 greater value is received by the donor, but does not
7 include—
8 "(A) bequests and other forms of inherit-
9 ance;
10 "(B) suitable mementos of a function hon-
11 oring the reporting individual;
12 "(C) food, lodging, transportation, and en-
13 tertainment provided by a foreign government
14 within a foreign country or by the United
15 States Government, the District of Columbia, or
16 a State or local government or political subdivi-
17 sion thereof;
18 "(D) food and beverages which are not
19 consumed in connection with a gift of overnight
20 lodging;
21 "(E) communications to the offices of a re-
22 porting individual, including subscriptions to
23 newspapers and periodicals; or
24 "(F) items that are accepted pursuant to
25 or are required to be reported by the reporting

individual under section 7342 of title 5, United States Code.

''(5) the term 'honorarium' means a payment of money or anything of value for an appearance, speech, or article;

''(6) the term '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) the term '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) the term 'reimbursement' means any payment or other thing of value received by the report-

ing 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) the term '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;

1 ''(10) the term 'Secretary concerned' has the
2 meaning set forth in section 101(a)(9) of title 10,
3 United States Code; and
4 ''(11) the term 'value' means a good faith esti-
5 mate of the dollar value if the exact value is neither
6 known nor easily obtainable by the reporting indi-
7 vidual.

8 **''SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY WITH**
9 **ETHICS AGREEMENTS.**

10 ''(a) In any case in which an individual agrees with
11 that individual's designated agency ethics official, the Of-
12 fice of Government Ethics, or a Senate confirmation com-
13 mittee, to take any action to comply with this Act or any
14 other law or regulation governing conflicts of interest of,
15 or establishing standards of conduct applicable with re-
16 spect to, officers or employees of the Government, that
17 individual shall notify in writing the designated agency
18 ethics official, the Office of Government Ethics, or the ap-
19 propriate committee of the Senate, as the case may be,
20 of any action taken by the individual pursuant to that
21 agreement. Such notification shall be made not later than
22 the date specified in the agreement by which action by
23 the individual must be taken, or not later than 3 months
24 after the date of the agreement, if no date for action is
25 so specified. If all actions agreed to have not been com-

1 pleted by the date of this notification, such notification
2 shall continue on a monthly basis thereafter until the indi-
3 vidual has met the terms of the agreement.

4 ''(b) If an agreement described in subsection (a) re-
5 quires that the individual recuse himself or herself from
6 particular categories of agency or other official action, the
7 individual shall reduce to writing those subjects regarding
8 which the recusal agreement will apply and the process
9 by which it will be determined whether the individual must
10 recuse himself or herself in a specific instance. An indi-
11 vidual shall be considered to have complied with the re-
12 quirements of subsection (a) with respect to such recusal
13 agreement if such individual files a copy of the document
14 setting forth the information described in the preceding
15 sentence with such individual's designated agency ethics
16 official or the Office of Government Ethics within the time
17 prescribed in the penultimate sentence of subsection (a).

18 **''SEC. 311. ADMINISTRATION OF PROVISIONS.**

19 ''The Office of Government Ethics shall issue regula-
20 tions, develop forms, and provide such guidance as is nec-
21 essary to implement and interpret this title.''.

22 (b) EXEMPTION FROM PUBLIC ACCESS TO FINAN-
23 CIAL DISCLOSURES.—Section 105(a)(1) of such Act is
24 amended by inserting ''the Office of the National Intel-

1 ligence Director,'' before ''the Central Intelligence Agen-
2 cy''.
3 (c) CONFORMING AMENDMENT.—Section 101(f) of
4 such Act is amended—
5 (1) in paragraph (12), by striking the period at
6 the end and inserting a semicolon; and
7 (2) by adding at the end the following:
8 ''but do not include any officer or employee of any depart-
9 ment or agency listed in section 301(e).''.
10 **SEC. 5044. REDUCTION OF POSITIONS REQUIRING AP-**
11 **POINTMENT WITH SENATE CONFIRMATION.**
12 (a) DEFINITION.—In this section, the term ''agency''
13 means an Executive agency, as defined under section 105
14 of title 5, United States Code.
15 (b) REDUCTION PLAN.—
16 (1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this Act, the head of
18 each agency shall submit a Presidential appointment
19 reduction plan to—
20 (A) the President;
21 (B) the Committee on Governmental Af-
22 fairs of the Senate; and
23 (C) the Committee on Government Reform
24 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. 5045. EFFECTIVE DATES.

(a) SECTION 5043.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 5043 shall take effect on January 1 of the year following the year in which occurs the date of enactment of this Act.

(2) LATER DATE.—If this Act is enacted on or after July 1 of a year, the amendments made by section 301 shall take effect on July 1 of the following year.

(b) SECTION 5044.—Section 5044 shall take effect on the date of enactment of this Act.

CHAPTER 2—FEDERAL BUREAU OF INVESTIGATION REVITALIZATION

SEC. 5051. MANDATORY SEPARATION AGE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code, is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)''; and

(2) by adding at the end the following:

''(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The authority to grant exemptions in accordance with the preceding sentence shall cease to be available after December 31, 2009.''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)''; and

(2) by adding at the end the following:

''(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The authority to grant exemptions in accordance with the preceding sentence shall cease to be available after December 31, 2009.''.

SEC. 5052. RETENTION AND RELOCATION BONUSES.

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§ 5759. Retention and relocation bonuses for the Federal Bureau of Investigation

"(a) AUTHORITY.—The Director of the Federal Bureau of Investigation, after consultation with the Director of the Office of Personnel Management, may pay, on a case-by-case basis, a bonus under this section to an employee of the Bureau if—

"(1)(A) the unusually high or unique qualifications of the employee or a special need of the Bureau for the employee's services makes it essential to retain the employee; and

"(B) the Director of the Federal Bureau of Investigation determines that, in the absence of such a bonus, the employee would be likely to leave—

"(i) the Federal service; or

"(ii) for a different position in the Federal service; or

"(2) the individual is transferred to a different geographic area with a higher cost of living (as determined by the Director of the Federal Bureau of Investigation).

"(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Bureau to complete a period of service with the Bureau. Such agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

"(c) LIMITATION ON AUTHORITY.—A bonus paid under this section may not exceed 50 percent of the employee's basic pay.

"(d) IMPACT ON BASIC PAY.—A retention bonus is not part of the basic pay of an employee for any purpose.

"(e) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this section shall cease to be available after December 31, 2009.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"5759. Retention and relocation bonuses for the Federal Bureau of Investigation.".

SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE SERVICE.

(a) IN GENERAL.—Chapter 35 of title 5, United States Code, is amended by adding at the end the following:

1 "SUBCHAPTER VII—RETENTION OF RETIRED
2 SPECIALIZED EMPLOYEES AT THE FED-
3 ERAL BUREAU OF INVESTIGATION

4 **"§ 3598. Federal Bureau of Investigation Reserve**
5 **Service**

6 "(a) ESTABLISHMENT.—The Director of the Federal
7 Bureau of Investigation may provide for the establishment
8 and training of a Federal Bureau of Investigation Reserve
9 Service (hereinafter in this section referred to as the 'FBI
10 Reserve Service') for temporary reemployment of employ-
11 ees in the Bureau during periods of emergency, as deter-
12 mined by the Director.

13 "(b) MEMBERSHIP.—Membership in the FBI Re-
14 serve Service shall be limited to individuals who previously
15 served as full-time employees of the Bureau.

16 "(c) ANNUITANTS.—If an individual receiving an an-
17 nuity from the Civil Service Retirement and Disability
18 Fund on the basis of such individual's service becomes
19 temporarily reemployed pursuant to this section, such an-
20 nuity shall not be discontinued thereby. An individual so
21 reemployed shall not be considered an employee for the
22 purposes of chapter 83 or 84.

23 "(d) NO IMPACT ON BUREAU PERSONNEL CEIL-
24 ING.—FBI Reserve Service members reemployed on a

1 temporary basis pursuant to this section shall not count
2 against any personnel ceiling applicable to the Bureau.
3 ''(e) EXPENSES.—The Director may provide mem-
4 bers of the FBI Reserve Service transportation and per
5 diem in lieu of subsistence, in accordance with applicable
6 provisions of this title, for the purpose of participating in
7 any training that relates to service as a member of the
8 FBI Reserve Service.
9 ''(f) LIMITATION ON MEMBERSHIP.—Membership of
10 the FBI Reserve Service is not to exceed 500 members
11 at any given time.''.
12 (b) CLERICAL AMENDMENT.—The analysis for chap-
13 ter 35 of title 5, United States Code, is amended by add-
14 ing at the end the following:

''SUBCHAPTER VII--RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

''3598. Federal Bureau of Investigation Reserve Service.''.

15 **SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU**
16 **OF INVESTIGATION INTELLIGENCE DIREC-**
17 **TORATE.**
18 Section 5377(a)(2) of title 5, United States Code, is
19 amended—
20 (1) by striking ''and'' at the end of subpara-
21 graph (E);
22 (2) by striking the period at the end of sub-
23 paragraph (F) and inserting ''; and''; and

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

"(G) a position at the Federal Bureau of Investigation, the primary duties and responsibilities of which relate to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).".

CHAPTER 3—MANAGEMENT AUTHORITY

SEC. 5061. MANAGEMENT AUTHORITY.

(a) MANAGEMENT AUTHORITY.—Section 7103(b)(1)(A) of title 5, United States Code, is amended by adding "homeland security," after "investigative,".

(b) EXCLUSIONARY AUTHORITY.—Section 842 of the Homeland Security Act (Public Law 107–296; 6 U.S.C. 412) is repealed.

Subtitle F—Security Clearance Modernization

SEC. 5071. DEFINITIONS.

In this subtitle:

(1) The term "Director" means the National Intelligence Director.

(2) The term "agency" means—

(A) an executive agency, as defined in section 105 of title 5, United States Code;

(B) a military department, as defined in section 102 of title 5, United States Code; and

(C) elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''authorized investigative agency'' means an agency authorized by law, regulation or direction of the Director to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(4) The term ''authorized adjudicative agency'' means an agency authorized by law, regulation or direction of the Director to determine eligibility for access to classified information in accordance with Executive Order 12968.

(5) The term ''highly sensitive program'' means—

(A) a government program designated as a Special Access Program (as defined by section 4.1(h) of Executive Order 12958); and

(B) a government program that applies restrictions required for—

(i) Restricted Data (as defined by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)); or

(ii) other information commonly referred to as ''Sensitive Compartmented Information''.

(6) The term ''current investigation file'' means, with respect to a security clearance, a file on an investigation or adjudication that has been conducted during—

(A) the 5-year period beginning on the date the security clearance was granted, in the case of a Top Secret Clearance, or the date access was granted to a highly sensitive program;

(B) the 10-year period beginning on the date the security clearance was granted in the case of a Secret Clearance; and

(C) the 15-year period beginning on the date the security clearance was granted in the case of a Confidential Clearance.

(7) The term ''personnel security investigation'' means any investigation required for the purpose of determining the eligibility of any military, civilian, or government contractor personnel to access classified information.

(8) The term ''periodic reinvestigations'' means—

(A) investigations conducted for the purpose of updating a previously completed background investigation—

(i) every five years in the case of a Top Secret Clearance or access to a highly sensitive program;

(ii) every 10 years in the case of a Secret Clearance; and

(iii) every 15 years in the case of a Confidential Clearance;

(B) on-going investigations to identify personnel security risks as they develop, pursuant to section 105(c).

(9) The term ''appropriate committees of Congress'' means—

(A) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Judiciary, and Government Reform of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committees on Armed Services, Judiciary, and Governmental Affairs of the Senate.

SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE PROGRAMS OVERSIGHT AND ADMINISTRATION.

The Deputy National Intelligence Director for Community Management and Resources shall have responsibility for the following:

(1) Directing day-to-day oversight of investigations and adjudications for personnel security clearances to highly sensitive programs throughout the Federal Government.

(2) Developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of security clearances and determinations for access to highly sensitive programs, including the standardization of security questionnaires, financial disclosure requirements for security clearance applicants, and polygraph policies and procedures.

(3) Serving as the final authority to designate an authorized investigative agency or authorized adjudicative agency pursuant to section 5074(d).

(4) Ensuring reciprocal recognition of access to classified information among agencies, including acting as the final authority to arbitrate and resolve disputes involving the reciprocity of security clearances and access to highly sensitive programs.

(5) Ensuring, to the maximum extent practicable, that sufficient resources are available in each agency to achieve clearance and investigative program goals.

(6) Reviewing and coordinating the development of tools and techniques for enhancing the conduct of investigations and granting of clearances.

SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND ACCESS DETERMINATIONS.

(a) REQUIREMENT FOR RECIPROCITY.—(1) All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies.

(2) All security clearance background investigations initiated by an authorized investigative agency shall be transferable to any other authorized investigative agency.

(b) PROHIBITION ON ESTABLISHING ADDITIONAL REQUIREMENTS.—(1) An authorized investigative agency or authorized adjudicative agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed requirements specified in Executive Orders establishing security requirements for access to classified information.

1 (2) Notwithstanding the paragraph (1), the Director
2 may establish additional requirements as needed for na-
3 tional security purposes.

4 (c) PROHIBITION ON DUPLICATIVE INVESTIGA-
5 TIONS.—An authorized investigative agency or authorized
6 adjudicative agency may not conduct an investigation for
7 purposes of determining whether to grant a security clear-
8 ance to an individual where a current investigation or
9 clearance of equal level already exists or has been granted
10 by another authorized adjudicative agency.

11 **SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE .**

12 (a) ESTABLISHMENT.—Not later than 12 months
13 after the date of the enactment of this Act, the Director
14 of the Office of Personnel Management, in cooperation
15 with the Director, shall establish, and begin operating and
16 maintaining, an integrated, secure, national database into
17 which appropriate data relevant to the granting, denial,
18 or revocation of a security clearance or access pertaining
19 to military, civilian, or government contractor personnel
20 shall be entered from all authorized investigative and adju-
21 dicative agencies.

22 (b) INTEGRATION.—The national database estab-
23 lished under subsection (a) shall function to integrate in-
24 formation from existing Federal clearance tracking sys-

1 tems from other authorized investigative and adjudicative
2 agencies into a single consolidated database.
3 (c) REQUIREMENT TO CHECK DATABASE.—Each au-
4 thorized investigative or adjudicative agency shall check
5 the national database established under subsection (a) to
6 determine whether an individual the agency has identified
7 as requiring a security clearance has already been granted
8 or denied a security clearance, or has had a security clear-
9 ance revoked, by any other authorized investigative or ad-
10 judicative agency.
11 (d) CERTIFICATION OF AUTHORIZED INVESTIGATIVE
12 AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.—
13 The Director shall evaluate the extent to which an agency
14 is submitting information to, and requesting information
15 from, the national database established under subsection
16 (a) as part of a determination of whether to certify the
17 agency as an authorized investigative agency or authorized
18 adjudicative agency.
19 (e) EXCLUSION OF CERTAIN INTELLIGENCE
20 OPERATIVES.—The Director may authorize an agency to
21 withhold information about certain individuals from the
22 database established under subsection (a) if the Director
23 determines it is necessary for national security purposes.

(f) COMPLIANCE.—The Director shall establish a review procedure by which agencies can seek review of actions required under section 5073.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year for the implementation, maintenance and operation of the database established in subsection (a).

SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEARANCE INVESTIGATIONS.

(a) INVESTIGATIONS.—Not later than 12 months after the date of the enactment of this Act, each authorized investigative agency that conducts personnel security clearance investigations shall use, to the maximum extent practicable, available information technology and databases to expedite investigative processes and to verify standard information submitted as part of an application for a security clearance.

(b) INTERIM CLEARANCE.—If the application of an applicant for an interim clearance has been processed using the technology under subsection (a), the interim clearances for the applicant at the secret, top secret, and special access program levels may be granted before the completion of the appropriate investigation. Any request to process an interim clearance shall be given priority, and

1 the authority granting the interim clearance shall ensure
2 that final adjudication on the application is made within
3 90 days after the initial clearance is granted.

4 (c) ON-GOING MONITORING OF INDIVIDUALS WITH
5 SECURITY CLEARANCES.—(1) Authorized investigative
6 agencies and authorized adjudicative agencies shall estab-
7 lish procedures for the regular, ongoing verification of per-
8 sonnel with security clearances in effect for continued ac-
9 cess to classified information. Such procedures shall in-
10 clude the use of available technology to detect, on a regu-
11 larly recurring basis, any issues of concern that may arise
12 involving such personnel and such access.

13 (2) Such regularly recurring verification may be used
14 as a basis for terminating a security clearance or access
15 and shall be used in periodic reinvestigations to address
16 emerging threats and adverse events associated with indi-
17 viduals with security clearances in effect to the maximum
18 extent practicable.

19 (3) If the Director certifies that the national security
20 of the United States is not harmed by the discontinuation
21 of periodic reinvestigations, the regularly recurring ver-
22 ification under this section may replace periodic reinves-
23 tigations.

SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECURITY CLEARANCE PROCESS.

(a) 60-DAY PERIOD FOR DETERMINATION ON CLEARANCES.—Each authorized adjudicative agency shall make a determination on an application for a personnel security clearance within 60 days after the date of receipt of the completed application for a security clearance by an authorized investigative agency. The 60-day period shall include—

(1) a period of not longer than 40 days to complete the investigative phase of the clearance review; and

(2) a period of not longer than 20 days to complete the adjudicative phase of the clearance review.

(b) EFFECTIVE DATE AND PHASE-IN.—

(1) EFFECTIVE DATE.—Subsection (a) shall take effect 5 years after the date of the enactment of this Act.

(2) PHASE-IN.—During the period beginning on a date not later than 2 years after the date after the enactment of this Act and ending on the date on which subsection (a) takes effect as specified in paragraph (1), each authorized adjudicative agency shall make a determination on an application for a personnel security clearance pursuant to this title within 120 days after the date of receipt of the ap-

plication for a security clearance by an authorized investigative agency. The 120-day period shall include—

(A) a period of not longer than 90 days to complete the investigative phase of the clearance review; and

(B) a period of not longer than 30 days to complete the adjudicative phase of the clearance review.

SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL TRANSITION.

(a) CANDIDATES FOR NATIONAL SECURITY POSITIONS.—(1) The President-elect shall submit to the Director the names of candidates for high-level national security positions, for positions at the level of under secretary of executive departments and above, as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

(2) The Director shall be responsible for the expeditious completion of the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-

elect as President and the inauguration of the Vice-President-elect as Vice President.

(b) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—(1) In this section, the term ''major party'' has the meaning provided under section 9002(6) of the Internal Revenue Code of 1986.

(2) Each major party candidate for President, except a candidate who is the incumbent President, shall submit, before the date of the general presidential election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general presidential election.

SEC. 5078. REPORTS.

Not later than February 15, 2006, and annually thereafter through 2016, the Director shall submit to the appropriate committees of Congress a report on the progress made during the preceding year toward meeting

the requirements specified in this Act. The report shall include—

(1) the periods of time required by the authorized investigative agencies and authorized adjudicative agencies during the year covered by the report for conducting investigations, adjudicating cases, and granting clearances, from date of submission to ultimate disposition and notification to the subject and the subject's employer;

(2) a discussion of any impediments to the smooth and timely functioning of the implementation of this title; and

(3) such other information or recommendations as the Deputy Director deems appropriate.

Subtitle G—Emergency Financial Preparedness

SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY OF THE TREASURY.

Subsection (d) of section 306 of title 31, United States Code, is amended by inserting ''or employee'' after ''another officer''.

SEC. 5082. EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION.

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)(2)) is amended to read as follows:

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

"(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of (I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such

1 markets, or (II) the transmission or processing
2 of securities transactions (other than trans-
3 actions in exempted securities).
4 ''(B) An order of the Commission under this
5 paragraph (2) shall continue in effect for the period
6 specified by the Commission, and may be extended.
7 Except as provided in subparagraph (C), the Com-
8 mission's action may not continue in effect for more
9 than 30 business days, including extensions.
10 ''(C) An order of the Commission under this
11 paragraph (2) may be extended to continue in effect
12 for more than 30 business days if, at the time of the
13 extension, the Commission finds that the emergency
14 still exists and determines that the continuation of
15 the order beyond 30 business days is necessary in
16 the public interest and for the protection of investors
17 to attain an objective described in clause (i), (ii), or
18 (iii) of subparagraph (A). In no event shall an order
19 of the Commission under this paragraph (2) con-
20 tinue in effect for more than 90 calendar days.
21 ''(D) If the actions described in subparagraph
22 (A) involve a security futures product, the Commis-
23 sion shall consult with and consider the views of the
24 Commodity Futures Trading Commission. In exer-
25 cising its authority under this paragraph, the Com-

1 mission shall not be required to comply with the pro-
2 visions of section 553 of title 5, United States Code,
3 or with the provisions of section 19(c) of this title.
4 ''(E) Notwithstanding the exclusion of exempt-
5 ed securities (and markets therein) from the Com-
6 mission's authority under subparagraph (A), the
7 Commission may use such authority to take action
8 to alter, supplement, suspend, or impose require-
9 ments or restrictions with respect to clearing agen-
10 cies for transactions in such exempted securities. In
11 taking any action under this subparagraph, the
12 Commission shall consult with and consider the
13 views of the Secretary of the Treasury.''.
14 (b) CONSULTATION; DEFINITION OF EMERGENCY.—
15 Section 12(k) of the Securities Exchange Act of 1934 (15
16 U.S.C. 78*l*(k)) is further amended by striking paragraph
17 (6) and inserting the following:
18 ''(6) CONSULTATION.—Prior to taking any ac-
19 tion described in paragraph (1)(B), the Commission
20 shall consult with and consider the views of the Sec-
21 retary of the Treasury, Board of Governors of the
22 Federal Reserve System, and the Commodity Fu-
23 tures Trading Commission, unless such consultation
24 is impracticable in light of the emergency.
25 ''(7) DEFINITIONS.—

1 "(A) EMERGENCY.—For purposes of this
2 subsection, the term 'emergency' means—
3 "(i) a major market disturbance char-
4 acterized by or constituting—
5 "(I) sudden and excessive fluc-
6 tuations of securities prices generally,
7 or a substantial threat thereof, that
8 threaten fair and orderly markets; or
9 "(II) a substantial disruption of
10 the safe or efficient operation of the
11 national system for clearance and set-
12 tlement of transactions in securities,
13 or a substantial threat thereof; or
14 "(ii) a major disturbance that sub-
15 stantially disrupts, or threatens to substan-
16 tially disrupt—
17 "(I) the functioning of securities
18 markets, investment companies, or
19 any other significant portion or seg-
20 ment of the securities markets; or
21 "(II) the transmission or proc-
22 essing of securities transactions.
23 "(B) SECURITIES LAWS.—Notwithstanding
24 section 3(a)(47), for purposes of this sub-
25 section, the term 'securities laws' does not in-

clude the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.).''.

SEC. 5083. PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–5) is amended by adding at the end the following new subsection:

''(h) EMERGENCY AUTHORITY.—The Secretary may by order take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary thereunder, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) of this title with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).''.

Subtitle H—Other Matters

Chapter 1—Privacy Matters

SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING TAKE INTO CONSIDERATION IMPACTS ON INDIVIDUAL PRIVACY.

(a) SHORT TITLE.—This section may be cited as the ''Federal Agency Protection of Privacy Act of 2004''.

(b) IN GENERAL.—Title 5, United States Code, is amended by adding after section 553 the following new section:

"§ 553a. Privacy impact assessment in rulemaking

''(a) INITIAL PRIVACY IMPACT ASSESSMENT.—

''(1) IN GENERAL.—Whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for a proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare and make available for public comment an initial privacy impact assessment that describes the impact of the proposed rule on the privacy of individuals. Such assessment or a summary thereof shall be signed by the senior agency official with primary responsibility for privacy policy and be published in the Federal Register at the time of the publication of a general notice of proposed rulemaking for the rule.

1 "(2) CONTENTS.—Each initial privacy impact
2 assessment required under this subsection shall con-
3 tain the following:
4 "(A) A description and analysis of the ex-
5 tent to which the proposed rule will impact the
6 privacy interests of individuals, including the
7 extent to which the proposed rule—
8 "(i) provides notice of the collection of
9 personally identifiable information, and
10 specifies what personally identifiable infor-
11 mation is to be collected and how it is to
12 be collected, maintained, used, and dis-
13 closed;
14 "(ii) allows access to such information
15 by the person to whom the personally iden-
16 tifiable information pertains and provides
17 an opportunity to correct inaccuracies;
18 "(iii) prevents such information,
19 which is collected for one purpose, from
20 being used for another purpose; and
21 "(iv) provides security for such infor-
22 mation.
23 "(B) A description of any significant alter-
24 natives to the proposed rule which accomplish
25 the stated objectives of applicable statutes and

which minimize any significant privacy impact of the proposed rule on individuals.

"(b) FINAL PRIVACY IMPACT ASSESSMENT.—

"(1) IN GENERAL.—Whenever an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare a final privacy impact assessment, signed by the senior agency official with primary responsibility for privacy policy.

"(2) CONTENTS.—Each final privacy impact assessment required under this subsection shall contain the following:

"(A) A description and analysis of the extent to which the final rule will impact the privacy interests of individuals, including the extent to which such rule—

1 "(i) provides notice of the collection of
2 personally identifiable information, and
3 specifies what personally identifiable infor-
4 mation is to be collected and how it is to
5 be collected, maintained, used, and dis-
6 closed;
7 "(ii) allows access to such information
8 by the person to whom the personally iden-
9 tifiable information pertains and provides
10 an opportunity to correct inaccuracies;
11 "(iii) prevents such information,
12 which is collected for one purpose, from
13 being used for another purpose; and
14 "(iv) provides security for such infor-
15 mation.
16 "(B) A summary of any significant issues
17 raised by the public comments in response to
18 the initial privacy impact assessment, a sum-
19 mary of the analysis of the agency of such
20 issues, and a statement of any changes made in
21 such rule as a result of such issues.
22 "(C) A description of the steps the agency
23 has taken to minimize the significant privacy
24 impact on individuals consistent with the stated
25 objectives of applicable statutes, including a

1 statement of the factual, policy, and legal rea-
2 sons for selecting the alternative adopted in the
3 final rule and why each one of the other signifi-
4 cant alternatives to the rule considered by the
5 agency which affect the privacy interests of in-
6 dividuals was rejected.

7 ''(3) AVAILABILITY TO PUBLIC.—The agency
8 shall make copies of the final privacy impact assess-
9 ment available to members of the public and shall
10 publish in the Federal Register such assessment or
11 a summary thereof.

12 ''(c) WAIVERS.—

13 ''(1) EMERGENCIES.—An agency head may
14 waive or delay the completion of some or all of the
15 requirements of subsections (a) and (b) to the same
16 extent as the agency head may, under section 608,
17 waive or delay the completion of some or all of the
18 requirements of sections 603 and 604, respectively.

19 ''(2) NATIONAL SECURITY.—An agency head
20 may, for national security reasons, or to protect
21 from disclosure classified information, confidential
22 commercial information, or information the disclo-
23 sure of which may adversely affect a law enforce-
24 ment effort, waive or delay the completion of some
25 or all of the following requirements:

1 "(A) The requirement of subsection (a)(1)
2 to make an assessment available for public com-
3 ment.
4 "(B) The requirement of subsection (a)(1)
5 to have an assessment or summary thereof pub-
6 lished in the Federal Register.
7 "(C) The requirements of subsection
8 (b)(3).
9 "(d) PROCEDURES FOR GATHERING COMMENTS.—
10 When any rule is promulgated which may have a signifi-
11 cant privacy impact on individuals, or a privacy impact
12 on a substantial number of individuals, the head of the
13 agency promulgating the rule or the official of the agency
14 with statutory responsibility for the promulgation of the
15 rule shall assure that individuals have been given an op-
16 portunity to participate in the rulemaking for the rule
17 through techniques such as—
18 "(1) the inclusion in an advance notice of pro-
19 posed rulemaking, if issued, of a statement that the
20 proposed rule may have a significant privacy impact
21 on individuals, or a privacy impact on a substantial
22 number of individuals;
23 "(2) the publication of a general notice of pro-
24 posed rulemaking in publications of national circula-
25 tion likely to be obtained by individuals;

1 "(3) the direct notification of interested individ-
2 uals;
3 "(4) the conduct of open conferences or public
4 hearings concerning the rule for individuals, includ-
5 ing soliciting and receiving comments over computer
6 networks; and
7 "(5) the adoption or modification of agency
8 procedural rules to reduce the cost or complexity of
9 participation in the rulemaking by individuals.
10 "(e) PERIODIC REVIEW OF RULES.—
11 "(1) IN GENERAL.—Each agency shall carry
12 out a periodic review of the rules promulgated by the
13 agency that have a significant privacy impact on in-
14 dividuals, or a privacy impact on a substantial num-
15 ber of individuals. Under such periodic review, the
16 agency shall determine, for each such rule, whether
17 the rule can be amended or rescinded in a manner
18 that minimizes any such impact while remaining in
19 accordance with applicable statutes. For each such
20 determination, the agency shall consider the fol-
21 lowing factors:
22 "(A) The continued need for the rule.
23 "(B) The nature of complaints or com-
24 ments received from the public concerning the
25 rule.

"(C) The complexity of the rule.

"(D) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules.

"(E) The length of time since the rule was last reviewed under this subsection.

"(F) The degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since the rule was last reviewed under this subsection.

"(2) PLAN REQUIRED.—Each agency shall carry out the periodic review required by paragraph (1) in accordance with a plan published by such agency in the Federal Register. Each such plan shall provide for the review under this subsection of each rule promulgated by the agency not later than 10 years after the date on which such rule was published as the final rule and, thereafter, not later than 10 years after the date on which such rule was last reviewed under this subsection. The agency may amend such plan at any time by publishing the revision in the Federal Register.

"(3) ANNUAL PUBLICATION.—Each year, each agency shall publish in the Federal Register a list of

the rules to be reviewed by such agency under this subsection during the following year. The list shall include a brief description of each such rule and the need for and legal basis of such rule and shall invite public comment upon the determination to be made under this subsection with respect to such rule.

"(f) JUDICIAL REVIEW.—

"(1) IN GENERAL.—For any rule subject to this section, an individual who is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

"(2) JURISDICTION.—Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

"(3) LIMITATIONS.—

1 "(A) An individual may seek such review
2 during the period beginning on the date of final
3 agency action and ending 1 year later, except
4 that where a provision of law requires that an
5 action challenging a final agency action be com-
6 menced before the expiration of 1 year, such
7 lesser period shall apply to an action for judicial
8 review under this subsection.
9 "(B) In the case where an agency delays
10 the issuance of a final privacy impact assess-
11 ment pursuant to subsection (c), an action for
12 judicial review under this section shall be filed
13 not later than—
14 "(i) 1 year after the date the assess-
15 ment is made available to the public; or
16 "(ii) where a provision of law requires
17 that an action challenging a final agency
18 regulation be commenced before the expi-
19 ration of the 1-year period, the number of
20 days specified in such provision of law that
21 is after the date the assessment is made
22 available to the public.
23 "(4) RELIEF.—In granting any relief in an ac-
24 tion under this subsection, the court shall order the
25 agency to take corrective action consistent with this

1 section and chapter 7, including, but not limited
2 to—
3 "(A) remanding the rule to the agency;
4 and
5 "(B) deferring the enforcement of the rule
6 against individuals, unless the court finds that
7 continued enforcement of the rule is in the pub-
8 lic interest.
9 "(5) RULE OF CONSTRUCTION.—Nothing in
10 this subsection shall be construed to limit the au-
11 thority of any court to stay the effective date of any
12 rule or provision thereof under any other provision
13 of law or to grant any other relief in addition to the
14 requirements of this subsection.
15 "(6) RECORD OF AGENCY ACTION.—In an ac-
16 tion for the judicial review of a rule, the privacy im-
17 pact assessment for such rule, including an assess-
18 ment prepared or corrected pursuant to paragraph
19 (4), shall constitute part of the entire record of
20 agency action in connection with such review.
21 "(7) EXCLUSIVITY.—Compliance or noncompli-
22 ance by an agency with the provisions of this section
23 shall be subject to judicial review only in accordance
24 with this subsection.

1 "(8) SAVINGS CLAUSE.—Nothing in this sub-
2 section bars judicial review of any other impact
3 statement or similar assessment required by any
4 other law if judicial review of such statement or as-
5 sessment is otherwise permitted by law.
6 "(g) DEFINITION.—For purposes of this section, the
7 term 'personally identifiable information' means informa-
8 tion that can be used to identify an individual, including
9 such individual's name, address, telephone number, photo-
10 graph, social security number or other identifying infor-
11 mation. It includes information about such individual's
12 medical or financial condition.".
13 (c) PERIODIC REVIEW TRANSITION PROVISIONS.—
14 (1) INITIAL PLAN.—For each agency, the plan
15 required by subsection (e) of section 553a of title 5,
16 United States Code (as added by subsection (a)),
17 shall be published not later than 180 days after the
18 date of the enactment of this Act.
19 (2) In the case of a rule promulgated by an
20 agency before the date of the enactment of this Act,
21 such plan shall provide for the periodic review of
22 such rule before the expiration of the 10-year period
23 beginning on the date of the enactment of this Act.
24 For any such rule, the head of the agency may pro-
25 vide for a 1-year extension of such period if the head

of the agency, before the expiration of the period, certifies in a statement published in the Federal Register that reviewing such rule before the expiration of the period is not feasible. The head of the agency may provide for additional 1-year extensions of the period pursuant to the preceding sentence, but in no event may the period exceed 15 years.

(d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B) of title 5, United States Code, is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) the agency's actions relevant to section 553a;".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding after the item relating to section 553 the following new item:

553a. Privacy impact assessment in rulemaking.".

SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH LAW ENFORCEMENT OR ANTI-TERRORISM FUNCTIONS.

(a) IN GENERAL.—There shall be within each Federal agency with law enforcement or anti-terrorism functions a chief privacy officer, who shall have primary re-

1 sponsibility within that agency for privacy policy. The
2 agency chief privacy officer shall be designated by the
3 head of the agency.

4 (b) RESPONSIBILITIES.—The responsibilities of each
5 agency chief privacy officer shall include—

6 (1) ensuring that the use of technologies sus-
7 tains, and does not erode, privacy protections relat-
8 ing to the use, collection, and disclosure of person-
9 ally identifiable information;

10 (2) ensuring that personally identifiable infor-
11 mation contained in systems of records is handled in
12 full compliance with fair information practices as set
13 out in section 552a of title 5, United States Code;

14 (3) evaluating legislative and regulatory pro-
15 posals involving collection, use, and disclosure of
16 personally identifiable information by the Federal
17 Government;

18 (4) conducting a privacy impact assessment of
19 proposed rules of the agency on the privacy of per-
20 sonally identifiable information, including the type of
21 personally identifiable information collected and the
22 number of people affected;

23 (5) preparing and submitting a report to Con-
24 gress on an annual basis on activities of the agency
25 that affect privacy, including complaints of privacy

1 violations, implementation of section 552a of title 5,
2 United States Code, internal controls, and other rel-
3 evant matters;
4 (6) ensuring that the agency protects personally
5 identifiable information and information systems
6 from unauthorized access, use, disclosure, disrup-
7 tion, modification, or destruction in order to
8 provide—
9 (A) integrity, which means guarding
10 against improper information modification or
11 destruction, and includes ensuring information
12 nonrepudiation and authenticity;
13 (B) confidentially, which means preserving
14 authorized restrictions on access and disclosure,
15 including means for protecting personal privacy
16 and proprietary information;
17 (C) availability, which means ensuring
18 timely and reliable access to and use of that in-
19 formation; and
20 (D) authentication, which means utilizing
21 digital credentials to assure the identity of
22 users and validate their access; and
23 (7) advising the head of the agency and the Di-
24 rector of the Office of Management and Budget on

information security and privacy issues pertaining to Federal Government information systems.

SEC. 5093. DATA-MINING REPORT.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment

of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accu-

1 rate and valuable information consistent with
2 the stated plans for the use of the technology.
3 (D) An assessment of the likely impact of
4 the implementation of the data-mining tech-
5 nology on privacy and civil liberties.
6 (E) A list and analysis of the laws and
7 regulations that govern the information to be
8 collected, reviewed, gathered, and analyzed with
9 the data-mining technology and a description of
10 any modifications of such laws that will be re-
11 quired to use the information in the manner
12 proposed under such program.
13 (F) A thorough discussion of the policies,
14 procedures, and guidelines that are to be devel-
15 oped and applied in the use of such technology
16 for data-mining in order to—
17 (i) protect the privacy and due process
18 rights of individuals; and
19 (ii) ensure that only accurate informa-
20 tion is collected and used.
21 (G) A thorough discussion of the proce-
22 dures allowing individuals whose personal infor-
23 mation will be used in the data-mining tech-
24 nology to be informed of the use of their per-
25 sonal information and what procedures are in

place to allow for individuals to opt out of the technology, and, if no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be—

(A) submitted not later than 90 days after the date of the enactment of this Act; and

(B) updated once a year and include any new data-mining technologies.

SEC. 5094. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established within the Executive Branch an Independent Privacy and Civil Liberties Oversight Board (referred to in this section as the ''Board'').

1 (b) FINDINGS.—Consistent with the report of the Na-
2 tional Commission on Terrorist Attacks Upon the United
3 States, Congress makes the following findings:
4 (1) In conducting the war on terrorism, the
5 Government may need additional powers and may
6 need to enhance the use of its existing powers.
7 (2) This shift of power and authority to the
8 Government calls for an enhanced system of checks
9 and balances to protect the precious liberties that
10 are vital to our way of life and to ensure that the
11 Government uses its powers for the purposes for
12 which the powers were given.
13 (c) PURPOSE.—The Board shall—
14 (1) analyze and review actions the Executive
15 Branch takes to protect the Nation from terrorism
16 as such actions pertain to privacy or civil liberties;
17 and
18 (2) ensure that privacy and civil liberties con-
19 cerns are appropriately considered in the develop-
20 ment and implementation of laws, regulations, and
21 policies related to efforts to protect the Nation
22 against terrorism.
23 (d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review the privacy and civil liberties implications of proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 892 of the Homeland Security Act;

(B) review the privacy and civil liberties implications of the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 892 of the Homeland Security Act;

(C) advise the President and Federal executive departments and agencies to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental

1 power, consider whether the executive depart-
2 ment or agency has explained—
3 (i) that the power actually materially
4 enhances security; and
5 (ii) that there is adequate supervision
6 of the executive's use of the power to en-
7 sure protection of privacy and civil lib-
8 erties.
9 (2) OVERSIGHT.—The Board shall continually
10 review—
11 (A) the regulations, policies, and proce-
12 dures and the implementation of the regula-
13 tions, policies, procedures, and related laws of
14 Federal executive departments and agencies to
15 ensure that privacy and civil liberties are pro-
16 tected;
17 (B) the information sharing practices of
18 Federal executive departments and agencies to
19 determine whether they appropriately protect
20 privacy and civil liberties and adhere to the in-
21 formation sharing guidelines promulgated under
22 section 892 of the Homeland Security Act and
23 to other governing laws, regulations, and poli-
24 cies regarding privacy and civil liberties; and

(C) other actions by the Executive Branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY OFFICERS.—The Board shall—

(A) review and assess reports and other information from privacy officers described in section 5092;

(B) when appropriate, make recommendations to such privacy officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers on relevant interagency matters.

(4) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy and civil liberties officers described in section 5092(b)(5); and

(B) periodically submit, not less than semi-annually, reports to Congress and the President.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the relevant period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) INFORMING THE PUBLIC.—The Board shall hold public hearings, release public reports, and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information, applicable law, and national security.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board may—

(A) secure directly from any Federal executive department or agency, or any Federal officer or employee, all relevant records, reports, audits, reviews, documents, papers, or recommendations, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any Federal executive department or agency or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) OBTAINING OFFICIAL INFORMATION.—

(A) REQUIREMENT TO FURNISH.—Except as provided in subparagraph (B), if the Board submits a request to a Federal department or agency for information necessary to enable the Board to carry out this section, the head of such department or agency shall furnish that information to the Board.

(B) EXCEPTION FOR NATIONAL SECURITY.—If the National Intelligence Director, in consultation with the Attorney General, determines that it is necessary to withhold requested information from disclosure to protect the na-

1 tional security interests of the United States,
2 the department or agency head shall not fur-
3 nish that information to the Board.
4 (h) MEMBERSHIP.—
5 (1) MEMBERS.—The Board shall be composed
6 of a chairman and 4 additional members, who shall
7 be appointed by the President, by and with the ad-
8 vice and consent of the Senate.
9 (2) POLITICAL AFFILIATION.—Not more than 3
10 members of the Board shall be of the same political
11 party.
12 (3) QUALIFICATIONS.—Members of the Board
13 shall be selected solely on the basis of their profes-
14 sional qualifications, achievements, public stature,
15 and relevant experience, and without regard to polit-
16 ical affiliation. Members of the Board shall also have
17 extensive experience in the areas of privacy and civil
18 rights and liberties.
19 (4) INCOMPATIBLE OFFICE.—An individual ap-
20 pointed to the Board may not, while serving on the
21 Board, be an elected official, an officer, or an em-
22 ployee of the Federal Government, other than in the
23 capacity as a member of the Board.
24 (5) TERM.—Each member of the Board shall
25 serve a term of six years, except that—

1 (A) a member appointed to a term of office
2 after the commencement of such term may
3 serve under such appointment only for the re-
4 mainder of such term;
5 (B) upon the expiration of the term of of-
6 fice of a member, the member shall continue to
7 serve until the member's successor has been ap-
8 pointed and qualified, except that no member
9 may serve under this subparagraph—
10 (i) for more than 60 days when Con-
11 gress is in session unless a nomination to
12 fill the vacancy shall have been submitted
13 to the Senate; or
14 (ii) after the adjournment sine die of
15 the session of the Senate in which such
16 nomination is submitted; and
17 (C) the members initially appointed under
18 this subsection shall serve terms of two, three,
19 four, five, and six years, respectively, from the
20 effective date of this Act, with the term of each
21 such member to be designated by the President.
22 (i) QUORUM AND MEETINGS.—After its initial meet-
23 ing, the Board shall meet upon the call of the chairman
24 or a majority of its members. Three members of the Board
25 shall constitute a quorum.

(j) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which the chairman is engaged in the actual performance of the duties of the Board.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of

business in the performance of services for the Board.

(k) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of ex-

1 perts and consultants in accordance with section
2 3109 of title 5, United States Code, at rates that do
3 not exceed the daily rate paid a person occupying a
4 position at level IV of the Executive Schedule under
5 section 5315 of such title.

6 (l) SECURITY CLEARANCES.—The appropriate Fed-
7 eral executive departments and agencies shall cooperate
8 with the Board to expeditiously provide the Board mem-
9 bers and staff with appropriate security clearances to the
10 extent possible under existing procedures and require-
11 ments, except that no person shall be provided with access
12 to classified information under this section without the ap-
13 propriate security clearances.

14 (m) TREATMENT AS AGENCY, NOT AS ADVISORY
15 COMMITTEE.—The Board—

16 (1) is an agency (as defined in section 551(1)
17 of title 5, United States Code); and

18 (2) is not an advisory committee (as defined in
19 section 3(2) of the Federal Advisory Committee Act
20 (5 U.S.C. App.)).

21 (n) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as may be
23 necessary to carry out this section.

CHAPTER 2—MUTUAL AID AND LITIGATION MANAGEMENT

SEC. 5101. SHORT TITLE.

This chapter may be cited as the ''Mutual Aid and Litigation Management Authorization Act of 2004''.

SEC. 5102. MUTUAL AID AUTHORIZED.

(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—

(1) IN GENERAL.—The authorized representative of a State, locality, or the Federal Government may enter into an interstate mutual aid agreement or a mutual aid agreement with the Federal Government on behalf of the State, locality, or Federal Government under which, at the request of any party to the agreement, the other party to the agreement may—

(A) provide law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event occurring in the jurisdiction of the requesting party;

(B) provide other services to prepare for, mitigate, manage, respond to, or recover from

1 an emergency or public service event occurring
2 in the jurisdiction of the requesting party; and
3 (C) participate in training events occurring
4 in the jurisdiction of the requesting party.
5 (b) LIABILITY AND ACTIONS AT LAW.—
6 (1) LIABILITY.—A responding party or its offi-
7 cers or employees shall be liable on account of any
8 act or omission occurring while providing assistance
9 or participating in a training event in the jurisdic-
10 tion of a requesting party under a mutual aid agree-
11 ment (including any act or omission arising from the
12 maintenance or use of any equipment, facilities, or
13 supplies in connection therewith), but only to the ex-
14 tent permitted under and in accordance with the
15 laws and procedures of the State of the responding
16 party and subject to this chapter.
17 (2) JURISDICTION OF COURTS.—
18 (A) IN GENERAL.—Subject to subpara-
19 graph (B) and section 5103, any action brought
20 against a responding party or its officers or em-
21 ployees on account of an act or omission de-
22 scribed in subsection (b)(1) may be brought
23 only under the laws and procedures of the State
24 of the responding party and only in the State

courts or United States District Courts located therein.

(B) UNITED STATES AS PARTY.—If the United States is the party against whom an action described in paragraph (1) is brought, the action may be brought only in a United States District Court.

(c) WORKERS' COMPENSATION AND DEATH BENEFITS.—

(1) PAYMENT OF BENEFITS.—A responding party shall provide for the payment of workers' compensation and death benefits with respect to officers or employees of the party who sustain injuries or are killed while providing assistance or participating in a training event under a mutual aid agreement in the same manner and on the same terms as if the injury or death were sustained within the jurisdiction of the responding party.

(2) LIABILITY FOR BENEFITS.—No party shall be liable under the law of any State other than its own (or, in the case of the Federal Government, under any law other than Federal law) for the payment of workers' compensation and death benefits with respect to injured officers or employees of the party who sustain injuries or are killed while pro-

1 viding assistance or participating in a training event
2 under a mutual aid agreement.
3 (d) LICENSES AND PERMITS.—Whenever any person
4 holds a license, certificate, or other permit issued by any
5 responding party evidencing the meeting of qualifications
6 for professional, mechanical, or other skills, such person
7 will be deemed licensed, certified, or permitted by the re-
8 questing party to provide assistance involving such skill
9 under a mutual aid agreement.
10 (e) SCOPE.—Except to the extent provided in this
11 section, the rights and responsibilities of the parties to a
12 mutual aid agreement shall be as described in the mutual
13 aid agreement.
14 (f) EFFECT ON OTHER AGREEMENTS.—Nothing in
15 this section precludes any party from entering into supple-
16 mentary mutual aid agreements with fewer than all the
17 parties, or with another, or affects any other agreements
18 already in force among any parties to such an agreement,
19 including the Emergency Management Assistance Com-
20 pact (EMAC) under Public Law 104–321.
21 (g) FEDERAL GOVERNMENT.—Nothing in this sec-
22 tion may be construed to limit any other expressed or im-
23 plied authority of any entity of the Federal Government
24 to enter into mutual aid agreements.

(h) CONSISTENCY WITH STATE LAW.—A party may enter into a mutual aid agreement under this chapter only insofar as the agreement is in accord with State law.

SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.

(a) AUTHORIZATION TO ENTER INTO LITIGATION MANAGEMENT AGREEMENTS.—The authorized representative of a State or locality may enter into a litigation management agreement on behalf of the State or locality. Such litigation management agreements may provide that all claims against such Emergency Response Providers arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from such act shall be governed by the following provisions.

(b) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims against Emergency Response Providers arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from such act. As determined by the parties to a litigation management agreement, the substantive law for decision in any such action shall be—

(A) derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law; or

(B) derived from the choice of law principles agreed to by the parties to a litigation management agreement as described in the litigation management agreement, unless such principles are inconsistent with or preempted by Federal law.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim against Emergency Response Providers for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from an act of terrorism.

(3) SPECIAL RULES.—In an action brought for damages that is governed by a litigation management agreement, the following provisions apply:

(A) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary

damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(B) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action governed by a litigation management agreement shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism.

(4) EXCLUSIONS.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(A) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(B) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 5104. ADDITIONAL PROVISIONS.

(a) NO ABROGATION OF OTHER IMMUNITIES.—Nothing in this chapter shall abrogate any other immuni-

ties from liability that any party may have under any other State or Federal law.

(b) EXCEPTION FOR CERTAIN FEDERAL LAW ENFORCEMENT ACTIVITIES.—A mutual aid agreement or a litigation management agreement may not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or to other law enforcement functions of the United States Secret Service.

(c) SECRET SERVICE.—Section 3056 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(g) The Secret Service shall be maintained as a distinct entity within the Department of Homeland Security and shall not be merged with any other department function. All personnel and operational elements of the United States Secret Service shall report to the Director of the Secret Service, who shall report directly to the Secretary of Homeland Security without being required to report through any other official of the Department.''.

SEC. 5105. DEFINITIONS.

For purposes of this chapter, the following definitions apply:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means—

(A) in the case of the Federal Government, any individual designated by the President with respect to the executive branch, the Chief Justice of the United States with respect to the judicial branch, or the President pro Tempore of the Senate and Speaker of the House of Representatives with respect to the Congress, or their designees, to enter into a mutual aid agreement;

(B) in the case of a locality, the official designated by law to declare an emergency in and for the locality, or the official's designee;

(C) in the case of a State, the Governor or the Governor's designee.

(2) EMERGENCY.—The term ''emergency'' means a major disaster or emergency declared by the President, or a State of Emergency declared by an authorized representative of a State or locality, in response to which assistance may be provided under a mutual aid agreement.

(3) EMERGENCY RESPONSE PROVIDER.—The term ''Emergency Response Provider'' means State or local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel,

agencies, and authorities that are a party to a litigation management agreement.

(4) EMPLOYEE.—The term ''employee'' means, with respect to a party to a mutual aid agreement, the employees of the party, including its agents or authorized volunteers, who are committed to provide assistance under the agreement.

(5) LITIGATION MANAGEMENT AGREEMENT.—The term ''litigation management agreement'' means an agreement entered into pursuant to the authority granted under section 5103.

(6) LOCALITY.—The term ''locality'' means a county, city, or town.

(7) MUTUAL AID AGREEMENT.—The term ''mutual aid agreement'' means an agreement entered into pursuant to the authority granted under section 5102.

(8) PUBLIC SERVICE EVENT.—The term ''public service event'' means any undeclared emergency, incident, or situation in preparation for or response to which assistance may be provided under a mutual aid agreement.

(9) REQUESTING PARTY.—The term ''requesting party'' means, with respect to a mutual aid agreement, the party in whose jurisdiction assistance

is provided, or a training event is held, under the agreement.

(10) RESPONDING PARTY.—The term ''responding party'' means, with respect to a mutual aid agreement, the party providing assistance, or participating in a training event, under the agreement, but does not include the requesting party.

(11) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(12) TRAINING EVENT.—The term ''training event'' means an emergency and public service event-related exercise, test, or other activity using equipment and personnel to prepare for or simulate performance of any aspect of the giving or receiving of assistance during emergencies or public service events, but does not include an actual emergency or public service event.

1 Chapter 3—Miscellaneous Matters

2 **SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMU-**
3 **NICATIONS INTEROPERABILITY.**

4 (a) COORDINATION OF PUBLIC SAFETY INTEROPER-
5 ABLE COMMUNICATIONS PROGRAMS.—

6 (1) PROGRAM.—The Secretary of Homeland Se-
7 curity, in consultation with the Secretary of Com-
8 merce and the Chairman of the Federal Communica-
9 tions Commission, shall establish a program to en-
10 hance public safety interoperable communications at
11 all levels of government. Such program shall—

12 (A) establish a comprehensive national ap-
13 proach to achieving public safety interoperable
14 communications;

15 (B) coordinate with other Federal agencies
16 in carrying out subparagraph (A);

17 (C) develop, in consultation with other ap-
18 propriate Federal agencies and State and local
19 authorities, appropriate minimum capabilities
20 for communications interoperability for Federal,
21 State, and local public safety agencies;

22 (D) accelerate, in consultation with other
23 Federal agencies, including the National Insti-
24 tute of Standards and Technology, the private
25 sector, and nationally recognized standards or-

ganizations as appropriate, the development of national voluntary consensus standards for public safety interoperable communications;

(E) encourage the development and implementation of flexible and open architectures, with appropriate levels of security, for short-term and long-term solutions to public safety communications interoperability;

(F) assist other Federal agencies in identifying priorities for research, development, and testing and evaluation with regard to public safety interoperable communications;

(G) identify priorities within the Department of Homeland Security for research, development, and testing and evaluation with regard to public safety interoperable communications;

(H) establish coordinated guidance for Federal grant programs for public safety interoperable communications;

(I) provide technical assistance to State and local public safety agencies regarding planning, acquisition strategies, interoperability architectures, training, and other functions necessary to achieve public safety communications interoperability;

(J) develop and disseminate best practices to improve public safety communications interoperability; and

(K) develop appropriate performance measures and milestones to systematically measure the Nation's progress towards achieving public safety communications interoperability, including the development of national voluntary consensus standards.

(2) OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.—

(A) ESTABLISHMENT OF OFFICE.—The Secretary may establish an Office for Interoperability and Compatibility to carry out this subsection.

(B) FUNCTIONS.—If the Secretary establishes such office, the Secretary shall, through such office—

(i) carry out Department of Homeland Security responsibilities and authorities relating to the SAFECOM Program; and

(ii) carry out subsection (c) (relating to rapid interoperable communications capabilities for high risk jurisdictions).

(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to advisory groups established and maintained by the Secretary for purposes of carrying out this subsection.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall report to the Congress on Department of Homeland Security plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development.

(c) RAPID INTEROPERABLE COMMUNICATIONS CAPABILITIES FOR HIGH RISK JURISDICTIONS.—The Secretary, in consultation with other relevant Federal, State, and local government agencies, shall provide technical, training, and other assistance as appropriate to support the rapid establishment of consistent, secure, and effective interoperable communications capabilities for emergency response providers in jurisdictions determined by the Secretary to be at consistently high levels of risk of terrorist attack.

(d) DEFINITIONS.—In this section:

(1) INTEROPERABLE COMMUNICATIONS.—The term ''interoperable communications'' means the

ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

(2) EMERGENCY RESPONSE PROVIDERS.—The term ''emergency response providers'' has the meaning that term has under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)

(e) CLARIFICATION OF RESPONSIBILITY FOR INTEROPERABLE COMMUNICATIONS.—

(1) UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—Section 502(7) of the Homeland Security Act of 2002 (6 U.S.C. 312(7)) is amended—

(A) by striking ''developing comprehensive programs for developing interoperative communications technology, and''; and

(B) by striking ''such'' and inserting ''interoperable communications''.

(2) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430(c) of such Act (6 U.S.C. 238(c)) is amended—

(A) in paragraph (7) by striking ''and'' after the semicolon;

(B) in paragraph (8) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(9) helping to ensure the acquisition of interoperable communication technology by State and local governments and emergency response providers.''.

SEC. 5132. SENSE OF CONGRESS REGARDING THE INCIDENT COMMAND SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) in Homeland Security Presidential Directive–5, the President directed the Secretary of Homeland Security to develop an incident command system to be known as the National Incident Management System (NIMS), and directed all Federal agencies to make the adoption of NIMS a condition for the receipt of Federal emergency preparedness assistance by States, territories, tribes, and local governments beginning in fiscal year 2005;

(2) in March 2004, the Secretary of Homeland Security established NIMS, which provides a unified structural framework for Federal, State, territorial, tribal, and local governments to ensure coordination

of command, operations, planning, logistics, finance, and administration during emergencies involving multiple jurisdictions or agencies; and

(3) the National Commission on Terrorist Attacks Upon the United States strongly supports the adoption of NIMS by emergency response agencies nationwide, and the decision by the President to condition Federal emergency preparedness assistance upon the adoption of NIMS.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that all levels of government should adopt NIMS, and that the regular use of and training in NIMS by States, territories, tribes, and local governments should be a condition for receiving Federal preparedness assistance.

SEC. 5133. SENSE OF CONGRESS REGARDING UNITED STATES NORTHERN COMMAND PLANS AND STRATEGIES.

It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of United States Northern Command's plans and strategies with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States.

SEC. 5134. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking ''ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—'' and inserting ''USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—'';

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

''(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

''(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

''(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

''(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

''(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

''(B) security assessments;

''(C) security training of personnel and students;

''(D) coordination with local law enforcement; and

''(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;

"(5) pay for officers hired to perform intelligence, anti-terror, or homeland security duties exclusively;"; and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

"(8) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;";

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

(5) in subsection (c) (as so redesignated) by striking "subsection (i)" and inserting "subsection (g)"; and

(6) by adding at the end the following new subsection:

"(j) MATCHING FUNDS FOR SCHOOL SECURITY GRANTS.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

"(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

1 "(2) any funds appropriated by Congress for
2 the activities of any agency of an Indian tribal gov-
3 ernment or the Bureau of Indian Affairs performing
4 law enforcement functions on any Indian lands may
5 be used to provide the non-Federal share of a
6 matching requirement funded under this subsection;
7 and
8 "(3) the Attorney General may provide, in the
9 guidelines implementing this section, for the require-
10 ment of paragraph (1) to be waived or altered in the
11 case of a recipient with a financial need for such a
12 waiver or alteration.".
13 (b) CONFORMING AMENDMENT.—Section 1702 of
14 title I of such Act (42 U.S.C. 3796dd–1) is amended in
15 subsection (d)(2) by striking "section 1701(d)" and in-
16 serting "section 1701(b)".
17 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
18 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11))
19 is amended—
20 (1) in subparagraph (A) by striking clause (i)
21 and all that follows through the period at the end
22 and inserting the following:
23 "(i) $1,007,624,000 for fiscal year 2005;
24 "(ii) $1,027,176,000 for fiscal year 2006; and

1 "(iii) $1,047,119,000 for fiscal year 2007.";
2 and
3 (2) in subparagraph (B)—
4 (A) by striking "section 1701(f)" and in-
5 serting "section 1701(d)"; and
6 (B) by striking the third sentence.