

108TH CONGRESS
2D SESSION

H. R. 10

To provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2004

Mr. HASTERT (for himself, Mr. DELAY, Mr. BLUNT, Ms. PRYCE of Ohio, Mr. HOEKSTRA, Mr. HUNTER, Mr. YOUNG of Florida, Mr. SENSENBRENNER, Mr. HYDE, Mr. TOM DAVIS of Virginia, Mr. OXLEY, Mr. DREIER, Mr. COX, Mr. THOMAS, Mr. NUSSLE, Mr. BOEHNER, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select), and in addition to the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and Select Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “9/11 Recommendations
3 Implementation Act”.

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 2 **INTELLIGENCE COMMUNITY**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “National Security In-
 5 telligence Improvement Act of 2004”.

6 **Subtitle A—Establishment of**
 7 **National Intelligence Director**

8 **SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MAN-**
 9 **AGEMENT OF INTELLIGENCE COMMUNITY.**

10 (a) IN GENERAL.—Title I of the National Security
 11 Act of 1947 (50 U.S.C. 402 et seq.) is amended by strik-

1 ing sections 102 through 104 and inserting the following
2 new sections:

3 “NATIONAL INTELLIGENCE DIRECTOR

4 “SEC. 102. (a) NATIONAL INTELLIGENCE DIREC-
5 TOR.—(1) There is a National Intelligence Director who
6 shall be appointed by the President, by and with the advice
7 and consent of the Senate.

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

10 “(b) PRINCIPAL RESPONSIBILITY.—Subject to the
11 authority, direction, and control of the President, the Na-
12 tional Intelligence Director shall—

13 “(1) serve as head of the intelligence commu-
14 nity;

15 “(2) act as the principal adviser to the Presi-
16 dent, to the National Security Council, and the
17 Homeland Security Council for intelligence matters
18 related to the national security; and

19 “(3) through the heads of the departments con-
20 taining elements of the intelligence community, and
21 the Central Intelligence Agency, manage and oversee
22 the execution of the National Intelligence Program
23 and direct the National Intelligence Program.

24 “(c) PROHIBITION ON DUAL SERVICE.—The indi-
25 vidual serving in the position of National Intelligence Di-
26 rector shall not, while so serving, also serve as the Director

1 of the Central Intelligence Agency or as the head of any
2 other element of the intelligence community.

3 “RESPONSIBILITIES AND AUTHORITIES OF THE
4 NATIONAL INTELLIGENCE DIRECTOR

5 “SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1)

6 Under the direction of the President, the National Intel-
7 ligence Director shall be responsible for ensuring that na-
8 tional intelligence is provided—

9 “(A) to the President;

10 “(B) to the heads of departments and agencies
11 of the executive branch;

12 “(C) to the Chairman of the Joint Chiefs of
13 Staff and senior military commanders;

14 “(D) where appropriate, to the Senate and
15 House of Representatives and the committees there-
16 of; and

17 “(E) to such other persons as the National In-
18 telligence Director determines to be appropriate.

19 “(2) Such national intelligence should be timely, ob-
20 jective, independent of political considerations, and based
21 upon all sources available to the intelligence community
22 and other appropriate entities.

23 “(b) ACCESS TO INTELLIGENCE.—To the extent ap-
24 proved by the President, the National Intelligence Director
25 shall have access to all national intelligence and intel-
26 ligence related to the national security which is collected

1 by any Federal department, agency, or other entity, except
2 as otherwise provided by law or, as appropriate, under
3 guidelines agreed upon by the Attorney General and the
4 National Intelligence Director.

5 “(c) BUDGET AUTHORITIES.—(1)(A) The National
6 Intelligence Director shall develop and present to the
7 President on an annual basis a budget for intelligence and
8 intelligence-related activities of the United States.

9 “(B) In carrying out subparagraph (A) for any fiscal
10 year for the components of the budget that comprise the
11 National Intelligence Program, the National Intelligence
12 Director shall provide guidance to the heads of depart-
13 ments containing elements of the intelligence community,
14 and to the heads of the elements of the intelligence com-
15 munity, for development of budget inputs to the National
16 Intelligence Director.

17 “(2)(A) The National Intelligence Director shall par-
18 ticipate in the development by the Secretary of Defense
19 of the annual budgets for the Joint Military Intelligence
20 Program and for Tactical Intelligence and Related Activi-
21 ties.

22 “(B) The National Intelligence Director shall provide
23 guidance for the development of the annual budget for
24 each element of the intelligence community that is not
25 within the National Intelligence Program.

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

4 “(4) The National Intelligence Director shall ensure
5 the effective execution of the annual budget for intel-
6 ligence and intelligence-related activities.

7 “(5)(A) The National Intelligence Director shall fa-
8 cilitate the management and execution of funds appro-
9 priated for the National Intelligence Program.

10 “(B) Notwithstanding any other provision of law, in
11 receiving funds pursuant to relevant appropriations Acts
12 for the National Intelligence Program, the Office of Man-
13 agement and Budget shall apportion funds appropriated
14 for the National Intelligence Program to the National In-
15 telligence Director for allocation to the elements of the in-
16 telligence community through the host executive depart-
17 ments that manage programs and activities that are part
18 of the National Intelligence Program.

19 “(C) The National Intelligence Director shall monitor
20 the implementation and execution of the National Intel-
21 ligence Program by the heads of the elements of the intel-
22 ligence community that manage programs and activities
23 that are part of the National Intelligence Program, which
24 may include audits and evaluations, as necessary and fea-
25 sible.

1 “(6) Apportionment and allotment of funds under
2 this subsection shall be subject to chapter 13 and section
3 1517 of title 31, United States Code, and the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 621 et seq.).

6 “(7)(A) The National Intelligence Director shall pro-
7 vide a quarterly report, beginning April 1, 2005, and end-
8 ing April 1, 2007, to the President and the Congress re-
9 garding implementation of this section.

10 “(B) The National Intelligence Director shall report
11 to the President and the Congress not later than 5 days
12 after learning of any instance in which a departmental
13 comptroller acts in a manner inconsistent with the law (in-
14 cluding permanent statutes, authorization Acts, and ap-
15 propriations Acts), or the direction of the National Intel-
16 ligence Director, in carrying out the National Intelligence
17 Program.

18 “(d) ROLE OF NATIONAL INTELLIGENCE DIRECTOR
19 IN REPROGRAMMING.—(1) No funds made available under
20 the National Intelligence Program may be transferred or
21 reprogrammed without the prior approval of the National
22 Intelligence Director, except in accordance with proce-
23 dures prescribed by the National Intelligence Director.

24 “(2) The Secretary of Defense shall consult with the
25 National Intelligence Director before transferring or re-

1 programming funds made available under the Joint Mili-
2 tary Intelligence Program.

3 “(e) TRANSFER OF FUNDS OR PERSONNEL WITHIN
4 NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to
5 any other authorities available under law for such pur-
6 poses, the National Intelligence Director, with the ap-
7 proval of the Director of the Office of Management and
8 Budget—

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

12 “(B) in accordance with procedures to be devel-
13 oped by the National Intelligence Director and the
14 heads of the departments and agencies concerned,
15 may transfer personnel authorized for an element of
16 the intelligence community to another such element
17 for periods up to one year.

18 “(2) The amounts available for transfer in the Na-
19 tional Intelligence Program in any given fiscal year, and
20 the terms and conditions governing such transfers, are
21 subject to the provisions of annual appropriations Acts
22 and this subsection.

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

1 “(i) the funds or personnel are being trans-
2 ferred to an activity that is a higher priority intel-
3 ligence activity;

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

6 “(iii) the transfer does not involve a transfer of
7 funds to the Reserve for Contingencies of the Cen-
8 tral Intelligence Agency;

9 “(iv) in the case of a transfer of funds, the
10 transfer results in a cumulative transfer of funds out
11 of any department or agency, as appropriate, funded
12 in the National Intelligence Program in a single fis-
13 cal year—

14 “(I) that is less than \$100,000,000, and

15 “(II) that is less than 5 percent of
16 amounts available to a department or agency
17 under the National Intelligence Program; and

18 “(v) the transfer does not terminate a program.

19 “(B) A transfer may be made without regard to a
20 limitation set forth in clause (iv) or (v) of subparagraph
21 (A) if the transfer has the concurrence of the head of the
22 department or agency involved. The authority to provide
23 such concurrence may only be delegated by the head of
24 the department or agency involved to the deputy of such
25 officer.

1 “(4) Funds transferred under this subsection shall
2 remain available for the same period as the appropriations
3 account to which transferred.

4 “(5) Any transfer of funds under this subsection shall
5 be carried out in accordance with existing procedures ap-
6 plicable to reprogramming notifications for the appro-
7 priate congressional committees. Any proposed transfer
8 for which notice is given to the appropriate congressional
9 committees shall be accompanied by a report explaining
10 the nature of the proposed transfer and how it satisfies
11 the requirements of this subsection. In addition, the con-
12 gressional intelligence committees shall be promptly noti-
13 fied of any transfer of funds made pursuant to this sub-
14 section in any case in which the transfer would not have
15 otherwise required reprogramming notification under pro-
16 cedures in effect as of the date of the enactment of this
17 subsection.

18 “(6)(A) The National Intelligence Director shall
19 promptly submit to—

20 “(i) the congressional intelligence committees,

21 “(ii) in the case of the transfer of personnel to
22 or from the Department of Defense, the Committee
23 on Armed Services of the Senate and the Committee
24 on Armed Services of the House of Representatives,
25 and

1 “(iii) in the case of the transfer of personnel to
2 or from the Department of Justice, to the Commit-
3 tees on the Judiciary of the Senate and the House
4 of Representatives,
5 a report on any transfer of personnel made pursuant to
6 this subsection.

7 “(B) The Director shall include in any such report
8 an explanation of the nature of the transfer and how it
9 satisfies the requirements of this subsection.

10 “(f) TASKING AND OTHER AUTHORITIES.—(1)(A)
11 The National Intelligence Director shall—

12 “(i) develop collection objectives, priorities, and
13 guidance for the intelligence community to ensure
14 timely and effective collection, processing, analysis,
15 and dissemination (including access by users to col-
16 lected data consistent with applicable law and, as
17 appropriate, the guidelines referred to in subsection
18 (b) and analytic products generated by or within the
19 intelligence community) of national intelligence;

20 “(ii) determine and establish requirements and
21 priorities for, and manage and direct the tasking of,
22 collection, analysis, production, and dissemination of
23 national intelligence by elements of the intelligence
24 community, including—

1 “(I) approving requirements for collection
2 and analysis, and

3 “(II) resolving conflicts in collection re-
4 quirements and in the tasking of national col-
5 lection assets of the elements of the intelligence
6 community; and

7 “(iii) provide advisory tasking to intelligence
8 elements of those agencies and departments not
9 within the National Intelligence Program.

10 “(B) The authority of the National Intelligence Di-
11 rector under subparagraph (A) shall not apply—

12 “(i) insofar as the President so directs;

13 “(ii) with respect to clause (ii) of subparagraph
14 (A), insofar as the Secretary of Defense exercises
15 tasking authority under plans or arrangements
16 agreed upon by the Secretary of Defense and the
17 National Intelligence Director; or

18 “(iii) to the direct dissemination of information
19 to State government and local government officials
20 and private sector entities pursuant to sections 201
21 and 892 of the Homeland Security Act of 2002 (6
22 U.S.C. 121, 482).

23 “(2) The National Intelligence Director shall oversee
24 the National Counterterrorism Center and may establish

1 such other national intelligence centers as the Director de-
2 termines necessary.

3 “(3)(A) The National Intelligence Director shall pre-
4 scribe community-wide personnel policies that—

5 “(i) facilitate assignments across community
6 elements and to the intelligence centers;

7 “(ii) establish overarching standards for intel-
8 ligence education and training; and

9 “(iii) promote the most effective analysis and
10 collection of intelligence by ensuring a diverse work-
11 force, including the recruitment and training of
12 women, minorities, and individuals with diverse, eth-
13 nic, and linguistic backgrounds.

14 “(B) In developing the policies prescribed under sub-
15 paragraph (A), the National Intelligence Director shall
16 consult with the heads of the departments containing the
17 elements of the intelligence community.

18 “(C) Policies prescribed under subparagraph (A)
19 shall not be inconsistent with the personnel policies other-
20 wise applicable to members of the uniformed services.

21 “(4) The National Intelligence Director shall ensure
22 compliance with the Constitution and laws of the United
23 States by the Central Intelligence Agency and shall ensure
24 such compliance by other elements of the intelligence com-
25 munity through the host executive departments that man-

1 age the programs and activities that are part of the Na-
2 tional Intelligence Program.

3 “(5) The National Intelligence Director shall ensure
4 the elimination of waste and unnecessary duplication with-
5 in the intelligence community.

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

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

12 “(g) INTELLIGENCE INFORMATION SHARING.—(1)
13 The National Intelligence Director shall have principal au-
14 thority to ensure maximum availability of and access to
15 intelligence information within the intelligence community
16 consistent with national security requirements. The Na-
17 tional Intelligence Director shall—

18 “(A) establish uniform security standards and
19 procedures;

20 “(B) establish common information technology
21 standards, protocols, and interfaces;

22 “(C) ensure development of information tech-
23 nology systems that include multi-level security and
24 intelligence integration capabilities; and

1 “(D) establish policies and procedures to resolve
2 conflicts between the need to share intelligence infor-
3 mation and the need to protect intelligence sources
4 and methods.

5 “(2) The President shall ensure that the National In-
6 telligence Director has all necessary support and authori-
7 ties to fully and effectively implement paragraph (1).

8 “(3) Except as otherwise directed by the President
9 or with the specific written agreement of the head of the
10 department or agency in question, a Federal agency or
11 official shall not be considered to have met any obligation
12 to provide any information, report, assessment, or other
13 material (including unevaluated intelligence information)
14 to that department or agency solely by virtue of having
15 provided that information, report, assessment, or other
16 material to the National Intelligence Director or the Na-
17 tional Counterterrorism Center.

18 “(4) Not later than February 1 of each year, the Na-
19 tional Intelligence Director shall submit to the President
20 and to the Congress an annual report that identifies any
21 statute, regulation, policy, or practice that the Director
22 believes impedes the ability of the Director to fully and
23 effectively implement paragraph (1).

24 “(h) ANALYSIS.—(1) The National Intelligence Di-
25 rector shall ensure that all elements of the intelligence

1 community strive for the most accurate analysis of intel-
2 ligence derived from all sources to support national secu-
3 rity needs.

4 “(2) The National Intelligence Director shall ensure
5 that intelligence analysis generally receives the highest pri-
6 ority when distributing resources within the intelligence
7 community and shall carry out duties under this sub-
8 section in a manner that—

9 “(A) develops all-source analysis techniques;

10 “(B) ensures competitive analysis;

11 “(C) ensures that differences in judgment are
12 fully considered and brought to the attention of pol-
13 icymakers; and

14 “(D) builds relationships between intelligence
15 collectors and analysts to facilitate greater under-
16 standing of the needs of analysts.

17 “(i) PROTECTION OF INTELLIGENCE SOURCES AND
18 METHODS.—(1) In order to protect intelligence sources
19 and methods from unauthorized disclosure and, consistent
20 with that protection, to maximize the dissemination of in-
21 telligence, the National Intelligence Director shall estab-
22 lish and implement guidelines for the intelligence commu-
23 nity for the following purposes:

24 “(A) Classification of information.

1 “(B) Access to and dissemination of intel-
2 ligence, both in final form and in the form when ini-
3 tially gathered.

4 “(C) Preparation of intelligence products in
5 such a way that source information is removed to
6 allow for dissemination at the lowest level of classi-
7 fication possible or in unclassified form to the extent
8 practicable.

9 “(2) The Director may only delegate a duty or au-
10 thority given the Director under this subsection to the
11 Deputy National Intelligence Director.

12 “(j) UNIFORM PROCEDURES FOR SENSITIVE COM-
13 PARTMENTED INFORMATION.—The President, acting
14 through the National Intelligence Director, shall—

15 “(1) establish uniform standards and proce-
16 dures for the grant of access to sensitive compart-
17 mented information to any officer or employee of
18 any agency or department of the United States and
19 to employees of contractors of those agencies or de-
20 partments;

21 “(2) ensure the consistent implementation of
22 those standards and procedures throughout such
23 agencies and departments;

24 “(3) ensure that security clearances granted by
25 individual elements of the intelligence community

1 are recognized by all elements of the intelligence
2 community, and under contracts entered into by
3 those agencies; and

4 “(4) ensure that the process for investigation
5 and adjudication of an application for access to sen-
6 sitive compartmented information is performed in
7 the most expeditious manner possible consistent with
8 applicable standards for national security.

9 “(k) COORDINATION WITH FOREIGN GOVERN-
10 MENTS.—Under the direction of the President and in a
11 manner consistent with section 207 of the Foreign Service
12 Act of 1980 (22 U.S.C. 3927), the National Intelligence
13 Director shall oversee the coordination of the relationships
14 between elements of the intelligence community and the
15 intelligence or security services of foreign governments on
16 all matters involving intelligence related to the national
17 security or involving intelligence acquired through clandes-
18 tine means.

19 “(l) ENHANCED PERSONNEL MANAGEMENT.—(1)(A)
20 The National Intelligence Director shall, under regulations
21 prescribed by the Director, provide incentives for per-
22 sonnel of elements of the intelligence community to
23 serve—

24 “(i) on the staff of the National Intelligence Di-
25 rector;

1 “(ii) on the staff of the national intelligence
2 centers;

3 “(iii) on the staff of the National
4 Counterterrorism Center; and

5 “(iv) in other positions in support of the intel-
6 ligence community management functions of the Di-
7 rector.

8 “(B) Incentives under subparagraph (A) may include
9 financial incentives, bonuses, and such other awards and
10 incentives as the Director considers appropriate.

11 “(2)(A) Notwithstanding any other provision of law,
12 the personnel of an element of the intelligence community
13 who are assigned or detailed under paragraph (1)(A) to
14 service under the National Intelligence Director shall be
15 promoted at rates equivalent to or better than personnel
16 of such element who are not so assigned or detailed.

17 “(B) The Director may prescribe regulations to carry
18 out this section.

19 “(3)(A) The National Intelligence Director shall pre-
20 scribe mechanisms to facilitate the rotation of personnel
21 of the intelligence community through various elements of
22 the intelligence community in the course of their careers
23 in order to facilitate the widest possible understanding by
24 such personnel of the variety of intelligence requirements,
25 methods, users, and capabilities.

1 “(B) The mechanisms prescribed under subpara-
2 graph (A) may include the following:

3 “(i) The establishment of special occupational
4 categories involving service, over the course of a ca-
5 reer, in more than one element of the intelligence
6 community.

7 “(ii) The provision of rewards for service in po-
8 sitions undertaking analysis and planning of oper-
9 ations involving two or more elements of the intel-
10 ligence community.

11 “(iii) The establishment of requirements for
12 education, training, service, and evaluation that in-
13 volve service in more than one element of the intel-
14 ligence community.

15 “(C) It is the sense of Congress that the mechanisms
16 prescribed under this subsection should, to the extent
17 practical, seek to duplicate for civilian personnel within
18 the intelligence community the joint officer management
19 policies established by chapter 38 of title 10, United
20 States Code, and the other amendments made by title IV
21 of the Goldwater–Nichols Department of Defense Reorga-
22 nization Act of 1986 (Public Law 99–433).

23 “(4)(A) This subsection shall not apply with respect
24 to personnel of the elements of the intelligence community
25 who are members of the uniformed services or law enforce-

1 ment officers (as that term is defined in section 5541(3)
2 of title 5, United States Code).

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

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

23 “(2) Employees and applicants for employment of the
24 Office of the National Intelligence Director shall have the
25 same rights and protections under the Office of the Na-

1 tional Intelligence Director as employees of the Central In-
2 telligence Agency have under the Central Intelligence
3 Agency Act of 1949, and other applicable provisions of
4 law, as of the date of the enactment of this subsection.

5 “(n) ACQUISITION AUTHORITIES.—(1) In carrying
6 out the responsibilities and authorities under this section,
7 the National Intelligence Director may exercise the acqui-
8 sition authorities referred to in the Central Intelligence
9 Agency Act of 1949 (50 U.S.C. 403a et seq.).

10 “(2) For the purpose of the exercise of any authority
11 referred to in paragraph (1), a reference to the head of
12 an agency shall be deemed to be a reference to the Na-
13 tional Intelligence Director or the Deputy National Intel-
14 ligence Director.

15 “(3)(A) Any determination or decision to be made
16 under an authority referred to in paragraph (1) by the
17 head of an agency may be made with respect to individual
18 purchases and contracts or with respect to classes of pur-
19 chases or contracts, and shall be final.

20 “(B) Except as provided in subparagraph (C), the
21 National Intelligence Director or the Deputy National In-
22 telligence Director may, in such official’s discretion, dele-
23 gate to any officer or other official of the Office of the
24 National Intelligence Director any authority to make a de-

1 termination or decision as the head of the agency under
2 an authority referred to in paragraph (1).

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

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

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

23 “OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

24 “SEC. 103. (a) ESTABLISHMENT OF OFFICE; FUNC-
25 TION.—(1) There is an Office of the National Intelligence
26 Director. The Office of the National Intelligence Director

1 shall not be located within the Executive Office of the
2 President.

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

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

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

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

22 “(A) The National Intelligence Director.

23 “(B) The Deputy National Intelligence Direc-
24 tor.

1 “(C) The Deputy National Intelligence Director
2 for Operations.

3 “(D) The Deputy National Intelligence Director
4 for Community Management and Resources.

5 “(E) The Associate National Intelligence Direc-
6 tor for Military Support.

7 “(F) The Associate National Intelligence Direc-
8 tor for Domestic Security.

9 “(G) The Associate National Intelligence Direc-
10 tor for Diplomatic Affairs.

11 “(H) The National Intelligence Council.

12 “(I) The General Counsel to the National Intel-
13 ligence Director.

14 “(J) Such other offices and officials as may be
15 established by law or the National Intelligence Di-
16 rector may establish or designate in the Office.

17 “(2) To assist the National Intelligence Director in
18 fulfilling the duties and responsibilities of the Director, the
19 Director shall employ and utilize in the Office of the Na-
20 tional Intelligence Director a staff having expertise in
21 matters relating to such duties and responsibilities and
22 may establish permanent positions and appropriate rates
23 of pay with respect to such staff.

24 “(c) DEPUTY NATIONAL INTELLIGENCE DIREC-
25 TOR.—(1) There is a Deputy National Intelligence Direc-

1 tor who shall be appointed by the President, by and with
2 the advice and consent of the Senate.

3 “(2) The Deputy National Intelligence Director shall
4 assist the National Intelligence Director in carrying out
5 the responsibilities of the National Intelligence Director
6 under this Act.

7 “(3) The Deputy National Intelligence Director shall
8 act for, and exercise the powers of, the National Intel-
9 ligence Director during the absence or disability of the Na-
10 tional Intelligence Director or during a vacancy in the po-
11 sition of the National Intelligence Director.

12 “(4) The Deputy National Intelligence Director takes
13 precedence in the Office of the National Intelligence Direc-
14 tor immediately after the National Intelligence Director.

15 “(d) DEPUTY NATIONAL INTELLIGENCE DIRECTOR
16 FOR OPERATIONS.—(1) There is a Deputy National Intel-
17 ligence Director for Operations.

18 “(2) The Deputy National Intelligence Director for
19 Operations shall—

20 “(A) assist the National Intelligence Director in
21 all aspects of intelligence operations, including intel-
22 ligence tasking, requirements, collection, and anal-
23 ysis;

24 “(B) assist the National Intelligence Director in
25 overseeing the national intelligence centers; and

1 “(C) perform such other duties and exercise
2 such powers as National Intelligence Director may
3 prescribe.

4 “(e) DEPUTY NATIONAL INTELLIGENCE DIRECTOR
5 FOR COMMUNITY MANAGEMENT AND RESOURCES.—(1)
6 There is a Deputy National Intelligence Director for Com-
7 munity Management and Resources.

8 “(2) The Deputy National Intelligence Director for
9 Community Management and Resources shall—

10 “(A) assist the National Intelligence Director in
11 all aspects of management and resources, including
12 administration, budgeting, information security, per-
13 sonnel, training, and programmatic functions; and

14 “(B) perform such other duties and exercise
15 such powers as the National Intelligence Director
16 may prescribe.

17 “(f) ASSOCIATE NATIONAL INTELLIGENCE DIREC-
18 TOR FOR MILITARY SUPPORT.—(1) There is an Associate
19 National Intelligence Director for Military Support who
20 shall be appointed by the National Intelligence Director,
21 in consultation with the Secretary of Defense.

22 “(2) The Associate National Intelligence Director for
23 Military Support shall—

24 “(A) ensure that the intelligence needs of the
25 Department of Defense are met; and

1 “(B) perform such other duties and exercise
2 such powers as the National Intelligence Director
3 may prescribe.

4 “(g) ASSOCIATE NATIONAL INTELLIGENCE DIREC-
5 TOR FOR DOMESTIC SECURITY.—(1) There is an Asso-
6 ciate National Intelligence Director for Domestic Security
7 who shall be appointed by the National Intelligence Direc-
8 tor in consultation with the Attorney General and the Sec-
9 retary of Homeland Security.

10 “(2) The Associate National Intelligence Director for
11 Domestic Security shall—

12 “(A) ensure that the intelligence needs of the
13 Department of Justice, the Department of Home-
14 land Security, and other relevant executive depart-
15 ments and agencies are met; and

16 “(B) perform such other duties and exercise
17 such powers as the National Intelligence Director
18 may prescribe, except that the National Intelligence
19 Director may not make such officer responsible for
20 disseminating any domestic or homeland security in-
21 formation to State government or local government
22 officials or any private sector entity.

23 “(h) ASSOCIATE NATIONAL INTELLIGENCE DIREC-
24 TOR FOR DIPLOMATIC AFFAIRS.—(1) There is an Asso-
25 ciate National Intelligence Director for Diplomatic Affairs

1 who shall be appointed by the National Intelligence Direc-
2 tor in consultation with the Secretary of State.

3 “(2) The Associate National Intelligence Director for
4 Diplomatic Affairs shall—

5 “(A) ensure that the intelligence needs of the
6 Department of State are met; and

7 “(B) perform such other duties and exercise
8 such powers as the National Intelligence Director
9 may prescribe.

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

15 “(2) The positions referred to in this paragraph are
16 the following:

17 “(A) The National Intelligence Director.

18 “(B) The Deputy National Intelligence Direc-
19 tor.

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

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

1 “(B) have, by training or experience, an appre-
2 ciation of military intelligence activities and require-
3 ments.

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

6 “(A) shall not be subject to supervision or con-
7 trol by the Secretary of Defense or by any officer or
8 employee of the Department of Defense;

9 “(B) shall not exercise, by reason of the offi-
10 cer’s status as a commissioned officer, any super-
11 vision or control with respect to any of the military
12 or civilian personnel of the Department of Defense
13 except as otherwise authorized by law; and

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

18 “(5) Except as provided in subparagraph (A) or (B)
19 of paragraph (4), the appointment of an officer of the
20 Armed Forces to a position specified in paragraph (2)
21 shall not affect the status, position, rank, or grade of such
22 officer in the Armed Forces, or any emolument, perquisite,
23 right, privilege, or benefit incident to or arising out of such
24 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—

1 “(A) produce national intelligence estimates for
2 the United States Government, which shall include
3 as a part of such estimates in their entirety, alter-
4 native views, if any, held by elements of the intel-
5 ligence community;

6 “(B) evaluate community-wide collection and
7 production of intelligence by the intelligence commu-
8 nity and the requirements and resources of such col-
9 lection and production; and

10 “(C) otherwise assist the National Intelligence
11 Director in carrying out the responsibility of the Na-
12 tional Intelligence Director to provide national intel-
13 ligence.

14 “(4) Within their respective areas of expertise and
15 under the direction of the Deputy National Intelligence
16 Director for Operations, the members of the National In-
17 telligence Council shall constitute the senior intelligence
18 advisers of the intelligence community for purposes of rep-
19 resenting the views of the intelligence community within
20 the United States Government.

21 “(5) Subject to the direction and control of the Dep-
22 uty National Intelligence Director for Operations, the Na-
23 tional Intelligence Council may carry out its responsibil-
24 ities 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 “(1) 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 through human sources by

1 elements of the intelligence community authorized to
2 undertake such collection and, in coordination with
3 other agencies of the Government which are author-
4 ized to undertake such collection, ensure that the
5 most effective use is made of resources and that the
6 risks to the United States and those involved in such
7 collection are minimized;

8 “(3) correlate and evaluate intelligence related
9 to the national security and provide appropriate dis-
10 semination of such intelligence;

11 “(4) perform such additional services as are of
12 common concern to the elements of the intelligence
13 community, which services the National Intelligence
14 Director determines can be more efficiently accom-
15 plished centrally; and

16 “(5) perform such other functions and duties
17 related to intelligence affecting the national security
18 as the President or the National Intelligence Direc-
19 tor may direct.

20 “(d) DEPUTY DIRECTOR OF THE CENTRAL INTEL-
21 LIGENCE AGENCY.—There is a Deputy Director of the
22 Central Intelligence Agency who shall be appointed by the
23 President. The Deputy Director shall perform such func-
24 tions as the Director may prescribe and shall perform the
25 duties of the Director during the Director’s absence or dis-

1 ability or during a vacancy in the position of the Director
2 of the Central Intelligence Agency.

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

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

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

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

24 (A) Senate confirmation is not required; and

1 (B) the appointment of such nominee as Na-
2 tional Intelligence Director takes effect upon admin-
3 istration of the oath of office.

4 (3) For the purposes of this subsection, the term
5 “legislative day” means a day on which the Senate is in
6 session.

7 **SEC. 1012. REVISED DEFINITION OF NATIONAL INTEL-**
8 **LIGENCE.**

9 Paragraph (5) of section 3 of the National Security
10 Act of 1947 (50 U.S.C. 401a) is amended to read as fol-
11 lows:

12 “(5) The terms ‘national intelligence’ and ‘intel-
13 ligence related to national security’ refer to all intel-
14 ligence, regardless of the source from which derived
15 and including information gathered within or outside
16 the United States, that—

17 “(A) pertains, as determined consistent
18 with any guidance issued by the President, to
19 more than one United States Government agen-
20 cy; and

21 “(B) that involves—

22 “(i) threats to the United States, its
23 people, property, or interests;

24 “(ii) the development, proliferation, or
25 use of weapons of mass destruction; or

1 “(iii) any other matter bearing on
2 United States national or homeland secu-
3 rity.”.

4 **SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL CO-**
5 **ORDINATION BETWEEN DEPARTMENT OF DE-**
6 **FENSE AND CENTRAL INTELLIGENCE AGEN-**
7 **CY.**

8 (a) DEVELOPMENT OF PROCEDURES.—The National
9 Intelligence Director, in consultation with the Secretary
10 of Defense and the Director of the Central Intelligence
11 Agency, shall develop joint procedures to be used by the
12 Department of Defense and the Central Intelligence Agen-
13 cy to improve the coordination and deconfliction of oper-
14 ations that involve elements of both the Armed Forces and
15 the Central Intelligence Agency consistent with national
16 security and the protection of human intelligence sources
17 and methods. Those procedures shall, at a minimum, pro-
18 vide the following:

19 (1) Methods by which the Director of the Cen-
20 tral Intelligence Agency and the Secretary of De-
21 fense can improve communication and coordination
22 in the planning, execution, and sustainment of oper-
23 ations, including, as a minimum—

24 (A) information exchange between senior
25 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 Reconnaissance Office.
11

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

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

1 “(B) The Assistant Secretary of State for Intel-
2 ligence and Research.

3 “(C) The Director of the Office of Intelligence
4 of the Department of Energy.

5 “(D) The Director of the Office of Counter-
6 intelligence of the Department of Energy.

7 “(E) The Assistant Secretary for Intelligence
8 and Analysis of the Department of the Treasury.

9 “(F) The Executive Assistant Director for In-
10 telligence of the Federal Bureau of Investigation.

11 “(G) The Under Secretary of Homeland Secu-
12 rity for Information Analysis and Infrastructure
13 Protection.

14 “(H) The Deputy Assistant Commandant of the
15 Coast Guard for Intelligence.

16 **SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL IN-**
17 **TELLIGENCE DIRECTOR.**

18 (a) INITIAL APPOINTMENT OF THE NATIONAL IN-
19 TELLIGENCE DIRECTOR.—Notwithstanding section
20 102(a)(1) of the National Security Act of 1947, as added
21 by section 1011(a), the individual serving as the Director
22 of Central Intelligence on the date immediately preceding
23 the date of the enactment of this Act may, at the discre-
24 tion of the President, become the National Intelligence Di-
25 rector as of the date of the enactment of this Act.

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

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

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

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

1 **SEC. 1016. EXECUTIVE SCHEDULE MATTERS.**

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

5 “National Intelligence Director.”.

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

9 “Deputy National Intelligence Director.

10 “Director of the National Counterterrorism
11 Center.”.

12 (c) EXECUTIVE SCHEDULE LEVEL IV.—Section
13 5315 of title 5, United States Code, is amended by strik-
14 ing the item relating to the Assistant Directors of Central
15 Intelligence.

16 **Subtitle B—National**
17 **Counterterrorism Center and**
18 **Civil Liberties Protections**

19 **SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.**

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

23 “NATIONAL COUNTERTERRORISM CENTER

24 “SEC. 119. (a) ESTABLISHMENT OF CENTER.—
25 There is within the Office of the National Intelligence Di-
26 rector a National Counterterrorism Center.

1 “(b) DIRECTOR OF NATIONAL COUNTERTERRORISM
2 CENTER.—There is a Director of the National
3 Counterterrorism Center, who shall be the head of the Na-
4 tional Counterterrorism Center, who shall be appointed by
5 National Intelligence Director.

6 “(c) SUPERVISION.—The Director of the National
7 Counterterrorism Center shall report to the National In-
8 telligence Director on—

9 “(1) the budget and programs of the National
10 Counterterrorism Center;

11 “(2) the activities of the Directorate of Intel-
12 ligence of the National Counterterrorism Center
13 under subsection (h);

14 “(3) the conduct of intelligence operations im-
15 plemented by other elements of the intelligence com-
16 munity; and

17 “(4) the planning and progress of joint
18 counterterrorism operations (other than intelligence
19 operations).

20 The National Intelligence Director shall carry out this sec-
21 tion through the Deputy National Intelligence Director for
22 Operations.

23 “(d) PRIMARY MISSIONS.—The primary missions of
24 the National Counterterrorism Center shall be as follows:

1 “(1) To serve as the primary organization in
2 the United States Government for analyzing and in-
3 tegrating all intelligence possessed or acquired by
4 the United States Government pertaining to ter-
5 rorism and counterterrorism, excepting intelligence
6 pertaining exclusively to domestic counterterrorism.

7 “(2) To conduct strategic operational planning
8 for counterterrorism activities, integrating all instru-
9 ments of national power, including diplomatic, finan-
10 cial, military, intelligence, homeland security, and
11 law enforcement activities within and among agen-
12 cies.

13 “(3) To support operational responsibilities as-
14 signed to lead agencies for counterterrorism activi-
15 ties by ensuring that such agencies have access to
16 and receive intelligence needed to accomplish their
17 assigned activities.

18 “(4) To ensure that agencies, as appropriate,
19 have access to and receive all-source intelligence sup-
20 port needed to execute their counterterrorism plans
21 or perform independent, alternative analysis.

22 “(e) DOMESTIC COUNTERTERRORISM INTEL-
23 LIGENCE.—(1) The Center may, consistent with applicable
24 law, the direction of the President, and the guidelines re-
25 ferred to in section 102A(b), receive intelligence pertaining

1 exclusively to domestic counterterrorism from any Fed-
2 eral, State, or local government or other source necessary
3 to fulfill its responsibilities and retain and disseminate
4 such intelligence.

5 “(2) Any agency authorized to conduct
6 counterterrorism activities may request information from
7 the Center to assist it in its responsibilities, consistent
8 with applicable law and the guidelines referred to in sec-
9 tion 102A(b).

10 “(f) DUTIES AND RESPONSIBILITIES OF DIREC-
11 TOR.—The Director of the National Counterterrorism
12 Center shall—

13 “(1) serve as the principal adviser to the Na-
14 tional Intelligence Director on intelligence operations
15 relating to counterterrorism;

16 “(2) provide strategic guidance and plans for
17 the civilian and military counterterrorism efforts of
18 the United States Government and for the effective
19 integration of counterterrorism intelligence and op-
20 erations across agency boundaries, both inside and
21 outside the United States;

22 “(3) advise the National Intelligence Director
23 on the extent to which the counterterrorism program
24 recommendations and budget proposals of the de-
25 partments, agencies, and elements of the United

1 States Government conform to the priorities estab-
2 lished by the President;

3 “(4) disseminate terrorism information, includ-
4 ing current terrorism threat analysis, to the Presi-
5 dent, the Vice President, the Secretaries of State,
6 Defense, and Homeland Security, the Attorney Gen-
7 eral, the Director of the Central Intelligence Agency,
8 and other officials of the executive branch as appro-
9 priate, and to the appropriate committees of Con-
10 gress;

11 “(5) support the Department of Justice and the
12 Department of Homeland Security, and other appro-
13 priate agencies, in fulfillment of their responsibilities
14 to disseminate terrorism information, consistent with
15 applicable law, Executive Orders and other Presi-
16 dential guidance, to State and local government offi-
17 cials, and other entities, and coordinate dissemina-
18 tion of terrorism information to foreign governments
19 as approved by the National Intelligence Director;

20 “(6) consistent with priorities approved by the
21 President, assist the National Intelligence Director
22 in establishing requirements for the intelligence com-
23 munity for the collection of terrorism information;
24 and

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

4 “(g) LIMITATION.—The Director of the National
5 Counterterrorism Center may not direct the execution of
6 counterterrorism operations.

7 “(h) RESOLUTION OF DISPUTES.—The National In-
8 telligence Director shall resolve disagreements between the
9 National Counterterrorism Center and the head of a de-
10 partment, agency, or element of the United States Govern-
11 ment on designations, assignments, plans, or responsibil-
12 ities. The head of such a department, agency, or element
13 may appeal the resolution of the disagreement by the Na-
14 tional Intelligence Director to the President.

15 “(i) DIRECTORATE OF INTELLIGENCE.—The Direc-
16 tor of the National Counterterrorism Center shall estab-
17 lish and maintain within the National Counterterrorism
18 Center a Directorate of Intelligence which shall have pri-
19 mary responsibility within the United States Government
20 for analysis of terrorism and terrorist organizations (ex-
21 cept for purely domestic terrorism and domestic terrorist
22 organizations) from all sources of intelligence, whether col-
23 lected inside or outside the United States.

24 “(j) DIRECTORATE OF STRATEGIC PLANNING.—The
25 Director of the National Counterterrorism Center shall es-

1 tablish and maintain within the National
2 Counterterrorism Center a Directorate of Strategic Plan-
3 ning which shall provide strategic guidance and plans for
4 counterterrorism operations conducted by the United
5 States Government.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for the National Security Act of 1947 is amended by in-
8 serting after the item relating to section 118 the following
9 new item:

“Sec. 119. National Counterterrorism Center.”.

10 **SEC. 1022. CIVIL LIBERTIES PROTECTION OFFICER.**

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

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

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

19 (1) ensure that the protection of civil liberties
20 and privacy is appropriately incorporated in the poli-
21 cies and procedures developed for and implemented
22 by the Office of the National Intelligence Director
23 and the elements of the intelligence community with-
24 in the National Intelligence Program;

1 (2) oversee compliance by the Office and the
2 National Intelligence Director with requirements
3 under the Constitution and all laws, regulations, Ex-
4 ecutive orders, and implementing guidelines relating
5 to civil liberties and privacy;

6 (3) review and assess complaints and other in-
7 formation indicating possible abuses of civil liberties
8 and privacy in the administration of the programs
9 and operations of the Office and the National Intel-
10 ligence Director and, as appropriate, investigate any
11 such complaint or information;

12 (4) ensure that the use of technologies sustain,
13 and do not erode, privacy protections relating to the
14 use, collection, and disclosure of personal informa-
15 tion;

16 (5) ensure that personal information contained
17 in a system of records subject to section 552a of
18 title 5, United States Code (popularly referred to as
19 the ‘Privacy Act’), is handled in full compliance with
20 fair information practices as set out in that section;

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

23 (7) perform such other duties as may be pre-
24 scribed by the National Intelligence Director or spec-
25 ified by law.

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

7 **Subtitle C—Joint Intelligence** 8 **Community Council**

9 **SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.**

10 (a) ESTABLISHMENT.—(1) There is hereby estab-
11 lished a Joint Intelligence Community Council.

12 (b) FUNCTIONS.—(1) The Joint Intelligence Commu-
13 nity Council shall provide advice to the National Intel-
14 ligence Director as appropriate.

15 (2) The National Intelligence Director shall consult
16 with the Joint Intelligence Community Council in devel-
17 oping guidance for the development of the annual National
18 Intelligence Program budget.

19 (c) MEMBERSHIP.—The Joint Intelligence Commu-
20 nity Council shall consist of the following:

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

23 (2) The Secretary of State.

24 (3) The Secretary of the Treasury.

25 (4) The Secretary of Defense.

- 1 (5) The Attorney General.
- 2 (6) The Secretary of Energy.
- 3 (7) The Secretary of Homeland Security.
- 4 (8) Such other officials of the executive branch
- 5 as the President may designate.

6 **Subtitle D—Improvement of**

7 **Human Intelligence (HUMINT)**

8 **SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY**

9 **CRITICAL COMPONENT OF THE INTEL-**

10 **LIGENCE COMMUNITY.**

11 It is a sense of Congress that—

12 (1) the human intelligence officers of the intel-

13 lligence community have performed admirably and

14 honorably in the face of great personal dangers;

15 (2) during an extended period of unprecedented

16 investment and improvements in technical collection

17 means, the human intelligence capabilities of the

18 United States have not received the necessary and

19 commensurate priorities;

20 (3) human intelligence is becoming an increas-

21 ingly important capability to provide information on

22 the asymmetric threats to the national security of

23 the United States;

24 (4) the continued development and improve-

25 ment of a robust and empowered and flexible human

1 intelligence work force is critical to identifying, un-
2 derstanding, and countering the plans and intentions
3 of the adversaries of the United States; and

4 (5) an increased emphasis on, and resources ap-
5 plied to, enhancing the depth and breadth of human
6 intelligence capabilities of the United States intel-
7 ligence community must be among the top priorities
8 of the National Intelligence Director.

9 **SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CA-**
10 **PACITY.**

11 Not later than 6 months after the date of the enact-
12 ment of this Act, the National Intelligence Director shall
13 submit to Congress a report on existing human intel-
14 ligence (HUMINT) capacity which shall include a plan to
15 implement changes, as necessary, to accelerate improve-
16 ments to, and increase the capacity of, HUMINT across
17 the intelligence community.

18 **Subtitle E—Improvement of Edu-**
19 **cation for the Intelligence Com-**
20 **munity**

21 **SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-**
22 **QUIREMENTS UNDER NATIONAL SECURITY**
23 **EDUCATION PROGRAM.**

24 (a) IN GENERAL.—(1) Subsection (b)(2) of section
25 802 of the David L. Boren National Security Education

1 Act of 1991 (50 U.S.C. 1902) is amended to read as fol-
2 lows:

3 “(2) will meet the requirements for obligated
4 service described in subsection (j); and”.

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

7 “(j) REQUIREMENTS FOR OBLIGATED SERVICE IN
8 THE GOVERNMENT.—(1) Each recipient of a scholarship
9 or a fellowship under the program shall work in a specified
10 national security position. In this subsection, the term
11 ‘specified national security position’ means a position of
12 a department or agency of the United States that the Sec-
13 retary certifies is appropriate to use the unique language
14 and region expertise acquired by the recipient pursuant
15 to the study for which scholarship or fellowship assistance
16 (as the case may be) was provided under the program.

17 “(2) Each such recipient shall commence work in a
18 specified national security position as soon as practicable
19 but in no case later than two years after the completion
20 by the recipient of the study for which scholarship or fel-
21 lowship assistance (as the case may be) was provided
22 under the program.

23 “(3) Each such recipient shall work in a specified na-
24 tional security position for a period specified by the Sec-
25 retary, which period shall include—

1 “(A) in the case of a recipient of a scholarship,
2 one year of service for each year, or portion thereof,
3 for which such scholarship assistance was provided,
4 and

5 “(B) in the case of a recipient of a fellowship,
6 not less than one nor more than three years for each
7 year, or portion thereof, for which such fellowship
8 assistance was provided.

9 “(4) Recipients shall seek specified national security
10 positions as follows:

11 “(A) In the Department of Defense or in any
12 element of the intelligence community.

13 “(B) In the Department of State or in the De-
14 partment of Homeland Security, if the recipient
15 demonstrates to the Secretary that no position is
16 available in the Department of Defense or in any
17 element of the intelligence community.

18 “(C) In any other Federal department or agen-
19 cy not referred to in subparagraphs (A) and (B), if
20 the recipient demonstrates to the Secretary that no
21 position is available in a Federal department or
22 agency specified in such paragraphs.”.

23 (b) REGULATIONS.—The Secretary of Defense shall
24 prescribe regulations to carry out subsection (j) of section
25 802 of the David L. Boren National Security Education

1 Act of 1991, as added by subsection (a). In prescribing
2 such regulations, the Secretary shall establish standards
3 that recipients of scholarship and fellowship assistance
4 under the program under section 802 of the David L.
5 Boren National Security Education Act of 1991 are re-
6 quired to demonstrate in order to satisfy the requirement
7 of a good faith effort to gain employment as required
8 under such subsection.

9 (c) APPLICABILITY.—(1) The amendments made by
10 subsection (a) shall apply with respect to service agree-
11 ments entered into under the David L. Boren National
12 Security Education Act of 1991 on or after the date of
13 the enactment of this Act.

14 (2) The amendments made by subsection (a) shall not
15 affect the force, validity, or terms of any service agreement
16 entered into under the David L. Boren National Security
17 Education Act of 1991 before the date of the enactment
18 of this Act that is in force as of that date.

19 **SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP**
20 **LANGUAGE INITIATIVE.**

21 (a) INCREASE IN ANNUAL AUTHORIZATION OF AP-
22 PROPRIATIONS.—(1) Title VIII of the Intelligence Author-
23 ization Act for Fiscal Year 1992 (Public Law 102–183;
24 105 Stat. 1271), as amended by section 311(c) of the In-
25 telligence Authorization Act for Fiscal Year 1994 (Public

1 Law 103–178; 107 Stat. 2037) and by section 333(b) of
2 the Intelligence Authorization Act for Fiscal Year 2003
3 (Public Law 107–306; 116 Stat. 2397), is amended in
4 subsection (a) of section 811 by striking “there is author-
5 ized to be appropriated to the Secretary for each fiscal
6 year, beginning with fiscal year 2003, \$10,000,000,” and
7 inserting “there is authorized to be appropriated to the
8 Secretary for each of fiscal years 2003 and 2004,
9 \$10,000,000, and for fiscal year 2005 and each subse-
10 quent fiscal year, \$12,000,000,”.

11 (2) Subsection (b) of such section is amended by in-
12 serting “for fiscal years 2003 and 2004 only” after “au-
13 thorization of appropriations under subsection (a)”.

14 (b) REQUIREMENT FOR EMPLOYMENT AGREE-
15 MENTS.—(1) Section 802(i) of the David L. Boren Na-
16 tional Security Education Act of 1991 (50 U.S.C. 1902(i))
17 is amended by adding at the end the following new para-
18 graph:

19 “(5)(A) In the case of an undergraduate or graduate
20 student that participates in training in programs under
21 paragraph (1), the student shall enter into an agreement
22 described in subsection (b), other than such a student who
23 has entered into such an agreement pursuant to subpara-
24 graph (A)(ii) or (B)(ii) of section 802(a)(1).

1 “(B) In the case of an employee of an agency or de-
2 partment of the Federal Government that participates in
3 training in programs under paragraph (1), the employee
4 shall agree in writing—

5 “(i) to continue in the service of the agency or
6 department of the Federal Government employing
7 the employee for the period of such training;

8 “(ii) to continue in the service of such agency
9 or department employing the employee following
10 completion of such training for a period of two years
11 for each year, or part of the year, of such training;

12 “(iii) to reimburse the United States for the
13 total cost of such training (excluding the employee’s
14 pay and allowances) provided to the employee if, be-
15 fore the completion by the employee of the training,
16 the employment of the employee by the agency or
17 department is terminated due to misconduct by the
18 employee or by the employee voluntarily; and

19 “(iv) to reimburse the United States if, after
20 completing such training, the employment of the em-
21 ployee by the agency or department is terminated ei-
22 ther by the agency or department due to misconduct
23 by the employee or by the employee voluntarily, be-
24 fore the completion by the employee of the period of
25 service required in clause (ii), in an amount that

1 bears the same ratio to the total cost of the training
2 (excluding the employee's pay and allowances) pro-
3 vided to the employee as the unserved portion of
4 such period of service bears to the total period of
5 service under clause (ii).

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

10 “(D) The head of an element of the intelligence com-
11 munity may release an employee, in whole or in part, from
12 the obligation to reimburse the United States under an
13 agreement under subparagraph (A) when, in the discretion
14 of the head of the element, the head of the element deter-
15 mines that equity or the interests of the United States
16 so require.”.

17 (2) The amendment made by paragraph (1) shall
18 apply to training that begins on or after the date that is
19 90 days after the date of the enactment of this Act.

20 (c) INCREASE IN THE NUMBER OF PARTICIPATING
21 EDUCATIONAL INSTITUTIONS.—The Secretary of Defense
22 shall take such steps as the Secretary determines will in-
23 crease the number of qualified educational institutions
24 that receive grants under the National Flagship Language
25 Initiative to establish, operate, or improve activities de-

1 signed to train students in programs in a range of dis-
 2 ciplines to achieve advanced levels of proficiency in those
 3 foreign languages that the Secretary identifies as being
 4 the most critical in the interests of the national security
 5 of the United States.

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

12 **SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM**
 13 **FOR ENGLISH LANGUAGE STUDIES FOR HER-**
 14 **ITAGE COMMUNITY CITIZENS OF THE UNITED**
 15 **STATES WITHIN THE NATIONAL SECURITY**
 16 **EDUCATION PROGRAM.**

17 (a) SCHOLARSHIP PROGRAM FOR ENGLISH LAN-
 18 GUAGE STUDIES FOR HERITAGE COMMUNITY CITIZENS
 19 OF THE UNITED STATES.—(1) Subsection (a)(1) of sec-
 20 tion 802 of the David L. Boren National Security Edu-
 21 cation Act of 1991 (50 U.S.C. 1902) is amended—

22 (A) by striking “and” at the end of subpara-
 23 graph (C);

24 (B) by striking the period at the end of sub-
 25 paragraph (D) and inserting “; and”; and

1 (C) by adding at the end the following new sub-
2 paragraph:

3 “(E) awarding scholarships to students
4 who—

5 “(i) are United States citizens who—

6 “(I) are native speakers (com-
7 monly referred to as heritage commu-
8 nity residents) of a foreign language
9 that is identified as critical to the na-
10 tional security interests of the United
11 States who should be actively re-
12 cruited for employment by Federal se-
13 curity agencies with a need for lin-
14 guists; and

15 “(II) are not proficient at a pro-
16 fessional level in the English language
17 with respect to reading, writing, and
18 interpersonal skills required to carry
19 out the national security interests of
20 the United States, as determined by
21 the Secretary,

22 to enable such students to pursue English
23 language studies at an institution of higher
24 education of the United States to attain
25 proficiency in those skills; and

1 “(ii) enter into an agreement to work
2 in a national security position or work in
3 the field of education in the area of study
4 for which the scholarship was awarded in
5 a similar manner (as determined by the
6 Secretary) as agreements entered into pur-
7 suant to subsection (b)(2)(A).”.

8 (2) The matter following subsection (a)(2) of such
9 section is amended—

10 (A) in the first sentence, by inserting “or for
11 the scholarship program under paragraph (1)(E)”
12 after “under paragraph (1)(D) for the National
13 Flagship Language Initiative described in subsection
14 (i)”;

15 (B) by adding at the end the following: “For
16 the authorization of appropriations for the scholar-
17 ship program under paragraph (1)(E), see section
18 812.”.

19 (3) Section 803(d)(4)(E) of such Act (50 U.S.C.
20 1903(d)(4)(E)) is amended by inserting before the period
21 the following: “and section 802(a)(1)(E) (relating to
22 scholarship programs for advanced English language stud-
23 ies by heritage community residents)”.

1 (b) FUNDING.—The David L. Boren National Secu-
2 rity Education Act of 1991 (50 U.S.C. 1901 et seq.) is
3 amended by adding at the end the following new section:

4 **“SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR**
5 **CERTAIN HERITAGE COMMUNITY RESIDENTS.**

6 “There is authorized to be appropriated to the Sec-
7 retary for each fiscal year, beginning with fiscal year
8 2005, \$4,000,000, to carry out the scholarship programs
9 for English language studies by certain heritage commu-
10 nity residents under section 802(a)(1)(E).

11 **SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LAN-**
12 **GUAGE AND EDUCATION FOR THE INTEL-**
13 **LIGENCE COMMUNITY; REPORTS.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that there should be within the Office of the Na-
16 tional Intelligence Director a senior official responsible to
17 assist the National Intelligence Director in carrying out
18 the Director’s responsibilities for establishing policies and
19 procedure for foreign language education and training of
20 the intelligence community. The duties of such official
21 should include the following:

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

1 (2) Establishing policy, standards, and prior-
2 ities relating to such requirements.

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

6 (4) Monitoring the allocation of resources for
7 foreign language education and training in order to
8 ensure the requirements of the intelligence commu-
9 nity with respect to foreign language proficiency are
10 met.

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

14 (1) A report that identifies—

15 (A) skills and processes involved in learn-
16 ing a foreign language; and

17 (B) characteristics and teaching techniques
18 that are most effective in teaching foreign lan-
19 guages.

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

24 (B) For purposes of subparagraph (A), the
25 term “foreign language heritage community” means

1 a community of residents or citizens of the United
2 States—

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

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

8 (3) A report on—

9 (A) the estimated cost of establishing a
10 program under which the heads of elements of
11 the intelligence community agree to repay em-
12 ployees of the intelligence community for any
13 student loan taken out by that employee for the
14 study of foreign languages critical for the na-
15 tional security of the United States; and

16 (B) the effectiveness of such a program in
17 recruiting and retaining highly qualified per-
18 sonnel in the intelligence community.

19 **SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRIT-**
20 **ICAL TO THE INTELLIGENCE COMMUNITY.**

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

23 (1) by inserting before section 1001 (50 U.S.C.
24 441g) the following:

1 **“Subtitle A—Science and**
2 **Technology”;**

3 and

4 (2) by adding at the end the following new sub-
5 titles:

6 **“Subtitle B—Foreign Languages**
7 **Program**

8 “PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES
9 CRITICAL TO THE INTELLIGENCE COMMUNITY

10 “SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—

11 The Secretary of Defense and the National Intelligence
12 Director may jointly establish a program to advance for-
13 eign languages skills in languages that are critical to the
14 capability of the intelligence community to carry out na-
15 tional security activities of the United States (hereinafter
16 in this subtitle referred to as the ‘Foreign Languages Pro-
17 gram’).

18 “(b) IDENTIFICATION OF REQUISITE ACTIONS.—In
19 order to carry out the Foreign Languages Program, the
20 Secretary of Defense and the National Intelligence Direc-
21 tor shall jointly determine actions required to improve the
22 education of personnel in the intelligence community in
23 foreign languages that are critical to the capability of the
24 intelligence community to carry out national security ac-

1 tivities of the United States to meet the long-term intel-
2 ligence needs of the United States.

3 “EDUCATION PARTNERSHIPS

4 “SEC. 1012. (a) IN GENERAL.—In carrying out the
5 Foreign Languages Program, the head of a department
6 or agency containing an element of an intelligence commu-
7 nity entity may enter into one or more education partner-
8 ship agreements with educational institutions in the
9 United States in order to encourage and enhance the
10 study of foreign languages that are critical to the capa-
11 bility of the intelligence community to carry out national
12 security activities of the United States in educational insti-
13 tutions.

14 “(b) ASSISTANCE PROVIDED UNDER EDUCATIONAL
15 PARTNERSHIP AGREEMENTS.—Under an educational
16 partnership agreement entered into with an educational
17 institution pursuant to this section, the head of an element
18 of an intelligence community entity may provide the fol-
19 lowing assistance to the educational institution:

20 “(1) The loan of equipment and instructional
21 materials of the element of the intelligence commu-
22 nity entity to the educational institution for any pur-
23 pose and duration that the head determines to be
24 appropriate.

25 “(2) Notwithstanding any other provision of
26 law relating to transfers of surplus property, the

1 transfer to the educational institution of any com-
2 puter equipment, or other equipment, that is—

3 “(A) commonly used by educational insti-
4 tutions;

5 “(B) surplus to the needs of the entity;
6 and

7 “(C) determined by the head of the ele-
8 ment to be appropriate for support of such
9 agreement.

10 “(3) The provision of dedicated personnel to the
11 educational institution—

12 “(A) to teach courses in foreign languages
13 that are critical to the capability of the intel-
14 ligence community to carry out national secu-
15 rity activities of the United States; or

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

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

21 “(5) Cooperation with the educational institu-
22 tion in developing a program under which students
23 receive academic credit at the educational institution
24 for work on research projects of the element of the
25 intelligence community entity.

1 “(6) The provision of academic and career ad-
2 vice and assistance to students of the educational in-
3 stitution.

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

7 “VOLUNTARY SERVICES

8 “SEC. 1013. (a) AUTHORITY TO ACCEPT SERV-
9 ICES.—Notwithstanding section 1342 of title 31, United
10 States Code, and subject to subsection (b), the Foreign
11 Languages Program under section 1011 shall include au-
12 thority for the head of an element of an intelligence com-
13 munity entity to accept from any individual who is dedi-
14 cated personnel (as defined in section 1016(3)) voluntary
15 services in support of the activities authorized by this sub-
16 title.

17 “(b) REQUIREMENTS AND LIMITATIONS.—(1) In ac-
18 cepting voluntary services from an individual under sub-
19 section (a), the head of the element shall—

20 “(A) supervise the individual to the same extent
21 as the head of the element would supervise a com-
22 pensated employee of that element providing similar
23 services; and

24 “(B) ensure that the individual is licensed, priv-
25 ileged, has appropriate educational or experiential

1 credentials, or is otherwise qualified under applicable
2 law or regulations to provide such services.

3 “(2) In accepting voluntary services from an indi-
4 vidual under subsection (a), the head of an element of the
5 intelligence community entity may not—

6 “(A) place the individual in a policymaking po-
7 sition, or other position performing inherently gov-
8 ernment functions; or

9 “(B) compensate the individual for the provi-
10 sion of such services.

11 “(c) **AUTHORITY TO RECRUIT AND TRAIN INDIVID-**
12 **UALS PROVIDING SERVICES.**—The head of an element of
13 an intelligence community entity may recruit and train in-
14 dividuals to provide voluntary services accepted under sub-
15 section (a).

16 “(d) **STATUS OF INDIVIDUALS PROVIDING SERV-**
17 **ICES.**—(1) Subject to paragraph (2), while providing vol-
18 untary services accepted under subsection (a) or receiving
19 training under subsection (c), an individual shall be con-
20 sidered to be an employee of the Federal Government only
21 for purposes of the following provisions of law:

22 “(A) Section 552a of title 5, United States
23 Code (relating to maintenance of records on individ-
24 uals).

1 “(B) Chapter 11 of title 18, United States
2 Code (relating to conflicts of interest).

3 “(2)(A) With respect to voluntary services accepted
4 under paragraph (1) provided by an individual that are
5 within the scope of the services so accepted, the individual
6 is deemed to be a volunteer of a governmental entity or
7 nonprofit institution for purposes of the Volunteer Protec-
8 tion Act of 1997 (42 U.S.C. 14501 et seq.).

9 “(B) In the case of any claim against such an indi-
10 vidual with respect to the provision of such services, sec-
11 tion 4(d) of such Act (42 U.S.C. 14503(d)) shall not
12 apply.

13 “(3) Acceptance of voluntary services under this sec-
14 tion shall have no bearing on the issuance or renewal of
15 a security clearance.

16 “(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—
17 (1) The head of an element of the intelligence community
18 entity may reimburse an individual for incidental expenses
19 incurred by the individual in providing voluntary services
20 accepted under subsection (a). The head of an element of
21 the intelligence community entity shall determine which
22 expenses are eligible for reimbursement under this sub-
23 section.

24 “(2) Reimbursement under paragraph (1) may be
25 made from appropriated or nonappropriated funds.

1 “(f) AUTHORITY TO INSTALL EQUIPMENT.—(1) The
2 head of an element of the intelligence community may in-
3 stall telephone lines and any necessary telecommunication
4 equipment in the private residences of individuals who pro-
5 vide voluntary services accepted under subsection (a).

6 “(2) The head of an element of the intelligence com-
7 munity may pay the charges incurred for the use of equip-
8 ment installed under paragraph (1) for authorized pur-
9 poses.

10 “(3) Notwithstanding section 1348 of title 31, United
11 States Code, the head of an element of the intelligence
12 community entity may use appropriated funds or non-
13 appropriated funds of the element in carrying out this sub-
14 section.

15 “REGULATIONS

16 “SEC. 1014. (a) IN GENERAL.—The Secretary of De-
17 fense and the National Intelligence Director jointly shall
18 promulgate regulations necessary to carry out the Foreign
19 Languages Program authorized under this subtitle.

20 “(b) ELEMENTS OF THE INTELLIGENCE COMMU-
21 NITY.—Each head of an element of an intelligence commu-
22 nity entity shall prescribe regulations to carry out sections
23 1012 and 1013 with respect to that element including the
24 following:

25 “(1) Procedures to be utilized for the accept-
26 ance of voluntary services under section 1013.

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

3 “DEFINITIONS

4 “SEC. 1015. In this subtitle:

5 “(1) The term ‘intelligence community entity’
6 means an agency, office, bureau, or element referred
7 to in subparagraphs (B) through (K) of section 3(4).

8 “(2) The term ‘educational institution’ means—

9 “(A) a local educational agency (as that
10 term is defined in section 9101(26) of the Ele-
11 mentary and Secondary Education Act of 1965
12 (20 U.S.C. 7801(26))),

13 “(B) an institution of higher education (as
14 defined in section 102 of the Higher Education
15 Act of 1965 (20 U.S.C. 1002) other than insti-
16 tutions referred to in subsection (a)(1)(C) of
17 such section), or

18 “(C) any other nonprofit institution that
19 provides instruction of foreign languages in lan-
20 guages that are critical to the capability of the
21 intelligence community to carry out national se-
22 curity activities of the United States.

23 “(3) The term ‘dedicated personnel’ means em-
24 ployees of the intelligence community and private
25 citizens (including former civilian employees of the
26 Federal Government who have been voluntarily sepa-

1 rated, and members of the United States Armed
2 Forces who have been honorably discharged or gen-
3 erally discharged under honorable circumstances,
4 and rehired on a voluntary basis specifically to per-
5 form the activities authorized under this subtitle).

6 **“Subtitle C—Additional Education**
7 **Provisions**

8 “ASSIGNMENT OF INTELLIGENCE COMMUNITY
9 PERSONNEL AS LANGUAGE STUDENTS

10 “SEC. 1021. (a) IN GENERAL.—(1) The National In-
11 telligence Director, acting through the heads of the ele-
12 ments of the intelligence community, may provide for the
13 assignment of military and civilian personnel described in
14 paragraph (2) as students at accredited professional, tech-
15 nical, or other institutions of higher education for training
16 at the graduate or undergraduate level in foreign lan-
17 guages required for the conduct of duties and responsibil-
18 ities of such positions.

19 “(2) Personnel referred to in paragraph (1) are per-
20 sonnel of the elements of the intelligence community who
21 serve in analysts positions in such elements and who re-
22 quire foreign language expertise required for the conduct
23 of duties and responsibilities of such positions.

24 “(b) AUTHORITY FOR REIMBURSEMENT OF COSTS
25 OF TUITION AND TRAINING.—(1) The Director may reim-

1 burse an employee assigned under subsection (a) for the
 2 total cost of the training described in subsection (a), in-
 3 cluding costs of educational and supplementary reading
 4 materials.

5 “(2) The authority under paragraph (1) shall apply
 6 to employees who are assigned on a full-time or part-time
 7 basis.

8 “(3) Reimbursement under paragraph (1) may be
 9 made from appropriated or nonappropriated funds.

10 “(c) RELATIONSHIP TO COMPENSATION AS AN ANA-
 11 LYST.—Reimbursement under this section to an employee
 12 who is an analyst is in addition to any benefits, allow-
 13 ances, travels, or other compensation the employee is enti-
 14 tled to by reason of serving in such an analyst position.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
 16 for the National Security Act of 1947 is amended by strik-
 17 ing the item relating to section 1001 and inserting the
 18 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 intel-
 ligence 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.”.

1 **SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-**
2 **SERVE CORPS.**

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

11 (b) CONDUCT OF PROJECT.—Taking into account the
12 findings and recommendations contained in the report re-
13 quired under section 325 of the Intelligence Authorization
14 Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat.
15 2393), in conducting the pilot project under subsection (a)
16 the National Intelligence Director shall—

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

20 (2) identify United States citizens with ad-
21 vanced levels of proficiency in those foreign lan-
22 guages who would be available to perform the serv-
23 ices and duties referred to in subsection (a); and

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

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

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

9 (e) REPORTS.—(1) The National Intelligence Direc-
10 tor shall submit to Congress an initial and a final report
11 on the pilot project conducted under subsection (a).

12 (2) Each report required under paragraph (1) shall
13 contain information on the operation of the pilot project,
14 the success of the pilot project in carrying out the objec-
15 tives of the establishment of a Civilian Linguist Reserve
16 Corps, and recommendations for the continuation or ex-
17 pansion of the pilot project.

18 (3) The final report shall be submitted not later than
19 6 months after the completion of the project.

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

1 **SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NA-**
2 **TIONAL VIRTUAL TRANSLATION CENTER.**

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

7 “NATIONAL VIRTUAL TRANSLATION CENTER

8 “SEC. 120. (a) IN GENERAL.—There is an element
9 of the intelligence community known as the National Vir-
10 tual Translation Center under the direction of the Na-
11 tional Intelligence Director.

12 “(b) FUNCTION.—The National Virtual Translation
13 Center shall provide for timely and accurate translations
14 of foreign intelligence for all other elements of the intel-
15 ligence community.

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

19 “(1) use state-of-the-art communications tech-
20 nology;

21 “(2) integrate existing translation capabilities
22 in the intelligence community; and

23 “(3) use remote-connection capacities.

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

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

3 “(2) the National Intelligence Director deter-
4 mines to be appropriate for such purpose.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for that Act, as amended by section 1021(b), is further
7 amended by inserting after the item relating to section
8 119 the following new item:

“Sec. 120. National Virtual Translation Center.”.

9 **SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF**
10 **QUALIFIED INSTRUCTORS OF THE DEFENSE**
11 **LANGUAGE INSTITUTE.**

12 (a) STUDY.—The Secretary of Defense shall conduct
13 a study on methods to improve the recruitment and reten-
14 tion of qualified foreign language instructors at the For-
15 eign Language Center of the Defense Language Institute.
16 In conducting the study, the Secretary shall consider, in
17 the case of a foreign language instructor who is an alien,
18 to expeditiously adjust the status of the alien from a tem-
19 porary status to that of an alien lawfully admitted for per-
20 manent residence.

21 (b) REPORT.—(1) Not later than one year after the
22 date of the enactment of this Act, the Secretary of Defense
23 shall submit to the appropriate congressional committees
24 a report on the study conducted under subsection (a), and
25 shall include in that report recommendations for such

1 changes in legislation and regulation as the Secretary de-
 2 termines to be appropriate.

3 (2) DEFINITION.—In this subsection, the term “ap-
 4 propriate congressional committees” means the following:

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

7 (B) The Permanent Select Committee on Intel-
 8 ligence and the Committee on Armed Services of the
 9 House of Representatives.

10 **Subtitle F—Additional Improve-** 11 **ments of Intelligence Activities**

12 **SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTEL-** 13 **LIGENCE AGENCY VOLUNTARY SEPARATION** 14 **INCENTIVE PROGRAM.**

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

18 (1) by striking subsection (f); and

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

21 (b) TERMINATION OF FUNDS REMITTANCE RE-
 22 QUIREMENT.—(1) Section 2 of such Act (50 U.S.C. 403–
 23 4 note) is further amended by striking subsection (i).

24 (2) Section 4(a)(2)(B)(ii) of the Federal Workforce
 25 Restructuring Act of 1994 (5 U.S.C. 8331 note) is amend-

1 ed by striking “, or section 2 of the Central Intelligence
2 Agency Voluntary Separation Pay Act (Public Law 103–
3 36; 107 Stat. 104)”.

4 **SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECH-**
5 **NOLOGIES PANEL.**

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

9 “SEC. 19. (a) There is established the National Secu-
10 rity Agency Emerging Technologies Panel. The panel is
11 a standing panel of the National Security Agency. The
12 panel shall be appointed by, and shall report directly to,
13 the Director.

14 “(b) The National Security Agency Emerging Tech-
15 nologies Panel shall study and assess, and periodically ad-
16 vise the Director on, the research, development, and appli-
17 cation of existing and emerging science and technology ad-
18 vances, advances on encryption, and other topics.

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

1 **Subtitle G—Conforming and Other**
2 **Amendments**

3 **SEC. 1071. CONFORMING AMENDMENTS RELATING TO**
4 **ROLES OF NATIONAL INTELLIGENCE DIREC-**
5 **TOR AND DIRECTOR OF THE CENTRAL INTEL-**
6 **LIGENCE AGENCY.**

7 (a) NATIONAL SECURITY ACT OF 1947.—(1) The
8 National Security Act of 1947 (50 U.S.C. 401 et seq.)
9 is amended by striking “Director of Central Intelligence”
10 each place it appears in the following provisions and in-
11 serting “National Intelligence Director”:

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

13 (B) Section 101(h)(2)(A) (50 U.S.C.
14 402(h)(2)(A)).

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

16 (D) Section 101(i)(2)(A) (50 U.S.C.
17 402(i)(2)(A)).

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

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

20 (G) Section 105(b)(6)(A) (50 U.S.C. 403–
21 5(b)(6)(A)).

22 (H) Section 105B(a)(1) (50 U.S.C. 403–
23 5b(a)(1)).

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

- 1 (J) Section 110(b) (50 U.S.C. 404e(b)).
- 2 (K) Section 110(c) (50 U.S.C. 404e(c)).
- 3 (L) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).
- 4 (M) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).
- 5 (N) Section 113(b)(2)(A) (50 U.S.C.
- 6 404h(b)(2)(A)).
- 7 (O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
- 8 (P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
- 9 (R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
- 10 (S) Section 115(b) (50 U.S.C. 404j(b)).
- 11 (T) Section 115(c)(1)(B) (50 U.S.C.
- 12 404j(c)(1)(B)).
- 13 (U) Section 116(a) (50 U.S.C. 404k(a)).
- 14 (V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
- 15 (W) Section 303(a) (50 U.S.C. 405(a)), both
- 16 places it appears.
- 17 (X) Section 501(d) (50 U.S.C. 413(d)).
- 18 (Y) Section 502(a) (50 U.S.C. 413a(a)).
- 19 (Z) Section 502(c) (50 U.S.C. 413a(c)).
- 20 (AA) Section 503(b) (50 U.S.C. 413b(b)).
- 21 (BB) Section 504(a)(3)(C) (50 U.S.C.
- 22 414(a)(3)(C)).
- 23 (CC) Section 504(d)(2) (50 U.S.C. 414(d)(2)).
- 24 (DD) Section 506A(a)(1) (50 U.S.C. 415a-
- 25 1(a)(1)).

- 1 (EE) Section 603(a) (50 U.S.C. 423(a)).
- 2 (FF) Section 702(a)(1) (50 U.S.C. 432(a)(1)).
- 3 (GG) Section 702(a)(6)(B)(viii) (50 U.S.C.
4 432(a)(6)(B)(viii)).
- 5 (HH) Section 702(b)(1) (50 U.S.C. 432(b)(1)),
6 both places it appears.
- 7 (II) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).
- 8 (JJ) Section 703(a)(6)(B)(viii) (50 U.S.C.
9 432a(a)(6)(B)(viii)).
- 10 (KK) Section 703(b)(1) (50 U.S.C.
11 432a(b)(1)), both places it appears.
- 12 (LL) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).
- 13 (MM) Section 704(f)(2)(H) (50 U.S.C.
14 432b(f)(2)(H)).
- 15 (NN) Section 704(g)(1) (50 U.S.C.
16 432b(g)(1)), both places it appears.
- 17 (OO) Section 1001(a) (50 U.S.C. 441g(a)).
- 18 (PP) Section 1102(a)(1) (50 U.S.C.
19 442a(a)(1)).
- 20 (QQ) Section 1102(b)(1) (50 U.S.C.
21 442a(b)(1)).
- 22 (RR) Section 1102(c)(1) (50 U.S.C.
23 442a(c)(1)).
- 24 (SS) Section 1102(d) (50 U.S.C. 442a(d)).

1 (2) That Act is further amended by striking “of Cen-
2 tral Intelligence” each place it appears in the following
3 provisions:

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

5 (B) Section 105B(a)(2) (50 U.S.C. 403–
6 5b(a)(2)).

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

9 (3) That Act is further amended by striking “Direc-
10 tor” each place it appears in the following provisions and
11 inserting “National Intelligence Director”:

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

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

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

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

17 (E) Section 1001(d)(1)(B) (50 U.S.C.
18 441g(d)(1)(B)).

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

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

1 (5) Section 504(a)(2) of that Act (50 U.S.C.
2 414(a)(2)) is amended by striking “Director of Central In-
3 telligence” and inserting “Director of the Central Intel-
4 ligence Agency”.

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

7 (A) in subsection (a), by striking “Operational
8 files of the Central Intelligence Agency may be ex-
9 empted by the Director of Central Intelligence” and
10 inserting “The Director of the Central Intelligence
11 Agency, with the coordination of the National Intel-
12 ligence Director, may exempt operational files of the
13 Central Intelligence Agency”; and

14 (B) in subsection (g)(1), by striking “Director
15 of Central Intelligence” and inserting “Director of
16 the Central Intelligence Agency and the National In-
17 telligence Director”.

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

20 “ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL
21 INTELLIGENCE DIRECTOR”.

22 (b) CENTRAL INTELLIGENCE AGENCY ACT OF
23 1949.—(1) The Central Intelligence Agency Act of 1949
24 (50 U.S.C. 403a et seq.) is amended by striking “Director
25 of Central Intelligence” each place it appears in the fol-

1 lowing provisions and inserting “National Intelligence Di-
2 rector”:

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

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

6 (2) That Act is further amended by striking “of Cen-
7 tral Intelligence” in each of the following provisions:

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

9 (B) Section 16(e)(1)(B) (50 U.S.C.
10 403p(e)(1)(B)).

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

12 (D) Section 20(e) (50 U.S.C. 403t(e)).

13 (3) That Act is further amended by striking “Direc-
14 tor of Central Intelligence” each place it appears in the
15 following provisions and inserting “Director of the Central
16 Intelligence Agency”:

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

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

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

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

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

23 (e) CENTRAL INTELLIGENCE AGENCY RETIREMENT
24 ACT.—Section 101 of the Central Intelligence Agency Re-
25 tirement Act (50 U.S.C. 2001) is amended by striking

1 paragraph (2) and inserting the following new paragraph
2 (2):

3 “(2) DIRECTOR.—The term ‘Director’ means
4 the Director of the Central Intelligence Agency.”.

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

9 “(1) the term ‘Director’ means the Director of
10 the Central Intelligence Agency;”.

11 (e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF
12 1978.—(1) The Foreign Intelligence Surveillance Act of
13 1978 (50 U.S.C. 1801 et seq.) is amended by striking “Di-
14 rector of Central Intelligence” each place it appears and
15 inserting “National Intelligence Director”.

16 (f) CLASSIFIED INFORMATION PROCEDURES ACT.—
17 Section 9(a) of the Classified Information Procedures Act
18 (5 U.S.C. App.) is amended by striking “Director of Cen-
19 tral Intelligence” and inserting “National Intelligence Di-
20 rector”.

21 (g) INTELLIGENCE AUTHORIZATION ACTS.—

22 (1) PUBLIC LAW 103–359.—Section 811(c)(6)(C)
23 of the Counterintelligence and Security Enhance-
24 ments Act of 1994 (title VIII of Public Law 103–
25 359) is amended by striking “Director of Central In-

1 intelligence” and inserting “National Intelligence Di-
2 rector”.

3 (2) PUBLIC LAW 107–306.—(A) The Intelligence
4 Authorization Act for Fiscal Year 2003 (Public Law
5 107–306) is amended by striking “Director of Cen-
6 tral Intelligence, acting as the head of the intel-
7 ligence community,” each place it appears in the fol-
8 lowing provisions and inserting “National Intel-
9 ligence Director”:

10 (i) Section 313(a) (50 U.S.C. 404n(a)).

11 (ii) Section 343(a)(1) (50 U.S.C. 404n–
12 2(a)(1))

13 (B) That Act is further amended by striking
14 “Director of Central Intelligence” each place it ap-
15 pears in the following provisions and inserting “Na-
16 tional Intelligence Director”:

17 (i) Section 902(a)(2) (50 U.S.C.
18 402b(a)(2)).

19 (ii) Section 904(e)(4) (50 U.S.C.
20 402c(e)(4)).

21 (iii) Section 904(e)(5) (50 U.S.C.
22 402c(e)(5)).

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

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

1 (C) Section 341 of that Act (50 U.S.C. 404n–
2 1) is amended by striking “Director of Central Intel-
3 ligence, acting as the head of the intelligence com-
4 munity, shall establish in the Central Intelligence
5 Agency” and inserting “National Intelligence Direc-
6 tor shall establish within the Central Intelligence
7 Agency”.

8 (D) Section 352(b) of that Act (50 U.S.C. 404–
9 3 note) is amended by striking “Director” and in-
10 serting “National Intelligence Director”.

11 (3) PUBLIC LAW 108–177.—(A) The Intelligence
12 Authorization Act for Fiscal Year 2004 (Public Law
13 108–177) is amended by striking “Director of Cen-
14 tral Intelligence” each place it appears in the fol-
15 lowing provisions and inserting “National Intel-
16 ligence Director”:

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

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

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

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

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

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

23 (vii) Section 504(a) (117 Stat. 2634), both

24 places it appears.

1 (B) Section 319(f)(2) of that Act (50 U.S.C.
2 403 note) is amended by striking “Director” the
3 first place it appears and inserting “National Intel-
4 ligence Director”.

5 (C) Section 404 of that Act (18 U.S.C. 4124
6 note) is amended by striking “Director of Central
7 Intelligence” and inserting “Director of the Central
8 Intelligence Agency”.

9 **SEC. 1072. OTHER CONFORMING AMENDMENTS**

10 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section
11 101(j) of the National Security Act of 1947 (50 U.S.C.
12 402(j)) is amended by striking “Deputy Director of Cen-
13 tral Intelligence” and inserting “Deputy National Intel-
14 ligence Director”.

15 (2) Section 112(d)(1) of that Act (50 U.S.C.
16 404g(d)(1)) is amended by striking “section 103(c)(6) of
17 this Act” and inserting “section 102A(g) of this Act”.

18 (3) Section 116(b) of that Act (50 U.S.C. 404k(b))
19 is amended by striking “to the Deputy Director of Central
20 Intelligence, or with respect to employees of the Central
21 Intelligence Agency, the Director may delegate such au-
22 thority to the Deputy Director for Operations” and insert-
23 ing “to the Deputy National Intelligence Director, or with
24 respect to employees of the Central Intelligence Agency,
25 to the Director of the Central Intelligence Agency”.

1 (4) Section 506A(b)(1) of that Act (50 U.S.C. 415a–
2 1(b)(1)) is amended by striking “Office of the Deputy Di-
3 rector of Central Intelligence” and inserting “Office of the
4 National Intelligence Director”.

5 (5) Section 701(c)(3) of that Act (50 U.S.C.
6 431(c)(3)) is amended by striking “Office of the Director
7 of Central Intelligence” and inserting “Office of the Na-
8 tional Intelligence Director”.

9 (6) Section 1001(b) of that Act (50 U.S.C. 441g(b))
10 is amended by striking “Assistant Director of Central In-
11 telligence for Administration” and inserting “Office of the
12 National Intelligence Director”.

13 (b) CENTRAL INTELLIGENCE ACT OF 1949.—Section
14 6 of the Central Intelligence Agency Act of 1949 (50
15 U.S.C. 403g) is amended by striking “section 103(c)(7)
16 of the National Security Act of 1947 (50 U.S.C. 403–
17 3(c)(7))” and inserting “section 102A(g) of the National
18 Security Act of 1947”.

19 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
20 ACT.—Section 201(e) of the Central Intelligence Agency
21 Retirement Act (50 U.S.C. 2011(e)) is amended by strik-
22 ing “paragraph (6) of section 103(c) of the National Secu-
23 rity Act of 1947 (50 U.S.C. 403–3(c)) that the Director
24 of Central Intelligence” and inserting “section 102A(g) of

1 the National Security Act of 1947 (50 U.S.C. 403–
2 3(c)(1)) that the National Intelligence Director”.

3 (d) INTELLIGENCE AUTHORIZATION ACTS.—

4 (1) PUBLIC LAW 107–306.—(A) Section 343(c)
5 of the Intelligence Authorization Act for Fiscal Year
6 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is
7 amended by striking “section 103(c)(6) of the Na-
8 tional Security Act of 1947 (50 U.S.C. 403–
9 3((c)(6))” and inserting “section 102A(g) of the Na-
10 tional Security Act of 1947 (50 U.S.C. 403–
11 3(c)(1))”.

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

14 (i) in subsection (c), by striking “Office of
15 the Director of Central Intelligence” and insert-
16 ing “Office of the National Intelligence Direc-
17 tor”; and

18 (ii) in subsection (l), by striking “Office of
19 the Director of Central Intelligence” and insert-
20 ing “Office of the National Intelligence Direc-
21 tor”.

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

1 (A) in subsection (g), by striking “Assist-
2 ant Director of Central Intelligence for Analysis
3 and Production” and inserting “Deputy Na-
4 tional Intelligence Director”; and

5 (B) in subsection (h)(2)(C), by striking
6 “Assistant Director” and inserting “Deputy
7 National Intelligence Director”.

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

10 Paragraph (4) of section 3 of the National Security
11 Act of 1947 (50 U.S.C. 401a) is amended to read as fol-
12 lows:

13 “(4) The term ‘intelligence community’ includes
14 the following:

15 “(A) The Office of the National Intel-
16 ligence Director.

17 “(B) The Central Intelligence Agency.

18 “(C) The National Security Agency.

19 “(D) The Defense Intelligence Agency.

20 “(E) The National Geospatial-Intelligence
21 Agency.

22 “(F) The National Reconnaissance Office.

23 “(G) Other offices within the Department
24 of Defense for the collection of specialized na-

1 tional intelligence through reconnaissance pro-
2 grams.

3 “(H) The intelligence elements of the
4 Army, the Navy, the Air Force, the Marine
5 Corps, the Federal Bureau of Investigation, and
6 the Department of Energy.

7 “(I) The Bureau of Intelligence and Re-
8 search of the Department of State.

9 “(J) The Office of Intelligence and Anal-
10 ysis of the Department of the Treasury.

11 “(K) The elements of the Department of
12 Homeland Security concerned with the analysis
13 of intelligence information, including the Office
14 of Intelligence of the Coast Guard.

15 “(L) Such other elements of any other de-
16 partment or agency as may be designated by
17 the President, or designated jointly by the Na-
18 tional Intelligence Director and the head of the
19 department or agency concerned, as an element
20 of the intelligence community.”.

1 **SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN INTEL-**
2 **LIGENCE PROGRAM AS NATIONAL INTEL-**
3 **LIGENCE PROGRAM.**

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

7 (b) CONFORMING AMENDMENTS.—(1) Section
8 506(a) of the National Security Act of 1947 (50 U.S.C.
9 415a(a)) is amended by striking “National Foreign Intel-
10 ligence Program” and inserting “National Intelligence
11 Program”.

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

16 (c) HEADING AMENDMENT.—The heading of section
17 506 of that Act is amended by striking “FOREIGN”.

18 **SEC. 1075. REPEAL OF SUPERSEDED AUTHORITIES.**

19 (a) APPOINTMENT OF CERTAIN INTELLIGENCE OF-
20 FICIALS.—Section 106 of the National Security Act of
21 1947 (50 U.S.C. 403–6) is repealed.

22 (b) COLLECTION TASKING AUTHORITY.—Section
23 111 of the National Security Act of 1947 (50 U.S.C. 404f)
24 is repealed.

1 **SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECUR-**
 2 **RITY ACT OF 1947.**

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

5 (1) by striking the items relating to sections
 6 102 through 104 and inserting the following new
 7 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

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

“Sec. 114. Additional annual reports from the National Intelligence Director.”;

10 and

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

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

13 **SEC. 1077. CONFORMING AMENDMENTS RELATING TO PRO-**
 14 **HIBITING DUAL SERVICE OF THE DIRECTOR**
 15 **OF THE CENTRAL INTELLIGENCE AGENCY.**

16 Section 1 of the Central Intelligence Agency Act of
 17 1949 (50 U.S.C. 403a) is amended—

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

1 (2) by striking paragraph (2), as so redesign-
2 nated, and inserting the following new paragraph
3 (2):

4 “(2) ‘Director’ means the Director of the Central In-
5 telligence Agency; and”.

6 **SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTECTIONS.**

7 Section 17(a)(1) of the Central Intelligence Agency
8 Act of 1949 (50 U.S.C. 403q(a)(1)) is amended by insert-
9 ing before the semicolon at the end the following: “and
10 to programs and operations of the Office of the National
11 Intelligence Director”.

12 **SEC. 1079. GENERAL REFERENCES.**

13 (a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
14 OF INTELLIGENCE COMMUNITY.—Any reference to the
15 Director of Central Intelligence or the Director of the Cen-
16 tral Intelligence Agency in the Director’s capacity as the
17 head of the intelligence community in any law, regulation,
18 document, paper, or other record of the United States
19 shall be deemed to be a reference to the National Intel-
20 ligence Director.

21 (b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
22 OF CIA.—Any reference to the Director of Central Intel-
23 ligence or the Director of the Central Intelligence Agency
24 in the Director’s capacity as the head of the Central Intel-
25 ligence Agency in any law, regulation, document, paper,

1 or other record of the United States shall be deemed to
2 be a reference to the Director of the Central Intelligence
3 Agency.

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

9 **SEC. 1080. APPLICATION OF OTHER LAWS.**

10 (a) POLITICAL SERVICE OF PERSONNEL.—Section
11 7323(b)(2)(B)(i) of title 5, United States Code, is amend-
12 ed—

13 (1) in subclause (XII), by striking “or” at the
14 end; and

15 (2) by inserting after subclause (XIII) the fol-
16 lowing new subclause:

17 “(XIV) the Office of the National Intel-
18 ligence Director; or”.

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

22 (1) by inserting “(A)” after “(4)”;

23 (2) in subparagraph (A), as so designated, by
24 striking “the Director of Central Intelligence” and

1 inserting “the Director of the Central Intelligence
2 Agency”; and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(B) In transmitting such listings for the Office of
6 the National Intelligence Director, the National Intel-
7 ligence Director may delete the information described in
8 subparagraphs (A) and (C) of paragraphs (2) and (3) if
9 the Director certifies in writing to the Secretary of State
10 that the publication of such information could adversely
11 affect United States intelligence sources.”.

12 (c) EXEMPTION FROM FINANCIAL DISCLOSURES.—
13 Section 105(a)(1) of the Ethics in Government Act (5
14 U.S.C. App.) is amended by inserting “the Office of the
15 National Intelligence Director,” before “the Central Intel-
16 ligence Agency”.

17 **Subtitle H—Transfer, Termination,**
18 **Transition and Other Provisions**

19 **SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT**
20 **STAFF.**

21 (a) TRANSFER.—There shall be transferred to the
22 Office of the National Intelligence Director the staff of
23 the Community Management Staff as of the date of the
24 enactment of this Act, including all functions and activi-

1 ties discharged by the Community Management Staff as
2 of that date.

3 (b) ADMINISTRATION.—The National Intelligence Di-
4 rector shall administer the Community Management Staff
5 after the date of the enactment of this Act as a component
6 of the Office of the National Intelligence Director under
7 section 103(b) of the National Security Act of 1947, as
8 amended by section 1011(a).

9 **SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRA-**
10 **TION CENTER.**

11 (a) TRANSFER.—There shall be transferred to the
12 National Counterterrorism Center the Terrorist Threat
13 Integration Center (TTIC), including all functions and ac-
14 tivities discharged by the Terrorist Threat Integration
15 Center as of the date of the enactment of this Act.

16 (b) ADMINISTRATION.—The Director of the National
17 Counterterrorism Center shall administer the Terrorist
18 Threat Integration Center after the date of the enactment
19 of this Act as a component of the Directorate of Intel-
20 ligence of the National Counterterrorism Center under
21 section 119(i) of the National Security Act of 1947, as
22 added by section 1021(a).

1 **SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DI-**
2 **RECTORS OF CENTRAL INTELLIGENCE.**

3 (a) **TERMINATION.**—The positions within the Central
4 Intelligence Agency referred to in subsection (b) are here-
5 by abolished.

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

9 (1) The Assistant Director of Central Intel-
10 ligence for Collection.

11 (2) The Assistant Director of Central Intel-
12 ligence for Analysis and Production.

13 (3) The Assistant Director of Central Intel-
14 ligence for Administration.

15 **SEC. 1094. IMPLEMENTATION PLAN.**

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

20 (1) The transfer of personnel, assets, and obli-
21 gations to the National Intelligence Director pursu-
22 ant to this title.

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

1 (3) The establishment of offices within the Of-
2 fice of the National Intelligence Director to imple-
3 ment the duties and responsibilities of the National
4 Intelligence Director as described in this title.

5 (4) Specification of any proposed disposition of
6 property, facilities, contracts, records, and other as-
7 sets and obligations to be transferred to the Na-
8 tional Intelligence Director.

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

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the permanent location for the headquarters for
14 the Office of the National Intelligence Director, should be
15 at a location other than the George Bush Center for Intel-
16 ligence in Langley, Virginia.

17 **SEC. 1095. TRANSITIONAL AUTHORITIES.**

18 Upon the request of the National Intelligence Direc-
19 tor, the head of any executive agency may, on a reimburs-
20 able basis, provide services or detail personnel to the Na-
21 tional Intelligence Director.

22 **SEC. 1096. EFFECTIVE DATES.**

23 (a) IN GENERAL.—Except as otherwise expressly
24 provided in this Act, this title and the amendments made

1 by this title shall take effect on the date of the enactment
2 of this Act.

3 (b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later
4 than 60 days after the date of the enactment of this Act,
5 the National Intelligence Director shall first appoint indi-
6 viduals to positions within the Office of the National Intel-
7 ligence Director.

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

10 (2) Not later than 180 days after the date of the en-
11 actment of this Act, the President shall transmit to Con-
12 gress the implementation plan required under section
13 1904.

14 (3) Not later than one year after the date of the en-
15 actment of this Act, the National Intelligence Director
16 shall prescribe regulations, policies, procedures, standards,
17 and guidelines required under section 102A of the Na-
18 tional Security Act of 1947, as amended by section
19 1011(a).

1 **TITLE II—TERRORISM PREVEN-**
2 **TION AND PROSECUTION**

3 **Subtitle A—Individual Terrorists**
4 **as Agents of Foreign Powers**

5 **SECTION 2001. INDIVIDUAL TERRORISTS AS AGENTS OF**
6 **FOREIGN POWERS.**

7 Section 101(b)(1) of the Foreign Intelligence Surveil-
8 lance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by
9 adding at the end the following new subparagraph:

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

12 **Subtitle B—Stop Terrorist and**
13 **Military Hoaxes Act of 2004**

14 **SEC. 2021. SHORT TITLE.**

15 This subtitle may be cited as the “Stop Terrorist and
16 Military Hoaxes Act of 2004”.

17 **SEC. 2022. HOAXES AND RECOVERY COSTS.**

18 (a) PROHIBITION ON HOAXES.—Chapter 47 of title
19 18, United States Code, is amended by inserting after sec-
20 tion 1037 the following:

21 **“§ 1038. False information and hoaxes**

22 **“(a) CRIMINAL VIOLATION.—**

23 **“(1) IN GENERAL.—**Whoever engages in any
24 conduct with intent to convey false or misleading in-
25 formation under circumstances where such informa-

1 tion may reasonably be believed and where such in-
2 formation indicates that an activity has taken, is
3 taking, or will take place that would constitute a vio-
4 lation of chapter 2, 10, 11B, 39, 40, 44, 111, or
5 113B of this title, section 236 of the Atomic Energy
6 Act of 1954 (42 U.S.C. 2284), or section 46502, the
7 second sentence of section 46504, section 46505
8 (b)(3) or (c), section 46506 if homicide or attempted
9 homicide is involved, or section 60123(b) of title 49
10 shall—

11 “(A) be fined under this title or impris-
12 oned not more than 5 years, or both;

13 “(B) if serious bodily injury results, be
14 fined under this title or imprisoned not more
15 than 25 years, or both; and

16 “(C) if death results, be fined under this
17 title or imprisoned for any number of years up
18 to life, or both.

19 “(2) ARMED FORCES.—Whoever, without lawful
20 authority, makes a false statement, with intent to
21 convey false or misleading information, about the
22 death, injury, capture, or disappearance of a mem-
23 ber of the Armed Forces of the United States during
24 a war or armed conflict in which the United States
25 is engaged, shall—

1 “(A) be fined under this title or impris-
2 oned not more than 5 years, or both;

3 “(B) if serious bodily injury results, be
4 fined under this title or imprisoned not more
5 than 25 years, or both; and

6 “(C) if death results, be fined under this
7 title or imprisoned for any number of years up
8 to life, or both.

9 “(b) CIVIL ACTION.—Whoever knowingly engages in
10 any conduct with intent to convey false or misleading in-
11 formation under circumstances where such information
12 may reasonably be believed and where such information
13 indicates that an activity has taken, is taking, or will take
14 place that would constitute a violation of chapter 2, 10,
15 11B, 39, 40, 44, 111, or 113B of this title, section 236
16 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or
17 section 46502, the second sentence of section 46504, sec-
18 tion 46505 (b)(3) or (c), section 46506 if homicide or at-
19 tempted homicide is involved, or section 60123(b) of title
20 49 is liable in a civil action to any party incurring expenses
21 incident to any emergency or investigative response to that
22 conduct, for those expenses.

23 “(c) REIMBURSEMENT.—

24 “(1) IN GENERAL.—The court, in imposing a
25 sentence on a defendant who has been convicted of

1 an offense under subsection (a), shall order the de-
2 fendant to reimburse any state or local government,
3 or private not-for-profit organization that provides
4 fire or rescue service incurring expenses incident to
5 any emergency or investigative response to that con-
6 duct, for those expenses.

7 “(2) LIABILITY.—A person ordered to make re-
8 imbursement under this subsection shall be jointly
9 and severally liable for such expenses with each
10 other person, if any, who is ordered to make reim-
11 bursement under this subsection for the same ex-
12 penses.

13 “(3) CIVIL JUDGMENT.—An order of reim-
14 bursement under this subsection shall, for the pur-
15 poses of enforcement, be treated as a civil judgment.

16 “(d) ACTIVITIES OF LAW ENFORCEMENT.—This sec-
17 tion does not prohibit any lawfully authorized investiga-
18 tive, protective, or intelligence activity of a law enforce-
19 ment agency of the United States, a State, or political sub-
20 division of a State, or of an intelligence agency of the
21 United States.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 as the beginning of chapter 47 of title 18, United States
24 Code, is amended by adding after the item for section
25 1037 the following:

“1038. False information and hoaxes.”.

1 **SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATE-**
2 **MENTS IN TERRORISM CASES.**

3 (a) **ENHANCED PENALTY.**—Section 1001(a) and the
4 third undesignated paragraph of section 1505 of title 18,
5 United States Code, are amended by striking “be fined
6 under this title or imprisoned not more than 5 years, or
7 both” and inserting “be fined under this title, imprisoned
8 not more than 5 years or, if the matter relates to inter-
9 national or domestic terrorism (as defined in section
10 2331), imprisoned not more than 10 years, or both”.

11 (b) **SENTENCING GUIDELINES.**—Not later than 30
12 days of the enactment of this section, the United States
13 Sentencing Commission shall amend the Sentencing
14 Guidelines to provide for an increased offense level for an
15 offense under sections 1001(a) and 1505 of title 18,
16 United States Code, if the offense involves a matter relat-
17 ing to international or domestic terrorism, as defined in
18 section 2331 of such title.

19 **SEC. 2024. CLARIFICATION OF DEFINITION.**

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

22 (1) in subsection (a), by striking “facility in”
23 and inserting “facility of”; and

24 (2) in subsection (b)(2), by inserting “or for-
25 eign” after “interstate”.

1 **Subtitle C—Material Support to**
2 **Terrorism Prohibition Enhance-**
3 **ment Act of 2004**

4 **SEC. 2041. SHORT TITLE.**

5 This subtitle may be cited as the “Material Support
6 to Terrorism Prohibition Enhancement Act of 2004”.

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

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

12 **“§ 2339D. Receiving military-type training from a for-**
13 **ign terrorist organization**

14 “(a) OFFENSE.—Whoever knowingly receives mili-
15 tary-type training from or on behalf of any organization
16 designated at the time of the training by the Secretary
17 of State under section 219(a)(1) of the Immigration and
18 Nationality Act as a foreign terrorist organization shall
19 be fined under this title or imprisoned for ten years, or
20 both. To violate this subsection, a person must have
21 knowledge that the organization is a designated terrorist
22 organization (as defined in subsection (c)(4)), that the or-
23 ganization has engaged or engages in terrorist activity (as
24 defined in section 212 of the Immigration and Nationality
25 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

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

4 “(4) the term ‘foreign terrorist organization’
5 means an organization designated as a terrorist or-
6 ganization under section 219(a)(1) of the Immigra-
7 tion and Nationality Act.”.

8 **SEC. 2043. PROVIDING MATERIAL SUPPORT TO TER-**
9 **RORISM.**

10 (a) ADDITIONS TO OFFENSE OF PROVIDING MATE-
11 RIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of
12 title 18, United States Code, is amended—

13 (1) by designating the first sentence as para-
14 graph (1);

15 (2) by designating the second sentence as para-
16 graph (3);

17 (3) by inserting after paragraph (1) as so des-
18 ignated by this subsection the following:

19 “(2) (A) Whoever in a circumstance described
20 in subparagraph (B) provides material support or
21 resources or conceals or disguises the nature, loca-
22 tion, source, or ownership of material support or re-
23 sources, knowing or intending that they are to be
24 used in preparation for, or in carrying out, an act
25 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 amend-
22 ed—

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 sserting “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

1 (3) in subparagraph (B)—

2 (A) by striking “or any proceeds of such
3 funds”; and

4 (B) by striking “were provided or col-
5 lected” and inserting “are to be provided or col-
6 lected, or knowing that the funds were provided
7 or collected,”.

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

10 (1) by striking “and” at the end of paragraph
11 (12);

12 (2) by redesignating paragraph (13) as para-
13 graph (14); and

14 (3) by inserting after paragraph (12) the fol-
15 lowing:

16 “(13) the term ‘material support or resources’
17 has the same meaning given that term in section
18 2339B(g)(4) of this title; and”.

19 **Subtitle D—Weapons of Mass De-**
20 **struction Prohibition Improve-**
21 **ment Act of 2004**

22 **SEC. 2051. SHORT TITLE.**

23 This subtitle may be cited as the “Weapons of Mass
24 Destruction Prohibition Improvement Act of 2004”.

1 **SEC. 2052. WEAPONS OF MASS DESTRUCTION.**

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

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

7 “(2) against any person or property within the
8 United States, and

9 “(A) the mail or any facility of interstate
10 or foreign commerce is used in furtherance of
11 the offense;

12 “(B) such property is used in interstate or
13 foreign commerce or in an activity that affects
14 interstate or foreign commerce;

15 “(C) any perpetrator travels in or causes
16 another to travel in interstate or foreign com-
17 merce in furtherance of the offense; or

18 “(D) the offense, or the results of the of-
19 fense, affect interstate or foreign commerce, or,
20 in the case of a threat, attempt, or conspiracy,
21 would have affected interstate or foreign com-
22 merce;”;

23 (2) in paragraph (3) of subsection (a), by strik-
24 ing the comma at the end and inserting “; or”;

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

1 “(4) against any property within the United
2 States that is owned, leased, or used by a foreign
3 government,”;

4 (4) at the end of subsection (c)(1), by
5 striking“and”;

6 (5) in subsection (c)(2), by striking the period
7 at the end and inserting “; and”; and

8 (6) in subsection (c), by adding at the end the
9 following:

10 “(3) the term ‘property’ includes all real and
11 personal property.”.

12 (b) RESTORATION OF THE COVERAGE OF CHEMICAL
13 WEAPONS.—Section 2332a of title 18, United States
14 Code, as amended by subsection (a), is further amended—

15 (1) in the section heading, by striking “cer-
16 tain”;

17 (2) in subsection (a), by striking “(other than
18 a chemical weapon as that term is defined in section
19 229F)”;

20 (3) in subsection (b), by striking “(other than
21 a chemical weapon (as that term is defined in sec-
22 tion 229F))”.

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

1 SELECT 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

1 73.5 of title 42, Code of Federal Regulations, pursu-
2 ant to section 351A of the Public Health Service
3 Act, and is not excluded under sections 73.4 and
4 73.5 or exempted under section 73.6 of title 42,
5 Code of Federal Regulations.”.

6 (2) The amendment made by paragraph (1)
7 shall take effect at the same time that sections 73.4,
8 73.5, and 73.6 of title 42, Code of Federal Regula-
9 tions, become effective.

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

13 (a) Section 57(b) of the Atomic Energy Act of 1954
14 (42 U.S.C. 2077(b)) is amended by striking “in the pro-
15 duction of any special nuclear material” and inserting “or
16 participate in the development or production of any special
17 nuclear material or atomic weapon”.

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

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

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

22 (2) by inserting after section 831 the following:

1 **“§ 832. Participation in nuclear and weapons of mass**
2 **destruction threats to the United States**

3 “(a) Whoever, within the United States or subject to
4 the jurisdiction of the United States, willfully participates
5 in or provides material support or resources (as defined
6 in section 2339A) to a nuclear weapons program or other
7 weapons of mass destruction program of a foreign ter-
8 rorist power, or attempts or conspires to do so, shall be
9 imprisoned for not more than 20 years.

10 “(b) There is extraterritorial Federal jurisdiction
11 over an offense under this section.

12 “(c) As used in this section—

13 “(1) ‘nuclear weapons program’ means a pro-
14 gram or plan for the development, acquisition, or
15 production of any nuclear weapon or weapons;

16 “(2) ‘weapons of mass destruction program’
17 means a program or plan for the development, ac-
18 quisition, or production of any weapon or weapons
19 of mass destruction (as defined in section 2332a(c));

20 “(3) ‘foreign terrorist power’ means a terrorist
21 organization designated under section 219 of the
22 Immigration and Nationality Act, or a state sponsor
23 of terrorism designated under section 6(j) of the Ex-
24 port Administration Act of 1979 or section 620A of
25 the Foreign Assistance Act of 1961; and

1 “(4) ‘nuclear weapon’ means any weapon that
2 contains or uses nuclear material as defined in sec-
3 tion 831(f)(1).”; and

4 (3) in section 2332b(g)(5)(B)(i), by inserting
5 after “nuclear materials,” the following: “832 (re-
6 lating to participation in nuclear and weapons of
7 mass destruction threats to the United States)”.

8 **Subtitle E—Money Laundering and**
9 **Terrorist Financing**

10 **CHAPTER 1—FUNDING TO COMBAT FI-**
11 **NANCIAL CRIMES INCLUDING TER-**
12 **RORIST FINANCING**

13 **SEC. 2101. ADDITIONAL AUTHORIZATION FOR FINCEN.**

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

16 (1) by striking “APPROPRIATIONS.—There are
17 authorized” and inserting “APPROPRIATIONS.—

18 “(1) IN GENERAL.—There are authorized”; and

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

21 “(2) AUTHORIZATION FOR FUNDING KEY TECH-
22 NOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL
23 FINCEN SYSTEMS.—There are authorized to be ap-
24 propriated for fiscal year 2005 the following

1 amounts, which are authorized to remain available
2 until expended:

3 “(A) BSA DIRECT.—For technological im-
4 provements to provide authorized law enforce-
5 ment and financial regulatory agencies with
6 Web-based access to FinCEN data, to fully de-
7 velop and implement the highly secure network
8 required under section 362 of Public Law 107–
9 56 to expedite the filing of, and reduce the fil-
10 ing costs for, financial institution reports, in-
11 cluding suspicious activity reports, collected by
12 FinCEN under chapter 53 and related provi-
13 sions of law, and enable FinCEN to imme-
14 diately alert financial institutions about sus-
15 picious activities that warrant immediate and
16 enhanced scrutiny, and to provide and upgrade
17 advanced information-sharing technologies to
18 materially improve the Government’s ability to
19 exploit the information in the FinCEN
20 databanks \$16,500,000.

21 “(B) ADVANCED ANALYTICAL TECH-
22 NOLOGIES.—To provide advanced analytical
23 tools needed to ensure that the data collected
24 by FinCEN under chapter 53 and related provi-
25 sions of law are utilized fully and appropriately

1 in safeguarding financial institutions and sup-
 2 porting the war on terrorism, \$5,000,000.

3 “(C) DATA NETWORKING MODERNIZA-
 4 TION.—To improve the telecommunications in-
 5 frastructure to support the improved capabili-
 6 ties of the FinCEN systems, \$3,000,000.

7 “(D) ENHANCED COMPLIANCE CAPA-
 8 BILITY.—To improve the effectiveness of the
 9 Office of Compliance in FinCEN, \$3,000,000.

10 “(E) DETECTION AND PREVENTION OF FI-
 11 NANCIAL CRIMES AND TERRORISM.—To provide
 12 development of, and training in the use of, tech-
 13 nology to detect and prevent financial crimes
 14 and terrorism within and without the United
 15 States, \$8,000,000.”.

16 **SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES**
 17 **STRATEGY REAUTHORIZATION.**

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

21 (b) REAUTHORIZATION OF APPROPRIATIONS.—Sec-
 22 tion 5355 of title 31, United States Code, is amended by
 23 adding at the end the following:

“Fiscal year 2004	\$15,000,000
Fiscal year 2005	\$15,000,000.”.

1 **CHAPTER 2—ENFORCEMENT TOOLS TO**
2 **COMBAT FINANCIAL CRIMES INCLUD-**
3 **ING TERRORIST FINANCING**

4 **Subchapter A—Money Laundering Abate-**
5 **ment and Financial Antiterrorism Tech-**
6 **nical Corrections**

7 **SEC. 2111. SHORT TITLE.**

8 This subtitle may be cited as the “Money Laundering
9 Abatement and Financial Antiterrorism Technical Correc-
10 tions Act of 2004”.

11 **SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107-**

12 **56.**

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

15 **“TITLE III—INTERNATIONAL**
16 **MONEY LAUNDERING ABATE-**
17 **MENT AND FINANCIAL**
18 **ANTITERRORISM ACT OF**
19 **2001”.**

20 (b) The table of contents of Public Law 107–56 is
21 amended by striking the item relating to title III and in-
22 serting the following new item:

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

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

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

3 (2) in subsection (b)(7), by inserting “or types
4 of accounts” after “classes of international trans-
5 actions”; and

6 (3) in subsection (b)(10), by striking “sub-
7 chapters II and III” and inserting “subchapter II”.

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

11 (e) The heading for section 311 of Public Law 107–
12 56 is amended by striking “**OR INTERNATIONAL**
13 **TRANSACTIONS**” and inserting “**INTERNATIONAL**
14 **TRANSACTIONS, OR TYPES OF ACCOUNTS**”.

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

16 (1) in paragraph (1)—

17 (A) by inserting a comma after “organiza-
18 tions engaged in”; and

19 (B) by inserting a comma after “credible
20 evidence of engaging in”;

21 (2) in paragraph (2)(A)—

22 (A) by striking “and” after “nongovern-
23 mental organizations,”; and

24 (B) by inserting a comma after “unwit-
25 tingly involved in such finances”;

1 (3) in paragraph (3)(A)—

2 (A) by striking “to monitor accounts of”
3 and inserting “monitor accounts of,”; and

4 (B) by striking the comma after “organiza-
5 tions identified”; and

6 (4) in paragraph (3)(B), by inserting “finan-
7 cial” after “size, and nature of the”.

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

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

13 (i) Subsections (a)(2) and (b)(2) of section 327 of
14 Public Law 107–56 are each amended by inserting a pe-
15 riod after “December 31, 2001” and striking all that fol-
16 lows through the period at the end of each such sub-
17 section.

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

21 (k) Section 358(e) of Public Law 107–56 is amend-
22 ed—

23 (1) by striking “Section 123(a)” and inserting
24 “That portion of section 123(a)”;

1 (2) by striking “is amended to read” and in-
2 serting “that precedes paragraph (1) of such section
3 is amended to read”; and

4 (3) by striking “.” at the end of such section
5 and inserting “—”.

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

7 (1) in subsection (a), by inserting “the” after
8 “utilization of the funds of”; and

9 (2) in subsection (b), by striking “at such insti-
10 tutions” and inserting “at such institution”.

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

14 (n) Section 365 of Public Law 107—56 is amended
15 —

16 (1) by redesignating the 2nd of the 2 sub-
17 sections designated as subsection (c) (relating to a
18 clerical amendment) as subsection (d); and

19 (2) by redesignating subsection (f) as sub-
20 section (e).

21 (o) Section 365(d) of Public Law 107–56 (as so re-
22 designated by subsection (n) of this section) is amended
23 by striking “section 5332 (as added by section 112 of this
24 title)” and inserting “section 5330”.

1 **SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVI-**
2 **SIONS OF LAW.**

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

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

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

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

14 (2) in the heading of paragraph (4), by striking
15 “DEFINITION” and inserting “DEFINITIONS”.

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

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

21 **“§ 5318A Special measures for jurisdictions, financial**
22 **institutions, international transactions,**
23 **or types of accounts of primary money**
24 **laundering concern”.**

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

1 (1) in subsection (a)(4)(A), by striking “, as de-
2 fined in section 3 of the Federal Deposit Insurance
3 Act,” and inserting “ (as defined in section 3 of the
4 Federal Deposit Insurance Act)”;

5 (2) in subsection (a)(4)(B)(iii), by striking “or
6 class of transactions” and inserting “class of trans-
7 actions, or type of account”;

8 (3) in subsection (b)(1)(A), by striking “or
9 class of transactions to be” and inserting “class of
10 transactions, or type of account to be”; and

11 (4) in subsection (e)(3), by inserting “or sub-
12 section (i) or (j) of section 5318” after “identifica-
13 tion of individuals under this section”.

14 (g) Section 5324(b) of title 31, United States Code,
15 is amended by striking “5333” each place such term ap-
16 pears and inserting “5331”.

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

19 (1) in subsection (b)(2), by striking “, subject
20 to subsection (d) of this section”; and

21 (2) in subsection (c)(1), by striking “, subject
22 to subsection (d) of this section,”.

23 (i) The table of sections for subchapter II of chapter
24 53 of title 31, United States Code, is amended by striking

1 the item relating to section 5318A and inserting the fol-
2 lowing new item:

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

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

6 (k) Section 21(a)(2) of the Federal Deposit Insur-
7 ance Act (12 U.S.C. 1829b(a)(2)) is amended by striking
8 “recognizes that” and inserting “recognizing that”.

9 (l) Section 626(e) of the Fair Credit Reporting Act
10 (15 U.S.C. 1681v(e)) is amended by striking “govern-
11 mental agency” and inserting “government agency”.

12 **SEC. 2114. REPEAL OF REVIEW.**

13 Title III of Public Law 107–56 is amended by strik-
14 ing section 303 (31 U.S.C. 5311 note).

15 **SEC. 2115. EFFECTIVE DATE.**

16 The amendments made by this subtitle to Public Law
17 107–56, the United States Code, the Federal Deposit In-
18 surance Act, and any other provision of law shall take ef-
19 fect as if such amendments had been included in Public
20 Law 107–56, as of the date of the enactment of such Pub-
21 lic Law, and no amendment made by such Public Law that
22 is inconsistent with an amendment made by this subtitle
23 shall be deemed to have taken effect.

1 **Subchapter B—Additional Enforcement Tools**

2 **SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECUR-**
3 **RITY PRINTING.**

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

7 (1) by striking “(a) The Secretary of the Treas-

8 ury” and inserting:

9 “(a) AUTHORITY TO ENGRAVE AND PRINT.—

10 “(1) IN GENERAL.—The Secretary of the
11 Treasury”; and

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

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

18 “(A) the Secretary of the Treasury deter-

19 mines that such production will not interfere
20 with engraving and printing needs of the
21 United States; and

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

1 “(3) PROCUREMENT GUIDELINES.—Articles,
2 material, and supplies procured for use in the pro-
3 duction of currency, postage stamps, and other secu-
4 rity documents for foreign governments pursuant to
5 paragraph (2) shall be treated in the same manner
6 as articles, material, and supplies procured for pub-
7 lic use within the United States for purposes of title
8 III of the Act of March 3, 1933 (41 U.S.C. 10a et
9 seq.; commonly referred to as the Buy American
10 Act).”.

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

14 (1) in the first sentence, by inserting “or to a
15 foreign government under section 5114” after
16 “agency”;

17 (2) in the second sentence, by inserting “and
18 other” after “including administrative”; and

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

1 **SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.**

2 (a) IN GENERAL.—Section 474(a) of title 18, United
3 States Code, is amended by inserting after the paragraph
4 beginning “Whoever has in his control, custody, or posses-
5 sion any plate” the following:

6 “Whoever, with intent to defraud, has in his custody,
7 control, or possession any material that can be used to
8 make, alter, forge or counterfeit any obligations and other
9 securities of the United States or any part of such securi-
10 ties and obligations, except under the authority of the Sec-
11 retary of the Treasury; or”.

12 (b) FOREIGN OBLIGATIONS AND SECURITIES.—Sec-
13 tion 481 of title 18, United States Code, is amended by
14 inserting after the paragraph beginning “Whoever, with
15 intent to defraud” the following:

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

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

24 (d) MATERIALS USED IN COUNTERFEITING.—Sec-
25 tion 474A(b) of title 18, United States Code, is amended

1 by striking “any essentially identical” and inserting “any
2 thing or material made after or in the similitude of any”.

3 **Subtitle F—Criminal History**
4 **Background Checks**

5 **SEC. 2141. SHORT TITLE.**

6 This subtitle may be cited as the “Criminal History
7 Access Means Protection of Infrastructures and Our Na-
8 tion”.

9 **SEC. 2142. CRIMINAL HISTORY INFORMATION CHECKS.**

10 (a) IN GENERAL.—Section 534 of title 28, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(f)(1) Under rules prescribed by the Attorney Gen-
14 eral, the Attorney General shall establish and maintain a
15 system for providing to an employer criminal history infor-
16 mation that—

17 “(A) is in the possession of the Attorney Gen-
18 eral; and

19 “(B) is requested by an employer as part of an
20 employee criminal history investigation that has been
21 authorized by the State where the employee works or
22 where the employer has their principal place of busi-
23 ness;

24 in order to ensure that a prospective employee is suitable
25 for certain employment positions.

1 “(2) The Attorney General shall require that an em-
2 ployer seeking criminal history information of an employee
3 request such information and submit fingerprints or other
4 biometric identifiers as approved by the Attorney General
5 to provide a positive and reliable identification of such pro-
6 spective employee.

7 “(3) The Director of the Federal Bureau of Inves-
8 tigation may require an employer to pay a reasonable fee
9 for such information.

10 “(4) Upon receipt of fingerprints or other biometric
11 identifiers, the Attorney General shall conduct an Inte-
12 grated Fingerprint Identification System of the Federal
13 Bureau of Investigation (IAFIS) check and provide the
14 results of such check to the requester.

15 “(5) As used in this subsection,

16 “(A) the term ‘criminal history information’
17 and ‘criminal history records’ includes——

18 “(i) an identifying description of the indi-
19 vidual to whom it pertains;

20 “(ii) notations of arrests, detentions, in-
21 dictments, or other formal criminal charges per-
22 taining to such individual; and

23 “(iii) any disposition to a notation revealed
24 in subparagraph (B), including acquittal, sen-
25 tencing, correctional supervision, or release.

1 “(B) the term ‘Integrated Automated Finger-
2 print Identification System of the Federal Bureau of
3 Investigation (IAFIS)’ means the national depository for fingerprint, biometric, and criminal history
4 information, through which fingerprints are processed electronically.
5 information, through which fingerprints are processed electronically.
6 essed electronically.

7 “(6) Nothing in this subsection shall preclude the At-
8 torney General from authorizing or requiring criminal history record checks on individuals employed or seeking employment in positions vital to the Nation’s critical infrastructure or key resources as those terms are defined in
9 tory record checks on individuals employed or seeking employment in positions vital to the Nation’s critical infrastructure or key resources as those terms are defined in
10 ployment in positions vital to the Nation’s critical infrastructure or key resources as those terms are defined in
11 structure or key resources as those terms are defined in section 1016(e) of Public Law 107–56 (42 U.S.C.
12 section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)) and section 2(9) of the Homeland Security Act
13 5195c(e)) and section 2(9) of the Homeland Security Act of 2002 (6 U.S.C. 101(9)).”.

15 (b) REPORT TO CONGRESS.—

16 (1) IN GENERAL.—Not later than 120 days
17 after the date of the enactment of this Act, the Attorney General shall report to the appropriate committees of Congress regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice
18 torney General shall report to the appropriate committees of Congress regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice
19 mittees of Congress regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice
20 ments for criminal history record checks that are required to be conducted by the Department of Justice
21 quired to be conducted by the Department of Justice or any of its components.
22 or any of its components.

23 (2) IDENTIFICATION OF INFORMATION.—The
24 Attorney General shall identify the number of records requested, including the type of information
25 records requested, including the type of information

1 requested, usage of different terms and definitions
2 regarding criminal history information, and the vari-
3 ation in fees charged for such information and who
4 pays such fees.

5 (3) RECOMMENDATIONS.—The Attorney Gen-
6 eral shall make recommendations for consolidating
7 the existing procedures into a unified procedure con-
8 sistent with that provided in section 534(f) of title
9 28, United States Code, as amended by this subtitle.

10 **Subtitle G—Protection of United**
11 **States Aviation System From**
12 **Terrorist Attacks**

13 **SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR**
14 **OTHER TECHNOLOGY.**

15 (a) USE OF BIOMETRIC TECHNOLOGY.—Section
16 44903(h) of title 49, United States Code, is amended—

17 (1) in paragraph (4)(E) by striking “may pro-
18 vide for” and inserting “shall issue, not later than
19 120 days after the date of enactment of paragraph
20 (5), guidance for”; and

21 (2) by adding at the end the following:

22 “(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-
23 PORT ACCESS CONTROL SYSTEMS.—In issuing guid-
24 ance under paragraph (4)(E), the Assistant Sec-
25 retary of Homeland Security (Transportation Secu-

1 rity Administration), in consultation with represent-
2 atives of the aviation industry, the biometrics indus-
3 try, and the National Institute of Standards and
4 Technology, shall establish, at a minimum—

5 “(A) comprehensive technical and oper-
6 ational system requirements and performance
7 standards for the use of biometrics in airport
8 access control systems (including airport perim-
9 eter access control systems) to ensure that the
10 biometric systems are effective, reliable, and se-
11 cure;

12 “(B) a list of products and vendors that
13 meet such requirements and standards;

14 “(C) procedures for implementing biomet-
15 ric systems—

16 “(i) to ensure that individuals do not
17 use an assumed identity to enroll in a bio-
18 metric system; and

19 “(ii) to resolve failures to enroll, false
20 matches, and false non-matches; and

21 “(D) best practices for incorporating bio-
22 metric technology into airport access control
23 systems in the most effective manner, including
24 a process to best utilize existing airport access

1 control systems, facilities, and equipment and
2 existing data networks connecting airports.

3 “(6) USE OF BIOMETRIC TECHNOLOGY FOR
4 LAW ENFORCEMENT OFFICER TRAVEL.—

5 “(A) IN GENERAL.—Not later than 120
6 days after the date of enactment of this para-
7 graph, the Assistant Secretary shall—

8 “(i) establish a law enforcement offi-
9 cer travel credential that incorporates bio-
10 metrics and is uniform across all Federal,
11 State, and local government law enforce-
12 ment agencies;

13 “(ii) establish a process by which the
14 travel credential will be used to verify the
15 identity of a Federal, State, or local gov-
16 ernment law enforcement officer seeking to
17 carry a weapon on board an aircraft, with-
18 out unnecessarily disclosing to the public
19 that the individual is a law enforcement of-
20 ficer;

21 “(iii) establish procedures—

22 “(I) to ensure that only Federal,
23 State, and local government law en-
24 forcement officers are issued the trav-
25 el credential;

1 “(II) to resolve failures to enroll,
2 false matches, and false non-matches
3 relating to use of the travel credential;
4 and

5 “(III) to invalidate any travel
6 credential that is lost, stolen, or no
7 longer authorized for use;

8 “(iv) begin issuance of the travel cre-
9 dential to each Federal, State, and local
10 government law enforcement officer au-
11 thorized by the Assistant Secretary to
12 carry a weapon on board an aircraft; and

13 “(v) take such other actions with re-
14 spect to the travel credential as the Sec-
15 retary considers appropriate.

16 “(B) FUNDING.—There are authorized to
17 be appropriated such sums as may be necessary
18 to carry out this paragraph.

19 “(7) DEFINITIONS.—In this subsection, the fol-
20 lowing definitions apply:

21 “(A) BIOMETRIC INFORMATION.—The
22 term ‘biometric information’ means the distinct
23 physical or behavioral characteristics that are
24 used for identification, or verification of the
25 identity, of an individual.

1 “(B) BIOMETRICS.—The term ‘biometrics’
2 means a technology that enables the automated
3 identification, or verification of the identity, of
4 an individual based on biometric information.

5 “(C) FAILURE TO ENROLL.—The term
6 ‘failure to enroll’ means the inability of an indi-
7 vidual to enroll in a biometric system due to an
8 insufficiently distinctive biometric sample, the
9 lack of a body part necessary to provide the bio-
10 metric sample, a system design that makes it
11 difficult to provide consistent biometric infor-
12 mation, or other factors.

13 “(D) FALSE MATCH.—The term ‘false
14 match’ means the incorrect matching of one in-
15 dividual’s biometric information to another indi-
16 vidual’s biometric information by a biometric
17 system.

18 “(E) FALSE NON-MATCH.—The term ‘false
19 non-match’ means the rejection of a valid iden-
20 tity by a biometric system.

21 “(F) SECURE AREA OF AN AIRPORT.—The
22 term ‘secure area of an airport’ means the ster-
23 ile area and the Secure Identification Display
24 Area of an airport (as such terms are defined
25 in section 1540.5 of title 49, Code of Federal

1 Regulations, or any successor regulation to such
2 section).”.

3 (b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY
4 IN AIRPORT ACCESS CONTROL SYSTEMS.—

5 (1) GRANT AUTHORITY.—Section 44923(a)(4)
6 of title 49, United States Code, is amended—

7 (A) by striking “and” at the end of para-
8 graph (3);

9 (B) by redesignating paragraph (4) as
10 paragraph (5); and

11 (C) by inserting after paragraph (3) the
12 following:

13 “(4) for projects to implement biometric tech-
14 nologies in accordance with guidance issued under
15 section 44903(h)(4)(E); and”.

16 (2) AUTHORIZATION OF APPROPRIATIONS.—
17 Section 44923(i)(1) of such title is amended by
18 striking “\$250,000,000 for each of fiscal years 2004
19 through 2007” and inserting “\$250,000,000 for fis-
20 cal year 2004, \$345,000,000 for fiscal year 2005,
21 and \$250,000,000 for each of fiscal years 2006 and
22 2007”.

1 **SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLAN-**
2 **NING.**

3 Section 44904 of title 49, United States Code, is
4 amended—

5 (1) by redesignating subsection (c) as sub-
6 section (e); and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) TRANSPORTATION SECURITY STRATEGIC PLAN-
10 NING.—

11 “(1) IN GENERAL.—The Secretary of Homeland
12 Security shall prepare and update, as needed, a
13 transportation sector specific plan and transpor-
14 tation modal security plans in accordance with this
15 section.

16 “(2) CONTENTS.—At a minimum, the modal se-
17 curity plan for aviation prepared under paragraph
18 (1) shall—

19 “(A) set risk-based priorities for defending
20 aviation assets;

21 “(B) select the most practical and cost-ef-
22 fective methods for defending aviation assets;

23 “(C) assign roles and missions to Federal,
24 State, regional, and local authorities and to
25 stakeholders;

1 “(D) establish a damage mitigation and re-
2 covery plan for the aviation system in the event
3 of a terrorist attack; and

4 “(E) include a threat matrix document
5 that outlines each threat to the United States
6 civil aviation system and the corresponding lay-
7 ers of security in place to address such threat.

8 “(3) REPORTS.—Not later than 180 days after
9 the date of enactment of the subsection and annually
10 thereafter, the Secretary shall submit to the Com-
11 mittee on Transportation and Infrastructure of the
12 House of Representatives and the Committee on
13 Commerce, Science, and Transportation of the Sen-
14 ate a report containing the plans prepared under
15 paragraph (1), including any updates to the plans.
16 The report may be submitted in a classified format.

17 “(d) OPERATIONAL CRITERIA.—Not later than 90
18 days after the date of submission of the report under sub-
19 section (c)(3), the Assistant Secretary of Homeland Secu-
20 rity (Transportation Security Administration) shall issue
21 operational criteria to protect airport infrastructure and
22 operations against the threats identified in the plans pre-
23 pared under subsection (c)(1) and shall approve best prac-
24 tices guidelines for airport assets.”.

1 **SEC. 2173. NEXT GENERATION AIRLINE PASSENGER**
2 **PRESCREENING.**

3 (a) IN GENERAL.—Section 44903(j)(2) of title 49,
4 United States Code, is amended by adding at the end the
5 following:

6 “(C) NEXT GENERATION AIRLINE PAS-
7 SENER PRESSCREENING.—

8 “(i) COMMENCEMENT OF TESTING.—

9 Not later than November 1, 2004, the As-
10 sistant Secretary of Homeland Security
11 (Transportation Security Administration),
12 or the designee of the Assistant Secretary,
13 shall commence testing of a next genera-
14 tion passenger prescreening system that
15 will allow the Department of Homeland Se-
16 curity to assume the performance of com-
17 paring passenger name records to the
18 automatic selectee and no fly lists, utilizing
19 all appropriate records in the consolidated
20 and integrated terrorist watchlist main-
21 tained by the Federal Government.

22 “(ii) ASSUMPTION OF FUNCTION.—

23 Not later than 180 days after completion
24 of testing under clause (i), the Assistant
25 Secretary, or the designee of the Assistant
26 Secretary, shall assume the performance of

1 the passenger prescreening function of
2 comparing passenger name records to the
3 automatic selectee and no fly lists and uti-
4 lize all appropriate records in the consoli-
5 dated and integrated terrorist watchlist
6 maintained by the Federal Government in
7 performing that function.

8 “(iii) REQUIREMENTS.—In assuming
9 performance of the function under clause
10 (i), the Assistant Secretary shall—

11 “(I) establish a procedure to en-
12 able airline passengers, who are de-
13 layed or prohibited from boarding a
14 flight because the next generation
15 passenger prescreening system deter-
16 mined that they might pose a security
17 threat, to appeal such determination
18 and correct information contained in
19 the system;

20 “(II) ensure that Federal Gov-
21 ernment databases that will be used
22 to establish the identity of a pas-
23 senger under the system will not
24 produce a large number of false
25 positives;

1 “(III) establish an internal over-
2 sight board to oversee and monitor
3 the manner in which the system is
4 being implemented;

5 “(IV) establish sufficient oper-
6 ational safeguards to reduce the op-
7 portunities for abuse;

8 “(V) implement substantial secu-
9 rity measures to protect the system
10 from unauthorized access;

11 “(VI) adopt policies establishing
12 effective oversight of the use and op-
13 eration of the system; and

14 “(VII) ensure that there are no
15 specific privacy concerns with the
16 technological architecture of the sys-
17 tem.

18 “(iv) PASSENGER NAME RECORDS.—
19 Not later than 60 days after the comple-
20 tion of the testing of the next generation
21 passenger prescreening system, the Assist-
22 ant Secretary shall require air carriers to
23 supply to the Assistant Secretary the pas-
24 senger name records needed to begin im-

1 plementing the next generation passenger
2 prescreening system.

3 “(D) SCREENING OF EMPLOYEES AGAINST
4 WATCHLIST.—The Assistant Secretary of
5 Homeland Security (Transportation Security
6 Administration), in coordination with the Sec-
7 retary of Transportation and the Administrator
8 of the Federal Aviation Administration, shall
9 ensure that individuals are screened against all
10 appropriate records in the consolidated and in-
11 tegrated terrorist watchlist maintained by the
12 Federal Government before—

13 “(i) being certificated by the Federal
14 Aviation Administration;

15 “(ii) being issued a credential for ac-
16 cess to the secure area of an airport; or

17 “(iii) being issued a credential for ac-
18 cess to the air operations area (as defined
19 in section 1540.5 of title 49, Code of Fed-
20 eral Regulations, or any successor regula-
21 tion to such section) of an airport.

22 “(E) APPEAL PROCEDURES.—The Assist-
23 ant Secretary shall establish a timely and fair
24 process for individuals identified as a threat
25 under subparagraph (D) to appeal the deter-

1 mination and correct any erroneous informa-
2 tion.

3 “(F) DEFINITION.—In this paragraph, the
4 term ‘secure area of an airport’ means the ster-
5 ile area and the Secure Identification Display
6 Area of an airport (as such terms are defined
7 in section 1540.5 of title 49, Code of Federal
8 Regulations, or any successor regulation to such
9 section).”.

10 (b) GAO REPORT.—

11 (1) IN GENERAL.—Not later than 90 days after
12 the date on which the Assistant Secretary of Home-
13 land Security (Transportation Security Administra-
14 tion) assumes performance of the passenger
15 prescreening function under section
16 44903(j)(2)(C)(ii) of title 49, United States Code,
17 the Comptroller General shall submit to the appro-
18 priate congressional committees a report on the as-
19 sumption of such function. The report may be sub-
20 mitted in a classified format.

21 (2) CONTENTS.—The report under paragraph
22 (1) shall address—

23 (A) whether a system exists in the next
24 generation passenger prescreening system
25 whereby aviation passengers, determined to

1 pose a threat and either delayed or prohibited
2 from boarding their scheduled flights by the
3 Transportation Security Administration, may
4 appeal such a decision and correct erroneous in-
5 formation;

6 (B) the sufficiency of identifying informa-
7 tion contained in passenger name records and
8 any government databases for ensuring that a
9 large number of false positives will not result
10 under the next generation passenger
11 prescreening system in a significant number of
12 passengers being treated as a threat mistakenly
13 or in security resources being diverted;

14 (C) whether the Transportation Security
15 Administration stress tested the next generation
16 passenger prescreening system;

17 (D) whether an internal oversight board
18 has been established in the Department of
19 Homeland Security to monitor the next genera-
20 tion passenger prescreening system;

21 (E) whether sufficient operational safe-
22 guards have been established to prevent the op-
23 portunities for abuse of the system;

24 (F) whether substantial security measures
25 are in place to protect the passenger

1 prescreening database from unauthorized ac-
2 cess;

3 (G) whether policies have been adopted for
4 the effective oversight of the use and operation
5 of the system;

6 (H) whether specific privacy concerns still
7 exist with the system; and

8 (I) whether appropriate life cycle cost esti-
9 mates have been developed, and a benefit and
10 cost analysis has been performed, for the sys-
11 tem.

12 **SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETEC-**
13 **TION EQUIPMENT AT AIRPORT SCREENING**
14 **CHECKPOINTS.**

15 (a) **NONMETALLIC WEAPONS AND EXPLOSIVES.**—In
16 order to improve security, the Assistant Secretary of
17 Homeland Security (Transportation Security Administra-
18 tion) shall give priority to developing, testing, improving,
19 and deploying technology at screening checkpoints at air-
20 ports that will detect nonmetallic weapons and explosives
21 on the person of individuals, in their clothing, or in their
22 carry-on baggage or personal property and shall ensure
23 that the equipment alone, or as part of an integrated sys-
24 tem, can detect under realistic operating conditions the

1 types of nonmetallic weapons and explosives that terrorists
2 would likely try to smuggle aboard an air carrier aircraft.

3 (b) STRATEGIC PLAN FOR DEPLOYMENT AND USE
4 OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT
5 SCREENING CHECKPOINTS.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of enactment of this Act, the Assistant Sec-
8 retary shall transmit to the appropriate congres-
9 sional committees a strategic plan to promote the
10 optimal utilization and deployment of explosive de-
11 tection systems at airports to screen individuals and
12 their carry-on baggage or personal property, includ-
13 ing walk-through explosive detection portals, docu-
14 ment scanners, shoe scanners, and any other explo-
15 sive detection equipment for use at a screening
16 checkpoint. The plan may be transmitted in a classi-
17 fied format.

18 (2) CONTENTS.—The strategic plan shall in-
19 clude descriptions of the operational applications of
20 explosive detection equipment at airport screening
21 checkpoints, a deployment schedule and quantities of
22 equipment needed to implement the plan, and fund-
23 ing needs for implementation of the plan, including
24 a financing plan that provides for leveraging non-
25 Federal funding.

1 **SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-**
2 **RESISTANT CARGO AND BAGGAGE CON-**
3 **TAINERS.**

4 (a) IN GENERAL.—Beginning not later than 180
5 days after the date of enactment of this Act, the Assistant
6 Secretary of Homeland Security (Transportation Security
7 Administration) shall carry out a pilot program to evalu-
8 ate the use of blast-resistant containers for cargo and bag-
9 gage on passenger aircraft to minimize the potential ef-
10 fects of detonation of an explosive device.

11 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-
12 GRAM.—

13 (1) IN GENERAL.—As part of the pilot pro-
14 gram, the Assistant Secretary shall provide incen-
15 tives to air carriers to volunteer to test the use of
16 blast-resistant containers for cargo and baggage on
17 passenger aircraft.

18 (2) APPLICATIONS.—To volunteer to participate
19 in the incentive program, an air carrier shall submit
20 to the Assistant Secretary an application that is in
21 such form and contains such information as the As-
22 sistant Secretary requires.

23 (3) TYPES OF ASSISTANCE.—Assistance pro-
24 vided by the Assistant Secretary to air carriers that
25 volunteer to participate in the pilot program shall in-
26 clude the use of blast-resistant containers and finan-

1 cial assistance to cover increased costs to the car-
2 riers associated with the use and maintenance of the
3 containers, including increased fuel costs.

4 (c) REPORT.—Not later than one year after the date
5 of enactment of this Act, the Assistant Secretary shall
6 submit to appropriate congressional committees a report
7 on the results of the pilot program.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this section
10 \$2,000,000. Such sums shall remain available until ex-
11 pended.

12 **SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

13 The Transportation Security Administration shall de-
14 velop technology to better identify, track, and screen air
15 cargo.

16 **SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE**
17 **DETECTION.**

18 Section 44940 of title 49, United States Code, is
19 amended by adding at the end the following:

20 “(i) CHECKPOINT SCREENING SECURITY FUND.—

21 “(1) ESTABLISHMENT.—There is established in
22 the Department of Homeland Security a fund to be
23 known as the ‘Checkpoint Screening Security Fund’.

24 “(2) DEPOSITS.—In each of fiscal years 2005
25 and 2006, after amounts are made available under

1 section 44923(h), the next \$30,000,000 derived from
2 fees received under subsection (a)(1) shall be avail-
3 able to be deposited in the Fund.

4 “(3) FEES.—The Secretary of Homeland Secu-
5 rity shall impose the fee authorized by subsection
6 (a)(1) so as to collect at least \$30,000,000 in each
7 of fiscal years 2005 and 2006 for deposit into the
8 Fund.

9 “(4) AVAILABILITY OF AMOUNTS.—Amounts in
10 the Fund shall be available for the purchase, deploy-
11 ment, and installation of equipment to improve the
12 ability of security screening personnel at screening
13 checkpoints to detect explosives.”.

14 **SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.**

15 (a) PILOT PROGRAM.—The Transportation Security
16 Administration shall develop, not later than 120 days after
17 the date of enactment of this Act, and conduct a pilot pro-
18 gram to test, integrate, and deploy next generation secu-
19 rity checkpoint screening technology at not less than 5 air-
20 ports in the United States.

21 (b) HUMAN FACTOR STUDIES.— The Administration
22 shall conduct human factors studies to improve screener
23 performance as part of the pilot program under subsection
24 (a).

1 **SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT**
2 **DOOR.**

3 (a) CIVIL PENALTY.—Section 46301(a) of title 49,
4 United States Code, is amended by adding at the end the
5 following:

6 “(6) PENALTY FOR FAILURE TO SECURE
7 FLIGHT DECK DOOR.—Any person holding a part
8 119 certificate under part of title 14, Code of Fed-
9 eral Regulations, is liable to the Government for a
10 civil penalty of not more than \$25,000 for each vio-
11 lation, by the pilot in command of an aircraft owned
12 or operated by such person, of any Federal regula-
13 tion that requires that the flight deck door be closed
14 and locked when the aircraft is being operated.”.

15 (b) TECHNICAL CORRECTIONS.—

16 (1) COMPROMISE AND SETOFF FOR FALSE IN-
17 FORMATION.—Section 46302(b) of such title is
18 amended by striking “Secretary of Transportation”
19 and inserting “Secretary of the Department of
20 Homeland Security and, for a violation relating to
21 section 46504, the Secretary of Transportation,”.

22 (2) CARRYING A WEAPON.—Section 46303 of
23 such title is amended—

24 (A) in subsection (b) by striking “Sec-
25 retary of Transportation” and inserting “Sec-
26 retary of Homeland Security”; and

1 (B) in subsection (c)(2) by striking
2 “Under Secretary of Transportation for Secu-
3 rity” and inserting “Secretary of Homeland Se-
4 curity”.

5 (3) ADMINISTRATIVE IMPOSITION OF PEN-
6 ALTIES.—Section 46301(d) of such title is amend-
7 ed—

8 (A) in the first sentence of paragraph (2)
9 by striking “46302, 46303,” and inserting
10 “46302 (for a violation relating to section
11 46504),”; and

12 (B) in the second sentence of paragraph
13 (2)—

14 (i) by striking “Under Secretary of
15 Transportation for Security” and inserting
16 “Secretary of Homeland Security”; and

17 (ii) by striking “44909)” and insert-
18 ing “44909), 46302 (except for a violation
19 relating to section 46504), 46303,”;

20 (C) in each of paragraphs (2), (3), and (4)
21 by striking “Under Secretary or” and inserting
22 “Secretary of Homeland Security”; and

23 (D) in paragraph (4)(A) by moving clauses
24 (i), (ii), and (iii) 2 ems to the left.

1 **SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.**

2 The Director of the Federal Air Marshal Service of
3 the Department of Homeland Security shall continue to
4 develop operational initiatives to protect the anonymity of
5 Federal air marshals.

6 **SEC. 2181. FEDERAL LAW ENFORCEMENT IN-FLIGHT**
7 **COUNTERTERRORISM TRAINING.**

8 The Assistant Secretary for Immigration and Cus-
9 toms Enforcement and the Director of Federal Air Mar-
10 shal Service of the Department of Homeland Security, in
11 coordination with the Assistant Secretary of Homeland
12 Security (Transportation Security Administration), shall
13 make available appropriate in-flight counterterrorism pro-
14 cedures and tactics training to Federal law enforcement
15 officers who fly while on duty.

16 **SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**
17 **RIAGE PILOT PROGRAM.**

18 (a) IN GENERAL.—Not later than 90 days after the
19 date of enactment of this Act, the Assistant Secretary of
20 Homeland Security (Transportation Security Administra-
21 tion) shall implement a pilot program to allow pilots par-
22 ticipating in the Federal flight deck officer program to
23 transport their firearms on their persons. The Assistant
24 Secretary may prescribe any training, equipment, or pro-
25 cedures that the Assistant Secretary determines necessary
26 to ensure safety and maximize weapon retention.

1 (b) REVIEW.—Not later than 1 year after the date
2 of initiation of the pilot program, the Assistant Secretary
3 shall conduct a review of the safety record of the pilot
4 program and transmit a report on the results of the review
5 to the appropriate congressional committees.

6 (c) OPTION.—If the Assistant Secretary as part of
7 the review under subsection (b) determines that the safety
8 level obtained under the pilot program is comparable to
9 the safety level determined under existing methods of pi-
10 lots carrying firearms on aircraft, the Assistant Secretary
11 shall allow all pilots participating in the Federal flight
12 deck officer program the option of carrying their firearm
13 on their person subject to such requirements as the Assist-
14 ant Secretary determines appropriate.

15 **SEC. 2183. REGISTERED TRAVELER PROGRAM.**

16 The Transportation Security Administration shall ex-
17 pedite implementation of the registered traveler program.

18 **SEC. 2184. WIRELESS COMMUNICATION.**

19 (a) STUDY.—The Transportation Security Adminis-
20 tration, in consultation with the Federal Aviation Admin-
21 istration, shall conduct a study to determine the viability
22 of providing devices or methods, including wireless meth-
23 ods, to enable a flight crew to discreetly notify the pilot
24 in the case of a security breach or safety issue occurring
25 in the cabin.

1 (b) MATTERS TO BE CONSIDERED.—In conducting
2 the study, the Transportation Security Administration
3 and the Federal Aviation Administration shall consider
4 technology that is readily available and can be quickly in-
5 tegrated and customized for use aboard aircraft for flight
6 crew communication.

7 (c) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, the Transportation Security Ad-
9 ministration shall submit to the appropriate congressional
10 committees a report on the results of the study.

11 **SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

12 Not later than 6 months after the date of enactment
13 of this Act, the Assistant Secretary of Homeland Security
14 (Transportation Security Administration) shall transmit
15 to the appropriate congressional committees a report on
16 the costs and benefits associated with the use of secondary
17 flight deck barriers and whether the use of such barriers
18 should be mandated for all air carriers. The Assistant Sec-
19 retary may transmit the report in a classified format.

20 **SEC. 2186. EXTENSION.**

21 Section 48301(a) of title 49, United States Code, is
22 amended by striking “and 2005” and inserting “2005,
23 and 2006”.

1 **SEC. 2187. PERIMETER SECURITY.**

2 (a) REPORT.—Not later than 180 days after the date
3 of enactment of this Act, the Assistant Secretary of Home-
4 land Security (Transportation Security Administration),
5 in consultation with airport operators and law enforce-
6 ment authorities, shall develop and submit to the appro-
7 priate congressional committee a report on airport perim-
8 eter security. The report may be submitted in a classified
9 format.

10 (b) CONTENTS.—The report shall include—

11 (1) an examination of the feasibility of access
12 control technologies and procedures, including the
13 use of biometrics and other methods of positively
14 identifying individuals prior to entry into secure
15 areas of airports, and provide best practices for en-
16 hanced perimeter access control techniques; and

17 (2) an assessment of the feasibility of physically
18 screening all individuals prior to entry into secure
19 areas of an airport and additional methods for
20 strengthening the background vetting process for all
21 individuals credentialed to gain access to secure
22 areas of airports.

23 **SEC. 2188. DEFINITIONS.**

24 In this title, the following definitions apply:

25 (1) APPROPRIATE CONGRESSIONAL COM-
26 MITTEE.—The term “appropriate congressional com-

1 mittees” means the Committee on Transportation
2 and Infrastructure of the House of Representatives
3 and the Committee on Commerce, Science, and
4 Transportation of the Senate.

5 (2) AIR CARRIER.—The term “air carrier” has
6 the meaning such term has under section 40102 of
7 title 49, United States Code.

8 (3) SECURE AREA OF AN AIRPORT.—The term
9 “secure area of an airport” means the sterile area
10 and the Secure Identification Display Area of an air-
11 port (as such terms are defined in section 1540.5 of
12 title 49, Code of Federal Regulations, or any suc-
13 cessor regulation to such section).

14 **Subtitle H—Other Matters**

15 **SEC. 2191. GRAND JURY INFORMATION SHARING.**

16 (a) RULE AMENDMENTS.—Rule 6(e) of the Federal
17 Rules of Criminal Procedure is amended—

18 (1) in paragraph (3)—

19 (A) in subparagraph (A)(ii), by striking
20 “or state subdivision or of an Indian tribe” and
21 inserting “, state subdivision, Indian tribe, or
22 foreign government”;

23 (B) in subparagraph (D)—

24 (i) by inserting after the first sentence
25 the following: “An attorney for the govern-

1 ment may also disclose any grand-jury
2 matter involving a threat of actual or po-
3 tential attack or other grave hostile acts of
4 a foreign power or an agent of a foreign
5 power, domestic or international sabotage,
6 domestic or international terrorism, or
7 clandestine intelligence gathering activities
8 by an intelligence service or network of a
9 foreign power or by an agent of a foreign
10 power, within the United States or else-
11 where, to any appropriate Federal, State,
12 state subdivision, Indian tribal, or foreign
13 government official for the purpose of pre-
14 venting or responding to such a threat.”;
15 and

16 (ii) in clause (i)—

17 (I) by striking “federal”; and

18 (II) by adding at the end the fol-
19 lowing: “Any State, state subdivision,
20 Indian tribal, or foreign government
21 official who receives information
22 under Rule 6(e)(3)(D) may use the
23 information only consistent with such
24 guidelines as the Attorney General

1 and the National Intelligence Director
2 shall jointly issue.”; and

3 (C) in subparagraph (E)—

4 (i) by redesignating clauses (iii) and
5 (iv) as clauses (iv) and (v), respectively;

6 (ii) by inserting after clause (ii) the
7 following:

8 “(iii) at the request of the govern-
9 ment, when sought by a foreign court or
10 prosecutor for use in an official criminal
11 investigation;”; and

12 (iii) in clause (iv), as redesignated—

13 (I) by striking “state or Indian
14 tribal” and inserting “State, Indian
15 tribal, or foreign”; and

16 (II) by striking “or Indian tribal
17 official” and inserting “Indian tribal,
18 or foreign government official”; and

19 (2) in paragraph (7), by inserting “, or of
20 guidelines jointly issued by the Attorney General and
21 Director of Central Intelligence pursuant to Rule 6,”
22 after “Rule 6”.

23 (b) CONFORMING AMENDMENT.—Section 203(c) of
24 Public Law 107–56 (18 U.S.C. 2517 note) is amended

1 by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting
2 “Rule 6(e)(3)(D)”.

3 **SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND IN-**
4 **TELLIGENCE DATA SYSTEM.**

5 (a) FINDINGS.—The Congress finds as follows:

6 (1) The interoperable electronic data system
7 know as the “Chimera system”, and required to be
8 developed and implemented by section 202(a)(2) of
9 the Enhanced Border Security and Visa Entry Re-
10 form Act of 2002 (8 U.S.C. 1722(a)(2)), has not in
11 any way been implemented.

12 (2) Little progress has been made since the en-
13 actment of such Act with regard to establishing a
14 process to connect existing trusted systems operated
15 independently by the respective intelligence agencies.

16 (3) It is advisable, therefore, to assign such re-
17 sponsibility to the National Intelligence Director.

18 (4) The National Intelligence Director should,
19 pursuant to the amendments made by subsection (c),
20 begin systems planning immediately upon assuming
21 office to deliver an interim system not later than 1
22 year after the date of the enactment of this Act, and
23 to deliver the fully functional Chimera system not
24 later than September 11, 2007.

1 (5) Both the interim system, and the fully func-
2 tional Chimera system, should be designed so that
3 intelligence officers, Federal law enforcement agen-
4 cies (as defined in section 2 of such Act (8 U.S.C.
5 1701)), operational counter-terror support center
6 personnel, consular officers, and Department of
7 Homeland Security enforcement officers have access
8 to them.

9 (b) PURPOSES.—The purposes of this section are as
10 follows:

11 (1) To provide the National Intelligence Direc-
12 tor with the necessary authority and resources to es-
13 tablish both an interim data system and, subse-
14 quently, a fully functional Chimera system, to collect
15 and share intelligence and operational information
16 with the intelligence community (as defined in sec-
17 tion 3(4) of the National Security Act of 1947 (50
18 U.S.C. 401a(4)).

19 (2) To require the National Intelligence Direc-
20 tor to establish a state-of-the-art Chimera system
21 with both biometric identification and linguistic ca-
22 pabilities satisfying the best technology standards.

23 (3) To ensure that the National Intelligence
24 Center will have a fully functional capability, not
25 later than September 11, 2007, for interoperable

1 data and intelligence exchange with the agencies of
2 the intelligence community (as so defined).

3 (c) AMENDMENTS.—

4 (1) IN GENERAL.—Title II of the Enhanced
5 Border Security and Visa Entry Reform Act of 2002
6 (8 U.S.C. 1721 et seq.) is amended—

7 (A) in section 202(a)—

8 (i) by amending paragraphs (1) and
9 (2) to read as follows:

10 “(1) INTERIM INTEROPERABLE INTELLIGENCE
11 DATA EXCHANGE SYSTEM.—Not later than 1 year
12 after assuming office, the National Intelligence Di-
13 rector shall establish an interim interoperable intel-
14 ligence data exchange system that will connect the
15 data systems operated independently by the entities
16 in the intelligence community and by the National
17 Counterterrorism Center, so as to permit automated
18 data exchange among all of these entities. Imme-
19 diately upon assuming office, the National Intel-
20 ligence Director shall begin the plans necessary to
21 establish such interim system.

22 “(2) CHIMERA SYSTEM.—Not later than Sep-
23 tember 11, 2007, the National Intelligence Director
24 shall establish a fully functional interoperable law
25 enforcement and intelligence electronic data system

1 within the National Counterterrorism Center to pro-
2 vide immediate access to information in databases of
3 Federal law enforcement agencies and the intel-
4 ligence community that is necessary to identify ter-
5 rorists, and organizations and individuals that sup-
6 port terrorism. The system established under this
7 paragraph shall referred to as the ‘Chimera system’.
8 ”;

9 (ii) in paragraph (3)—

10 (I) by striking “President” and
11 inserting “National Intelligence Direc-
12 tor”; and

13 (II) by striking “the data sys-
14 tem” and inserting “the interim sys-
15 tem described in paragraph (1) and
16 the Chimera system described in para-
17 graph (2)”;

18 (iii) in paragraph (4)(A), by striking
19 “The data system” and all that follows
20 through “(2),” and inserting “The interim
21 system described in paragraph (1) and the
22 Chimera system described in paragraph
23 (2)”;

24 (iv) in paragraph (5)—

1 (I) in the matter preceding sub-
2 paragraph (A), by striking “data sys-
3 tem under this subsection” and insert-
4 ing “Chimera system described in
5 paragraph (2)”;

6 (II) in subparagraph (B), by
7 striking “and” at the end;

8 (III) in subparagraph (C), by
9 striking the period at the end and in-
10 sserting “; and”; and

11 (IV) by adding at the end the fol-
12 lowing:

13 “(D) to any Federal law enforcement or
14 intelligence officer authorized to assist in the
15 investigation, identification, or prosecution of
16 terrorists, alleged terrorists, individuals sup-
17 porting terrorist activities, and individuals al-
18 leged to support terrorist activities. ”; and

19 (v) in paragraph (6)—

20 (I) by striking “President” and
21 inserting “National Intelligence Direc-
22 tor”;

23 (II) by striking “the data sys-
24 tem” and all that follows through
25 “(2),” and inserting “the interim sys-

1 tem described in paragraph (1) and
2 the Chimera system described in para-
3 graph (2)”;

4 (B) in section 202(b)—

5 (i) in paragraph (1), by striking “The
6 interoperable” and all that follows through
7 “subsection (a)” and inserting “the Chi-
8 mera system described in subsection
9 (a)(2)”;

10 (ii) in paragraph (2), by striking
11 “interoperable electronic database” and in-
12 serting “Chimera system described in sub-
13 section (a)(2)”;

14 (iii) by amending paragraph (4) to
15 read as follows:

16 “(4) INTERIM REPORTS.—Not later than 6
17 months after assuming office, the National Intel-
18 ligence Director shall submit a report to the appro-
19 priate committees of Congress on the progress in im-
20 plementing each requirement of this section.”;

21 (C) in section 204—

22 (i) by striking “Attorney General”
23 each place such term appears and inserting
24 “National Intelligence Director”;

1 (ii) in subsection (d)(1), by striking
2 “Attorney General’s” and inserting “Na-
3 tional Intelligence Director’s”; and
4 (D) by striking section 203 and redesignig-
5 nating section 204 as section 203.

6 (2) CLERICAL AMENDMENT.—The table of con-
7 tents for the Enhanced Border Security and Visa
8 Entry Reform Act of 2002 (8 U.S.C. 1701 et seq.)
9 is amended—

10 (A) by striking the item relating to section
11 203; and

12 (B) by redesignating the item relating to
13 section 204 as relating to section 203.

14 **SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**
15 **OF THE FEDERAL BUREAU OF INVESTIGA-**
16 **TION.**

17 (a) FINDINGS.—Consistent with the report of the Na-
18 tional Commission on Terrorist Attacks Upon the United
19 States and to meet the intelligence needs of the United
20 States, Congress makes the following findings:

21 (1) The Federal Bureau of Investigation has
22 made significant progress in improving its intel-
23 ligence capabilities.

24 (2) The Federal Bureau of Investigation must
25 further enhance and fully institutionalize its ability

1 to prevent, preempt, and disrupt terrorist threats to
2 our homeland, our people, our allies, and our inter-
3 ests.

4 (3) The Federal Bureau of Investigation must
5 collect, process, share, and disseminate, to the great-
6 est extent permitted by applicable law, to the Presi-
7 dent, the Vice President, and other officials in the
8 Executive Branch, all terrorism information and
9 other information necessary to safeguard our people
10 and advance our national and homeland security in-
11 terests.

12 (4) The Federal Bureau of Investigation must
13 move towards full and seamless coordination and co-
14 operation with all other elements of the Intelligence
15 Community, including full participation in, and sup-
16 port to, the National Counterterrorism Center.

17 (5) The Federal Bureau of Investigation must
18 strengthen its pivotal role in coordination and co-
19 operation with Federal, State, tribal, and local law
20 enforcement agencies to ensure the necessary shar-
21 ing of information for counterterrorism and criminal
22 law enforcement purposes.

23 (6) The Federal Bureau of Investigation must
24 perform its vital intelligence functions in a manner
25 consistent with both with national intelligence prior-

1 ities and respect for privacy and other civil liberties
2 under the Constitution and laws of the United
3 States.

4 (b) IMPROVEMENT OF INTELLIGENCE CAPABILI-
5 TIES.—The Director of the Federal Bureau of Investiga-
6 tion shall establish a comprehensive intelligence program
7 for—

8 (1) intelligence analysis, including recruitment
9 and hiring of analysts, analyst training, priorities
10 and status for analysis, and analysis performance
11 measures;

12 (2) intelligence production, including product
13 standards, production priorities, information sharing
14 and dissemination, and customer satisfaction meas-
15 ures;

16 (3) production of intelligence that is responsive
17 to national intelligence requirements and priorities,
18 including measures of the degree to which each FBI
19 headquarters and field component is collecting and
20 providing such intelligence;

21 (4) intelligence sources, including source valida-
22 tion, new source development, and performance
23 measures;

1 (5) field intelligence operations, including staff-
2 ing and infrastructure, management processes, pri-
3 orities, and performance measures;

4 (6) full and seamless coordination and coopera-
5 tion with the other components of the Intelligence
6 Community, consistent with their responsibilities;
7 and

8 (7) sharing of FBI intelligence and information
9 across Federal, state, and local governments, with
10 the private sector, and with foreign partners as pro-
11 vided by law or by guidelines of the Attorney Gen-
12 eral.

13 (c) INTELLIGENCE DIRECTORATE.—The Director of
14 the Federal Bureau of Investigation shall establish an In-
15 telligence Directorate within the FBI. The Intelligence Di-
16 rectorate shall have the authority to manage and direct
17 the intelligence operations of all FBI headquarters and
18 field components. The Intelligence Directorate shall have
19 responsibility for all components and functions of the FBI
20 necessary for—

21 (1) oversight of FBI field intelligence oper-
22 ations;

23 (2) FBI human source development and man-
24 agement;

- 1 (3) FBI collection against nationally-determined
2 intelligence requirements;
3 (4) language services;
4 (5) strategic analysis;
5 (6) intelligence program and budget manage-
6 ment; and
7 (7) the intelligence workforce.

8 (d) NATIONAL SECURITY WORKFORCE.—The Direc-
9 tor of the Federal Bureau of Investigation shall establish
10 a specialized, integrated intelligence cadre composed of
11 Special Agents, analysts, linguists, and surveillance spe-
12 cialists in a manner which creates and sustains within the
13 FBI a workforce with substantial expertise in, and com-
14 mitment to, the intelligence mission of the FBI. The Di-
15 rector shall—

16 (1) ensure that these FBI employees may make
17 their career, including promotion to the most senior
18 positions in the FBI, within this career track;

19 (2) establish intelligence cadre requirements
20 for—

- 21 (A) training;
22 (B) career development and certification;
23 (C) recruitment, hiring, and selection;
24 (D) integrating field intelligence teams;
25 and

1 (E) senior level field management;

2 (3) establish intelligence officer certification re-
3 quirements, including requirements for training
4 courses and assignments to other intelligence, na-
5 tional security, or homeland security components of
6 the Executive branch, in order to advance to senior
7 operational management positions in the FBI;

8 (4) ensure that the FBI's recruitment and
9 training program enhances its ability to attract indi-
10 viduals with educational and professional back-
11 grounds in intelligence, international relations, lan-
12 guage, technology, and other skills relevant to the
13 intelligence mission of the FBI;

14 (5) ensure that all Special Agents and analysts
15 employed by the FBI after the date of the enact-
16 ment of this Act shall receive basic training in both
17 criminal justice matters and intelligence matters;

18 (6) ensure that all Special Agents employed by
19 the FBI after the date of the enactment of this Act,
20 to the maximum extent practicable, be given an op-
21 portunity to undergo, during their early service with
22 the FBI, meaningful assignments in criminal justice
23 matters and in intelligence matters;

24 (7) ensure that, to the maximum extent prac-
25 tical, Special Agents who specialize in intelligence

1 are afforded the opportunity to work on intelligence
2 matters over the remainder of their career with the
3 FBI; and

4 (8) ensure that, to the maximum extent prac-
5 tical, analysts are afforded FBI training and career
6 opportunities commensurate with the training and
7 career opportunities afforded analysts in other ele-
8 ments of the intelligence community.

9 (e) FIELD OFFICE MATTERS.—The Director of the
10 Federal Bureau of Investigation shall take appropriate ac-
11 tions to ensure the integration of analysis, Special Agents,
12 linguists, and surveillance personnel in FBI field intel-
13 ligence components and to provide effective leadership and
14 infrastructure to support FBI field intelligence compo-
15 nents. The Director shall—

16 (1) ensure that each FBI field office has an of-
17 ficial at the level of Assistant Special Agent in
18 Charge or higher with responsibility for the FBI
19 field intelligence component; and

20 (2) to the extent practicable, provide for such
21 expansion of special compartmented information fa-
22 cilities in FBI field offices as is necessary to ensure
23 the discharge by the field intelligence components of
24 the national security and criminal intelligence mis-
25 sion of the FBI.

1 (g) BUDGET MATTERS.—The Director of the Federal
2 Bureau of Investigation shall, in consultation with the Di-
3 rector of the Office of Management and Budget, modify
4 the budget structure of the FBI in order to organize the
5 budget according to its four main programs as follows:

6 (1) Intelligence.

7 (2) Counterterrorism and counterintelligence.

8 (3) Criminal enterprise/Federal crimes.

9 (4) Criminal justice services.

10 (h) REPORTS.—

11 (1)(A) Not later than 180 days after the date
12 of the enactment of this Act, and every twelve
13 months thereafter, the Director of the Federal Bu-
14 reau of Investigation shall submit to Congress a re-
15 port on the progress made as of the date of such re-
16 port in carrying out the requirements of this section.

17 (B) The Director shall include in the first re-
18 port required by subparagraph (A) an estimate of
19 the resources required to complete the expansion of
20 special compartmented information facilities to carry
21 out the intelligence mission of FBI field intelligence
22 components.

23 (2) In each annual report required by para-
24 graph (1)(A) the director shall include—

1 (A) a report on the progress made by each
2 FBI field office during the period covered by
3 such review in addressing FBI and national in-
4 telligence priorities;

5 (B) a report assessing the qualifications,
6 status, and roles of analysts at FBI head-
7 quarters and in FBI field offices; and

8 (C) a report on the progress of the FBI in
9 implementing information-sharing principles.

10 (3) A report required by this subsection shall be
11 submitted—

12 (A) to each committee of Congress that
13 has jurisdiction over the subject matter of such
14 report; and

15 (B) in unclassified form, but may include
16 a classified annex.

17 **TITLE III—BORDER SECURITY**
18 **AND TERRORIST TRAVEL**

19 **Subtitle A—Immigration Reform in**
20 **the National Interest**

21 **CHAPTER 1—GENERAL PROVISIONS**

22 **SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE” EX-**
23 **CEPTION FOR CITIZENS.**

24 (a) IN GENERAL.—

1 (1) IN GENERAL.—Section 215(b) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1185(b)) is
3 amended to read as follows:

4 “(b)(1) Except as otherwise provided in this sub-
5 section, it shall be unlawful for any citizen of the United
6 States to depart from or enter, or attempt to depart from
7 or enter, the United States unless the citizen bears a valid
8 United States passport.

9 “(2) Subject to such limitations and exceptions as the
10 President may authorize and prescribe, the President may
11 waive the application of paragraph (1) in the case of a
12 citizen departing the United States to, or entering the
13 United States from, foreign contiguous territory.

14 “(3) The President, if waiving the application of
15 paragraph (1) pursuant to paragraph (2), shall require
16 citizens departing the United States to, or entering the
17 United States from, foreign contiguous territory to bear
18 a document (or combination of documents) designated by
19 the Secretary of Homeland Security under paragraph (4).

20 “(4) The Secretary of Homeland Security—

21 “(A) shall designate documents that are suffi-
22 cient to denote identity and citizenship in the United
23 States such that they may be used, either individ-
24 ually or in conjunction with another document, to
25 establish that the bearer is a citizen or national of

1 the United States for purposes of lawfully departing
2 from or entering the United States; and

3 “(B) shall publish a list of those documents in
4 the Federal Register.

5 “(5) A document may not be designated under para-
6 graph (4) (whether alone or in combination with other
7 documents) unless the Secretary of Homeland Security de-
8 termines that the document—

9 “(A) may be relied upon for the purposes of
10 this subsection; and

11 “(B) may not be issued to an alien unlawfully
12 present in the United States.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall take effect on October 1,
15 2006.

16 (b) INTERIM RULE.—

17 (1) IN GENERAL.—Not later than 60 days after
18 the date of the enactment of this Act, the Secretary
19 of Homeland Security—

20 (A) shall designate documents that are suf-
21 ficient to denote identity and citizenship in the
22 United States such that they may be used, ei-
23 ther individually or in conjunction with another
24 document, to establish that the bearer is a cit-
25 izen or national of the United States for pur-

1 poses of lawfully departing from or entering the
2 United States; and

3 (B) shall publish a list of those documents
4 in the Federal Register.

5 (2) LIMITATION ON PRESIDENTIAL AUTHOR-
6 ITY.—Beginning on the date that is 90 days after
7 the publication described in paragraph (1)(B), the
8 President, notwithstanding section 215(b) of the Im-
9 migration and Nationality Act (8 U.S.C. 1185(b)),
10 may not exercise the President’s authority under
11 such section so as to permit any citizen of the
12 United States to depart from or enter, or attempt to
13 depart from or enter, the United States from any
14 country other than foreign contiguous territory, un-
15 less the citizen bears a document (or combination of
16 documents) designated under paragraph (1)(A).

17 (3) CRITERIA FOR DESIGNATION.—A document
18 may not be designated under paragraph (1)(A)
19 (whether alone or in combination with other docu-
20 ments) unless the Secretary of Homeland Security
21 determines that the document—

22 (A) may be relied upon for the purposes of
23 this subsection; and

24 (B) may not be issued to an alien unlaw-
25 fully present in the United States.

1 (4) EFFECTIVE DATE.—This subsection shall
2 take effect on the date of the enactment of this Act
3 and shall cease to be effective on September 30,
4 2006.

5 **SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH**
6 **RESPECT TO DOCUMENTATION REQUIRE-**
7 **MENTS FOR NATIONALS OF FOREIGN CON-**
8 **TIGUOUS TERRITORIES AND ADJACENT IS-**
9 **LANDS.**

10 (a) IN GENERAL.—Section 212(d)(4) of the Immi-
11 gration and Nationality Act (8 U.S.C.1182(d)(4)) is
12 amended—

13 (1) by striking “Attorney General” and insert-
14 ing “Secretary of Homeland Security”;

15 (2) by striking “on the basis of reciprocity” and
16 all that follows through “or (C)”; and

17 (3) by adding at the end the following:

18 “Either or both of the requirements of such para-
19 graph may also be waived by the Secretary of Home-
20 land Security and the Secretary of State, acting
21 jointly and on the basis of reciprocity, with respect
22 to nationals of foreign contiguous territory or of ad-
23 jacent islands, but only if such nationals are re-
24 quired, in order to be admitted into the United
25 States, to be in possession of identification deemed

1 by the Secretary of Homeland Security to be se-
2 cure.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on December 31, 2006.

5 **SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL**
6 **AGENTS.**

7 The Secretary of Homeland Security, in each of fiscal
8 years 2006 through 2010, shall increase by not less than
9 2,000 the number of positions for full-time active-duty
10 border patrol agents within the Department of Homeland
11 Security above the number of such positions for which
12 funds were allotted for the preceding fiscal year.

13 **SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND**
14 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

15 The Secretary of Homeland Security, in each of fiscal
16 years 2006 through 2010, shall increase by not less than
17 800 the number of positions for full-time active-duty in-
18 vestigators within the Department of Homeland Security
19 investigating violations of immigration laws (as defined in
20 section 101(a)(17) of the Immigration and Nationality Act
21 (8 U.S.C. 1101(a)(17)) above the number of such posi-
22 tions for which funds were allotted for the preceding fiscal
23 year. At least half of these additional investigators shall
24 be designated to investigate potential violations of section
25 274A of the Immigration and Nationality Act (8 U.S.C

1 1324a). Each State shall be allotted at least 3 of these
2 additional investigators.

3 **SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

4 Section 211 of the Immigration and Nationality Act
5 (8 U.S.C. 1181) is amended by adding at the end the fol-
6 lowing:

7 “(d) For purposes of establishing identity to any Fed-
8 eral employee, an alien present in the United States may
9 present any document issued by the Attorney General or
10 the Secretary of Homeland Security under the authority
11 of one of the immigration laws (as defined in section
12 101(a)(17)), or an unexpired lawfully issued foreign pass-
13 port. Subject to the limitations and exceptions in immigra-
14 tion laws (as defined in section 101(a)(17) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1101(a)(17)), no
16 other document may be presented for those purposes.”.

17 **SEC. 3006. EXPEDITED REMOVAL.**

18 Section 235(b)(1)(A) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking
20 clauses (i) through (iii) and inserting the following:

21 “(i) IN GENERAL.—If an immigration
22 officer determines that an alien (other
23 than an alien described in subparagraph
24 (F)) who is arriving in the United States,
25 or who has not been admitted or paroled

1 into the United States and has not been
2 physically present in the United States
3 continuously for the 5-year period imme-
4 diately prior to the date of the determina-
5 tion of inadmissibility under this para-
6 graph, is inadmissible under section
7 212(a)(6)(C) or 212(a)(7), the officer shall
8 order the alien removed from the United
9 States without further hearing or review,
10 unless—

11 “(I) the alien has been charged
12 with a crime, is in criminal pro-
13 ceedings, or is serving a criminal sen-
14 tence; or

15 “(II) the alien indicates an inten-
16 tion to apply for asylum under section
17 208 or a fear of persecution and the
18 officer determines that the alien has
19 been physically present in the United
20 States for less than 1 year.

21 “(ii) CLAIMS FOR ASYLUM.—If an im-
22 migration officer determines that an alien
23 (other than an alien described in subpara-
24 graph (F)) who is arriving in the United
25 States, or who has not been admitted or

1 paroled into the United States and has not
2 been physically present in the United
3 States continuously for the 5-year period
4 immediately prior to the date of the deter-
5 mination of inadmissibility under this
6 paragraph, is inadmissible under section
7 212(a)(6)(C) or 212(a)(7), and the alien
8 indicates either an intention to apply for
9 asylum under section 208 or a fear of per-
10 secution, the officer shall refer the alien
11 for an interview by an asylum officer under
12 subparagraph (B) if the officer determines
13 that the alien has been physically present
14 in the United States for less than 1 year.”.

15 **SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING**
16 **ASYLUM.**

17 (a) **CONDITIONS FOR GRANTING ASYLUM.**—Section
18 208(b) of the Immigration and Nationality Act (8 U.S.C.
19 1158(b)) is amended—

20 (1) in paragraph (1), by striking “The Attorney
21 General” and inserting the following:

22 “(A) **ELIGIBILITY.**—The Secretary of
23 Homeland Security or the Attorney General”;

24 and

25 (2) by adding at the end the following:

1 “(B) BURDEN OF PROOF.—The burden of
2 proof is on the applicant to establish that the
3 applicant is a refugee within the meaning of
4 section 101(a)(42)(A). To establish that the ap-
5 plicant is a refugee within the meaning of this
6 Act, the applicant must establish that race, reli-
7 gion, nationality, membership in a particular
8 social group, or political opinion was or will be
9 the central motive for persecuting the applicant.
10 The testimony of the applicant may be suffi-
11 cient to sustain such burden without corrobora-
12 tion, but only if it is credible, is persuasive, and
13 refers to specific facts that demonstrate that
14 the applicant is a refugee. Where the trier of
15 fact finds that it is reasonable to expect cor-
16 roborating evidence for certain alleged facts
17 pertaining to the specifics of the applicant’s
18 claim, such evidence must be provided unless a
19 reasonable explanation is given as to why such
20 information is not provided. The credibility de-
21 termination of the trier of fact may be based,
22 in addition to other factors, on the demeanor,
23 candor, or responsiveness of the applicant or
24 witness, the consistency between the applicant’s
25 or witness’s written and oral statements, wheth-

1 er or not under oath, made at any time to any
2 officer, agent, or employee of the United States,
3 the internal consistency of each such statement,
4 the consistency of such statements with the
5 country conditions in the country from which
6 the applicant claims asylum (as presented by
7 the Department of State) and any inaccuracies
8 or falsehoods in such statements. These factors
9 may be considered individually or cumula-
10 tively.”.

11 (b) STANDARD OF REVIEW FOR ORDERS OF RE-
12 MOVAL.—Section 242(b)(4) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1252(b)(4)) is amended by adding
14 after subparagraph (D) the following flush language: “No
15 court shall reverse a determination made by an adjudi-
16 cator with respect to the availability of corroborating evi-
17 dence as described in section 208(b)(1)(B), unless the
18 court finds that a reasonable adjudicator is compelled to
19 conclude that such corroborating evidence is unavailable.”.

20 (c) EFFECTIVE DATE.—The amendment made by
21 subsection (b) shall take effect upon the date of enactment
22 of this Act and shall apply to cases in which the final ad-
23 ministrative removal order was issued before, on, or after
24 the date of enactment of this Act.

1 **SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL**
2 **DOCUMENTATION.**

3 (a) **LIMITATION ON REVIEW.**—Section 221(i) of the
4 Immigration and Nationality Act (8 U.S.C. 1201(i)) is
5 amended by adding at the end the following: “There shall
6 be no means of administrative or judicial review of a rev-
7 ocation under this subsection, and no court or other per-
8 son otherwise shall have jurisdiction to consider any claim
9 challenging the validity of such a revocation.”.

10 (b) **CLASSES OF DEPORTABLE ALIENS.**—Section
11 237(a)(1)(B) of the Immigration and Nationality Act (8
12 U.S.C. 1227(a)(1)(B)) is amended by striking “United
13 States is” and inserting the following: “United States, or
14 whose nonimmigrant visa (or other documentation author-
15 izing admission into the United States as a nonimmigrant)
16 has been revoked under section 221(i), is”.

17 (c) **REVOCATION OF PETITIONS.**—Section 205 of the
18 Immigration and Nationality Act (8 U.S.C. 1155) is
19 amended—

20 (1) by striking “Attorney General” and insert-
21 ing “Secretary of Homeland Security”; and

22 (2) by striking the final two sentences.

23 (d) **EFFECTIVE DATE.**—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act and shall apply to revocations under sections

1 205 and 221(i) of the Immigration and Nationality Act
2 made before, on, or after such date.

3 **SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

4 (a) IN GENERAL.—Section 242 of the Immigration
5 and Nationality Act (8 U.S.C. 1252) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (2)—

8 (i) in subparagraphs (A), (B), and
9 (C), by inserting “(statutory and nonstatu-
10 tory), including section 2241 of title 28,
11 United States Code, or any other habeas
12 corpus provision, and sections 1361 and
13 1651 of title 28, United States Code” after
14 “Notwithstanding any other provision of
15 law”; and

16 (ii) by adding at the end the fol-
17 lowing:

18 “(D) JUDICIAL REVIEW OF CERTAIN
19 LEGAL CLAIMS.—Nothing in this paragraph
20 shall be construed as precluding consideration
21 by the circuit courts of appeals of constitutional
22 claims or pure questions of law raised upon pe-
23 titions for review filed in accordance with this
24 section. Notwithstanding any other provision of
25 law (statutory and nonstatutory), including sec-

1 tion 2241 of title 28, United States Code, or,
2 except as provided in subsection (e), any other
3 habeas corpus provision, and sections 1361 and
4 1651 of title 28, United States Code, such peti-
5 tions for review shall be the sole and exclusive
6 means of raising any and all claims with respect
7 to orders of removal entered or issued under
8 any provision of this Act.”; and

9 (B) by adding at the end the following:

10 “(4) CLAIMS UNDER THE UNITED NATIONS
11 CONVENTION.—Notwithstanding any other provision
12 of law (statutory and nonstatutory), including sec-
13 tion 2241 of title 28, United States Code, or any
14 other habeas corpus provision, and sections 1361
15 and 1651 of title 28, United States Code, a petition
16 for review by the circuit courts of appeals filed in ac-
17 cordance with this section is the sole and exclusive
18 means of judicial review of claims arising under the
19 United Nations Convention Against Torture and
20 Other Forms of Cruel, Inhuman, or Degrading
21 Treatment or Punishment.

22 “(5) EXCLUSIVE MEANS OF REVIEW.—The ju-
23 dicial review specified in this subsection shall be the
24 sole and exclusive means for review by any court of
25 an order of removal entered or issued under any pro-

1 vision of this Act. For purposes of this title, in every
2 provision that limits or eliminates judicial review or
3 jurisdiction to review, the terms ‘judicial review’ and
4 ‘jurisdiction to review’ include habeas corpus review
5 pursuant to section 2241 of title 28, United States
6 Code, or any other habeas corpus provision, sections
7 1361 and 1651 of title 28, United States Code, and
8 review pursuant to any other provision of law.”;

9 (2) in subsection (b)—

10 (A) in paragraph (3)(B), by inserting
11 “pursuant to subsection (f)” after “unless”;
12 and

13 (B) in paragraph (9), by adding at the end
14 the following: “Except as otherwise provided in
15 this subsection, no court shall have jurisdiction,
16 by habeas corpus under section 2241 of title
17 28, United States Code, or any other habeas
18 corpus provision, by section 1361 or 1651 of
19 title 28, United States Code, or by any other
20 provision of law (statutory or nonstatutory), to
21 hear any cause or claim subject to these con-
22 solidation provisions.”;

23 (3) in subsection (f)(2), by inserting “or stay,
24 by temporary or permanent order, including stays

1 pending judicial review,” after “no court shall en-
2 join”; and

3 (4) in subsection (g), by inserting “(statutory
4 and nonstatutory), including section 2241 of title
5 28, United States Code, or any other habeas corpus
6 provision, and sections 1361 and 1651 of title 28,
7 United States Code” after “notwithstanding any
8 other provision of law”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall take effect upon the date of enactment
11 of this Act and shall apply to cases in which the final ad-
12 ministrative removal order was issued before, on, or after
13 the date of enactment of this Act.

14 **CHAPTER 2—DEPORTATION OF TERROR-**
15 **ISTS AND SUPPORTERS OF TER-**
16 **RORISM**

17 **SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION**
18 **ON REMOVAL.**

19 (a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C.
20 1231(b)(3)(B)) is amended—

21 (1) in the matter preceding clause (i), by strik-
22 ing “section 237(a)(4)(D)” and inserting “para-
23 graph (4)(B) or (4)(D) of section 237(a)”;

24 (2) in clause (iii), by striking “or”;

1 (3) in clause (iv), by striking the period and in-
2 serting “; or” ;

3 (4) by inserting after clause (iv) and following:

4 “(v) the alien is described in sub-
5 clause (I), (II), (III), (IV), or (VI) of sec-
6 tion 212(a)(3)(B)(i) or section
7 237(a)(4)(B), unless, in the case only of
8 an alien described in subclause (IV) of sec-
9 tion 212(a)(3)(B)(i), the Secretary of
10 Homeland Security determines, in the Sec-
11 retary’s discretion, that there are not rea-
12 sonable grounds for regarding the alien as
13 a danger to the security of the United
14 States.”; and

15 (5) by striking the last sentence.

16 (b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of the
17 Immigration and Nationality Act (8 U.S.C.
18 1158(b)(2)(A)(v)) is amended—

19 (1) by striking “inadmissible under” each place
20 such term appears and inserting “described in”; and

21 (2) by striking “removable under”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act and shall apply to—

1 (1) removal proceedings instituted before, on, or
2 after the date of the enactment of this Act; and

3 (2) acts and conditions constituting a ground
4 for inadmissibility or removal occurring or existing
5 before, on, or after such date.

6 **SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR**
7 **TERRORISTS AND CRIMINALS.**

8 (a) REGULATIONS.—

9 (1) REVISION DEADLINE.—Not later than 120
10 days after the date of the enactment of this Act, the
11 Secretary of Homeland Security shall revise the reg-
12 ulations prescribed by the Secretary to implement
13 the United Nations Convention Against Torture and
14 Other Forms of Cruel, Inhuman or Degrading
15 Treatment or Punishment, done at New York on
16 December 10, 1984.

17 (2) EXCLUSION OF CERTAIN ALIENS.—The re-
18 vision—

19 (A) shall exclude from the protection of
20 such regulations aliens described in section
21 241(b)(3)(B) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1231(b)(3)(B)) (as amended
23 by this title), including rendering such aliens in-
24 eligible for withholding or deferral of removal
25 under the Convention; and

1 (B) shall ensure that the revised regula-
2 tions operate so as to—

3 (i) allow for the reopening of deter-
4 minations made under the regulations be-
5 fore the effective date of the revision; and

6 (ii) apply to acts and conditions con-
7 stituting a ground for ineligibility for the
8 protection of such regulations, as revised,
9 regardless of when such acts or conditions
10 occurred.

11 (3) BURDEN OF PROOF.—The revision shall
12 also ensure that the burden of proof is on the appli-
13 cant for withholding or deferral of removal under the
14 Convention to establish by clear and convincing evi-
15 dence that he or she would be tortured if removed
16 to the proposed country of removal.

17 (b) JUDICIAL REVIEW.—Notwithstanding any other
18 provision of law, no court shall have jurisdiction to review
19 the regulations adopted to implement this section, and
20 nothing in this section shall be construed as providing any
21 court jurisdiction to consider or review claims raised under
22 the Convention or this section, except as part of the review
23 of a final order of removal pursuant to section 242 of the
24 Immigration and Nationality Act (8 U.S.C. 1252).

1 **SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

2 (a) IN GENERAL.—Section 241(b) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1231(b)) is amended—

4 (1) in paragraph (1)—

5 (A) in each of subparagraphs (A) and (B),
6 by striking the period at the end and inserting
7 “unless, in the opinion of the Secretary of
8 Homeland Security, removing the alien to such
9 country would be prejudicial to the United
10 States.”; and

11 (B) by amending subparagraph (C) to read
12 as follows:

13 “(C) ALTERNATIVE COUNTRIES.—If the
14 alien is not removed to a country designated in
15 subparagraph (A) or (B), the Secretary of
16 Homeland Security shall remove the alien to—

17 “(i) the country of which the alien is
18 a citizen, subject, or national, where the
19 alien was born, or where the alien has a
20 residence, unless the country physically
21 prevents the alien from entering the coun-
22 try upon the alien’s removal there; or

23 “(ii) any country whose government
24 will accept the alien into that country.”;
25 and

26 (2) in paragraph (2)—

1 (A) by striking “Attorney General” each
2 place such term appears and inserting “Sec-
3 retary of Homeland Security”;

4 (B) by amending subparagraph (D) to
5 read as follows:

6 “(D) ALTERNATIVE COUNTRIES.—If the
7 alien is not removed to a country designated
8 under subparagraph (A)(i), the Secretary of
9 Homeland Security shall remove the alien to a
10 country of which the alien is a subject, national,
11 or citizen, or where the alien has a residence,
12 unless—

13 “(i) such country physically prevents
14 the alien from entering the country upon
15 the alien’s removal there; or

16 “(ii) in the opinion of the Secretary of
17 Homeland Security, removing the alien to
18 the country would be prejudicial to the
19 United States.”; and

20 (C) by amending subparagraph (E)(vii) to
21 read as follows:

22 “(vii) Any country whose government
23 will accept the alien into that country.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act and shall apply to any deportation, exclu-
2 sion, or removal on or after such date pursuant to any
3 deportation, exclusion, or removal order, regardless of
4 whether such order is administratively final before, on, or
5 after such date.

6 **Subtitle B—Identity Management** 7 **Security**

8 **CHAPTER 1—IMPROVED SECURITY FOR** 9 **DRIVERS’ LICENSES AND PERSONAL** 10 **IDENTIFICATION CARDS**

11 **SEC. 3051. DEFINITIONS.**

12 In this chapter, the following definitions apply:

13 (1) DRIVER’S LICENSE.—The term “driver’s li-
14 cense” means a motor vehicle operator’s license, as
15 defined in section 30301 of title 49, United States
16 Code.

17 (2) IDENTIFICATION CARD.—The term “identi-
18 fication card” means a personal identification card,
19 as defined in section 1028(d) of title 18, United
20 States Code, issued by a State.

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Homeland Security.

23 (4) STATE.—The term “State” means a State
24 of the United States, the District of Columbia, Puer-
25 to Rico, the Virgin Islands, Guam, American Samoa,

1 the Northern Mariana Islands, the Trust Territory
2 of the Pacific Islands, and any other territory or
3 possession of the United States.

4 **SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND**
5 **ISSUANCE STANDARDS FOR FEDERAL REC-**
6 **OGNITION.**

7 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

8 (1) IN GENERAL.—Beginning 3 years after the
9 date of enactment of this Act, a Federal agency may
10 not accept, for any official purpose, a driver's license
11 or identification card issued by a State to any per-
12 son unless the State is meeting the requirements of
13 this section.

14 (2) STATE CERTIFICATIONS.—The Secretary
15 shall determine whether a State is meeting the re-
16 quirements of this section based on certifications
17 made by the State to the Secretary. Such certifi-
18 cations shall be made at such times and in such
19 manner as the Secretary, in consultation with the
20 Secretary of Transportation, may prescribe by regu-
21 lation.

22 (b) MINIMUM DOCUMENT REQUIREMENTS.—To meet
23 the requirements of this section, a State shall include, at
24 a minimum, the following information and features on

1 each driver's license and identification card issued to a
2 person by the State:

3 (1) The person's full legal name.

4 (2) The person's date of birth.

5 (3) The person's gender.

6 (4) The person's driver license or identification
7 card number.

8 (5) A photograph of the person.

9 (6) The person's address of principal residence.

10 (7) The person's signature.

11 (8) Physical security features designed to pre-
12 vent tampering, counterfeiting, or duplication of the
13 document for fraudulent purposes.

14 (9) A common machine-readable technology,
15 with defined minimum data elements.

16 (c) MINIMUM ISSUANCE STANDARDS.—

17 (1) IN GENERAL.—To meet the requirements of
18 this section, a State shall require, at a minimum,
19 presentation and verification of the following infor-
20 mation before issuing a driver's license or identifica-
21 tion card to a person:

22 (A) A photo identity document, except that
23 a non-photo identity document is acceptable if
24 it includes both the person's full legal name and
25 date of birth.

1 (B) Documentation showing the person's
2 date of birth.

3 (C) Proof of the person's social security
4 account number or verification that the person
5 is not eligible for a social security account num-
6 ber.

7 (D) Documentation showing the person's
8 name and address of principal residence.

9 (2) VERIFICATION OF DOCUMENTS.—To meet
10 the requirements of this section, a State shall imple-
11 ment the following procedures:

12 (A) Before issuing a driver's license or
13 identification card to a person, the State shall
14 verify, with the issuing agency, the issuance, va-
15 lidity, and completeness of each document re-
16 quired to be presented by the person under
17 paragraph (1).

18 (B) The State shall not accept any foreign
19 document, other than an official passport, to
20 satisfy a requirement of paragraph (1).

21 (d) OTHER REQUIREMENTS.—To meet the require-
22 ments of this section, a State shall adopt the following
23 practices in the issuance of drivers' licenses and identifica-
24 tion cards:

1 (1) Employ technology to capture digital images
2 of identity source documents so that the images can
3 be retained in electronic storage in a transferable
4 format.

5 (2) Retain paper copies of source documents for
6 a minimum of 7 years or images of source docu-
7 ments presented for a minimum of 10 years.

8 (3) Subject each person applying for a driver's
9 license or identification card to mandatory facial
10 image capture.

11 (4) Establish an effective procedure to confirm
12 or verify a renewing applicant's information.

13 (5) Confirm with the Social Security Adminis-
14 tration a social security account number presented
15 by a person using the full social security account
16 number. In the event that a social security account
17 number is already registered to or associated with
18 another person to which any State has issued a driv-
19 er's license or identification card, the State shall re-
20 solve the discrepancy and take appropriate action.

21 (6) Refuse to issue a driver's license or identi-
22 fication card to a person holding a driver's license
23 issued by another State without confirmation that
24 the person is terminating or has terminated the driv-
25 er's license.

1 (7) Ensure the physical security of locations
2 where drivers' licenses and identification cards are
3 produced and the security of document materials
4 and papers from which drivers' licenses and identi-
5 fication cards are produced.

6 (8) Subject all persons authorized to manufac-
7 ture or produce drivers' licenses and identification
8 cards to appropriate security clearance requirements.

9 (9) Establish fraudulent document recognition
10 training programs for appropriate employees en-
11 gaged in the issuance of drivers' licenses and identi-
12 fication cards.

13 **SEC. 3053. LINKING OF DATABASES.**

14 (a) IN GENERAL.—To be eligible to receive any grant
15 or other type of financial assistance made available under
16 this subtitle, a State shall participate in the interstate
17 compact regarding sharing of driver license data, known
18 as the “Driver License Agreement”, in order to provide
19 electronic access by a State to information contained in
20 the motor vehicle databases of all other States.

21 (b) REQUIREMENTS FOR INFORMATION.—A State
22 motor vehicle database shall contain, at a minimum, the
23 following information:

24 (1) All data fields printed on drivers' licenses
25 and identification cards issued by the State.

1 (2) Motor vehicle drivers' histories, including
2 motor vehicle violations, suspensions, and points on
3 licenses.

4 **SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES**
5 **FOR USE IN FALSE IDENTIFICATION DOCU-**
6 **MENTS.**

7 Section 1028(a)(8) of title 18, United States Code,
8 is amended by striking "false authentication features" and
9 inserting "false or actual authentication features".

10 **SEC. 3055. GRANTS TO STATES.**

11 (a) IN GENERAL.—The Secretary may make grants
12 to a State to assist the State in conforming to the min-
13 imum standards set forth in this chapter.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary for
16 each of the fiscal years 2005 through 2009 such sums as
17 may be necessary to carry out this chapter.

18 **SEC. 3056. AUTHORITY.**

19 (a) PARTICIPATION OF SECRETARY OF TRANSPOR-
20 TATION AND STATES.—All authority to issue regulations,
21 certify standards, and issue grants under this chapter
22 shall be carried out by the Secretary, in consultation with
23 the Secretary of Transportation and the States.

24 (b) EXTENSIONS OF DEADLINES.—The Secretary
25 may grant to a State an extension of time to meet the

1 requirements of section 3052(a)(1) if the State provides
2 adequate justification for noncompliance.

3 **CHAPTER 2—IMPROVED SECURITY FOR**
4 **BIRTH CERTIFICATES**

5 **SEC. 3061. DEFINITIONS.**

6 (a) **APPLICABILITY OF DEFINITIONS.**—Except as
7 otherwise specifically provided, the definitions contained in
8 section 3051 apply to this chapter.

9 (b) **OTHER DEFINITIONS.**—In this chapter, the fol-
10 lowing definitions apply:

11 (1) **BIRTH CERTIFICATE.**—The term “birth cer-
12 tificate” means a certificate of birth—

13 (A) for an individual (regardless of where
14 born)—

15 (i) who is a citizen or national of the
16 United States at birth; and

17 (ii) whose birth is registered in the
18 United States; and

19 (B) that—

20 (i) is issued by a Federal, State, or
21 local government agency or authorized cus-
22 todian of record and produced from birth
23 records maintained by such agency or cus-
24 todian of record; or

1 (ii) is an authenticated copy, issued
2 by a Federal, State, or local government
3 agency or authorized custodian of record,
4 of an original certificate of birth issued by
5 such agency or custodian of record.

6 (2) REGISTRANT.—The term “registrant”
7 means, with respect to a birth certificate, the person
8 whose birth is registered on the certificate.

9 (3) STATE.—The term “State” shall have the
10 meaning given such term in section 3051; except
11 that New York City shall be treated as a State sepa-
12 rate from New York.

13 **SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO**
14 **LOCAL GOVERNMENTS.**

15 The minimum standards in this chapter applicable to
16 birth certificates issued by a State shall also apply to birth
17 certificates issued by a local government in the State. It
18 shall be the responsibility of the State to ensure that local
19 governments in the State comply with the minimum stand-
20 ards.

21 **SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNI-**
22 **TION.**

23 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

24 (1) IN GENERAL.—Beginning 3 years after the
25 date of enactment of this Act, a Federal agency may

1 not accept, for any official purpose, a birth certifi-
2 cate issued by a State to any person unless the State
3 is meeting the requirements of this section.

4 (2) STATE CERTIFICATIONS.—The Secretary
5 shall determine whether a State is meeting the re-
6 quirements of this section based on certifications
7 made by the State to the Secretary. Such certifi-
8 cations shall be made at such times and in such
9 manner as the Secretary, in consultation with the
10 Secretary of Health and Human Services, may pre-
11 scribe by regulation.

12 (b) MINIMUM DOCUMENT STANDARDS.—To meet the
13 requirements of this section, a State shall include, on each
14 birth certificate issued to a person by the State, the use
15 of safety paper, the seal of the issuing custodian of record,
16 and such other features as the Secretary may determine
17 necessary to prevent tampering, counterfeiting, and other-
18 wise duplicating the birth certificate for fraudulent pur-
19 poses. The Secretary may not require a single design to
20 which birth certificates issued by all States must conform.

21 (c) MINIMUM ISSUANCE STANDARDS.—

22 (1) IN GENERAL.—To meet the requirements of
23 this section, a State shall require and verify the fol-
24 lowing information from the requestor before issuing
25 an authenticated copy of a birth certificate:

- 1 (A) The name on the birth certificate.
2 (B) The date and location of the birth.
3 (C) The mother's maiden name.
4 (D) Substantial proof of the requestor's
5 identity.

6 (2) ISSUANCE TO PERSONS NOT NAMED ON
7 BIRTH CERTIFICATE.—To meet the requirements of
8 this section, in the case of a request by a person who
9 is not named on the birth certificate, a State must
10 require the presentation of legal authorization to re-
11 quest the birth certificate before issuance.

12 (3) ISSUANCE TO FAMILY MEMBERS.—Not later
13 than one year after the date of enactment of this
14 Act, the Secretary, in consultation with the Sec-
15 retary of Health and Human Services and the
16 States, shall establish minimum standards for
17 issuance of a birth certificate to specific family
18 members, their authorized representatives, and oth-
19 ers who demonstrate that the certificate is needed
20 for the protection of the requestor's personal or
21 property rights.

22 (4) WAIVERS.—A State may waive the require-
23 ments set forth in subparagraphs (A) through (C) of
24 subsection (c)(1) in exceptional circumstances, such
25 as the incapacitation of the registrant.

1 (5) APPLICATIONS BY ELECTRONIC MEANS.—

2 To meet the requirements of this section, for appli-
3 cations by electronic means, through the mail or by
4 phone or fax, a State shall employ third party
5 verification, or equivalent verification, of the identity
6 of the requestor.

7 (6) VERIFICATION OF DOCUMENTS.—To meet
8 the requirements of this section, a State shall verify
9 the documents used to provide proof of identity of
10 the requestor.

11 (d) OTHER REQUIREMENTS.—To meet the require-
12 ments of this section, a State shall adopt, at a minimum,
13 the following practices in the issuance and administration
14 of birth certificates:

15 (1) Establish and implement minimum building
16 security standards for State and local vital record
17 offices.

18 (2) Restrict public access to birth certificates
19 and information gathered in the issuance process to
20 ensure that access is restricted to entities with which
21 the State has a binding privacy protection agree-
22 ment.

23 (3) Subject all persons with access to vital
24 records to appropriate security clearance require-
25 ments.

1 (4) Establish fraudulent document recognition
2 training programs for appropriate employees en-
3 gaged in the issuance process.

4 (5) Establish and implement internal operating
5 system standards for paper and for electronic sys-
6 tems.

7 (6) Establish a central database that can pro-
8 vide interoperative data exchange with other States
9 and with Federal agencies, subject to privacy restric-
10 tions and confirmation of the authority and identity
11 of the requestor.

12 (7) Ensure that birth and death records are
13 matched in a comprehensive and timely manner, and
14 that all electronic birth records and paper birth cer-
15 tificates of decedents are marked “deceased”.

16 (8) Cooperate with the Secretary in the imple-
17 mentation of electronic verification of vital events
18 under section 3065.

19 **SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
20 **DEATH REGISTRATION SYSTEMS.**

21 In consultation with the Secretary of Health and
22 Human Services and the Commissioner of Social Security,
23 the Secretary shall take the following actions:

24 (1) Work with the States to establish a common
25 data set and common data exchange protocol for

1 electronic birth registration systems and death reg-
2 istration systems.

3 (2) Coordinate requirements for such systems
4 to align with a national model.

5 (3) Ensure that fraud prevention is built into
6 the design of electronic vital registration systems in
7 the collection of vital event data, the issuance of
8 birth certificates, and the exchange of data among
9 government agencies.

10 (4) Ensure that electronic systems for issuing
11 birth certificates, in the form of printed abstracts of
12 birth records or digitized images, employ a common
13 format of the certified copy, so that those requiring
14 such documents can quickly confirm their validity.

15 (5) Establish uniform field requirements for
16 State birth registries.

17 (6) Not later than 1 year after the date of en-
18 actment of this Act, establish a process with the De-
19 partment of Defense that will result in the sharing
20 of data, with the States and the Social Security Ad-
21 ministration, regarding deaths of United States mili-
22 tary personnel and the birth and death of their de-
23 pendents.

24 (7) Not later than 1 year after the date of en-
25 actment of this Act, establish a process with the De-

1 partment of State to improve registration, notifica-
2 tion, and the sharing of data with the States and the
3 Social Security Administration, regarding births and
4 deaths of United States citizens abroad.

5 (8) Not later than 3 years after the date of es-
6 tablishment of databases provided for under this sec-
7 tion, require States to record and retain electronic
8 records of pertinent identification information col-
9 lected from requestors who are not the registrants.

10 (9) Not later than 6 months after the date of
11 enactment of this Act, submit to Congress, a report
12 on whether there is a need for Federal laws to ad-
13 dress penalties for fraud and misuse of vital records
14 and whether violations are sufficiently enforced.

15 **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

16 (a) **LEAD AGENCY.**—The Secretary shall lead the im-
17 plementation of electronic verification of a person’s birth
18 and death.

19 (b) **REGULATIONS.**—In carrying out subsection (a),
20 the Secretary shall issue regulations to establish a means
21 by which authorized Federal and State agency users with
22 a single interface will be able to generate an electronic
23 query to any participating vital records jurisdiction
24 throughout the Nation to verify the contents of a paper
25 birth certificate. Pursuant to the regulations, an electronic

1 response from the participating vital records jurisdiction
2 as to whether there is a birth record in their database that
3 matches the paper birth certificate will be returned to the
4 user, along with an indication if the matching birth record
5 has been flagged “deceased”. The regulations shall take
6 effect not later than 5 years after the date of enactment
7 of this Act.

8 **SEC. 3066. GRANTS TO STATES.**

9 (a) IN GENERAL.—The Secretary may make grants
10 to a State to assist the State in conforming to the min-
11 imum standards set forth in this chapter.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary for
14 each of the fiscal years 2005 through 2009 such sums as
15 may be necessary to carry out this chapter.

16 **SEC. 3067. AUTHORITY.**

17 (a) PARTICIPATION WITH FEDERAL AGENCIES AND
18 STATES.—All authority to issue regulations, certify stand-
19 ards, and issue grants under this chapter shall be carried
20 out by the Secretary, with the concurrence of the Sec-
21 retary of Health and Human Services and in consultation
22 with State vital statistics offices and appropriate Federal
23 agencies.

24 (b) EXTENSIONS OF DEADLINES.—The Secretary
25 may grant to a State an extension of time to meet the

1 requirements of section 3063(a)(1) if the State provides
2 adequate justification for noncompliance.

3 **CHAPTER 3—MEASURES TO ENHANCE**
4 **PRIVACY AND INTEGRITY OF SOCIAL**
5 **SECURITY ACCOUNT NUMBERS**

6 **SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECUR-**
7 **RITY ACCOUNT NUMBERS ON DRIVER'S LI-**
8 **CENSES OR MOTOR VEHICLE REGISTRA-**
9 **TIONS.**

10 (a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the
11 Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is
12 amended—

13 (1) by inserting “(I)” after “(vi)”; and

14 (2) by adding at the end the following new sub-
15 clause:

16 “(II) Any State or political subdivision thereof (and
17 any person acting as an agent of such an agency or instru-
18 mentality), in the administration of any driver’s license or
19 motor vehicle registration law within its jurisdiction, may
20 not display a social security account number issued by the
21 Commissioner of Social Security (or any derivative of such
22 number) on any driver’s license or motor vehicle registra-
23 tion or any other document issued by such State or polit-
24 ical subdivision to an individual for purposes of identifica-
25 tion of such individual or include on any such licence, reg-

1 istration, or other document a magnetic strip, bar code,
2 or other means of communication which conveys such
3 number (or derivative thereof).”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to licenses, registra-
6 tions, and other documents issued or reissued after 1 year
7 after the date of the enactment of this Act.

8 **SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH**
9 **RECORDS PROVIDED IN SUPPORT OF APPLI-**
10 **CATIONS FOR SOCIAL SECURITY ACCOUNT**
11 **NUMBERS.**

12 (a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT
13 NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Secu-
14 rity Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

15 (1) by inserting “(I)” after “(ii)”; and

16 (2) by adding at the end the following new sub-
17 clause:

18 “(II) With respect to an application for a social secu-
19 rity account number for an individual, other than for pur-
20 poses of enumeration at birth, the Commissioner shall re-
21 quire independent verification of any birth record provided
22 by the applicant in support of the application. The Com-
23 missioner may provide by regulation for reasonable excep-
24 tions from the requirement for independent verification
25 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

1 the study undertaken under paragraph (1). Such re-
2 port shall contain such recommendations for legisla-
3 tive changes as the Commissioner considers nec-
4 essary to implement needed improvements in the
5 process for verifying identification documents sub-
6 mitted by applicants for replacement social security
7 cards.

8 **SEC. 3073. ENUMERATION AT BIRTH.**

9 (a) IMPROVEMENT OF APPLICATION PROCESS.—

10 (1) IN GENERAL.—As soon as practicable after
11 the date of the enactment of this Act, the Commis-
12 sioner of Social Security shall undertake to make
13 improvements to the enumeration at birth program
14 for the issuance of social security account numbers
15 to newborns. Such improvements shall be designed
16 to prevent—

17 (A) the assignment of social security ac-
18 count numbers to unnamed children;

19 (B) the issuance of more than 1 social se-
20 curity account number to the same child; and

21 (C) other opportunities for fraudulently ob-
22 taining a social security account number.

23 (2) REPORT TO THE CONGRESS.—Not later
24 than 1 year after the date of the enactment of this
25 Act, the Commissioner shall transmit to each House

1 of the Congress a report specifying in detail the ex-
2 tent to which the improvements required under
3 paragraph (1) have been made.

4 (b) STUDY REGARDING PROCESS FOR ENUMERATION
5 AT BIRTH.—

6 (1) IN GENERAL.—As soon as practicable after
7 the date of the enactment of this Act, the Commis-
8 sioner of Social Security shall undertake a study to
9 determine the most efficient options for ensuring the
10 integrity of the process for enumeration at birth.
11 Such study shall include an examination of available
12 methods for reconciling hospital birth records with
13 birth registrations submitted to agencies of States
14 and political subdivisions thereof and with informa-
15 tion provided to the Commissioner as part of the
16 process for enumeration at birth.

17 (2) REPORT.—Not later than 18 months after
18 the date of the enactment of this Act, the Commis-
19 sioner shall report to the Committee on Ways and
20 Means of the House of Representatives and the
21 Committee on Finance of the Senate regarding the
22 results of the study undertaken under paragraph
23 (1). Such report shall contain such recommendations
24 for legislative changes as the Commissioner con-

1 siders necessary to implement needed improvements
2 in the process for enumeration at birth.

3 **SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC**
4 **IDENTIFICATION IN CONNECTION WITH AP-**
5 **PLICATIONS FOR BENEFITS, SOCIAL SECU-**
6 **RITY ACCOUNT NUMBERS, AND SOCIAL SECU-**
7 **RITY CARDS.**

8 (a) IN GENERAL.—As soon as practicable after the
9 date of the enactment of this Act, the Commissioner of
10 Social Security shall undertake a study to—

11 (1) determine the best method of requiring and
12 obtaining photographic identification of applicants
13 for old-age, survivors, and disability insurance bene-
14 fits under title II of the Social Security Act, for a
15 social security account number, or for a replacement
16 social security card, and of providing for reasonable
17 exceptions to any requirement for photographic iden-
18 tification of such applicants that may be necessary
19 to promote efficient and effective administration of
20 such title, and

21 (2) evaluate the benefits and costs of instituting
22 such a requirement for photographic identification,
23 including the degree to which the security and integ-
24 rity of the old-age, survivors, and disability insur-
25 ance 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

1 Senate regarding the results of the study undertaken
2 under this section. Such report shall include the Commis-
3 sioner's recommendations of feasible options for modifying
4 the social security account number in the manner de-
5 scribed in subsection (a).

6 **Subtitle C—Targeting Terrorist**
7 **Travel**

8 **SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS**
9 **AND TRAVEL HISTORY DATABASE.**

10 (a) IN GENERAL.—Not later than May 31, 2005, the
11 Comptroller General of the United States, the Secretary
12 of State, and the Secretary of Homeland Security each
13 shall submit to the Committees on the Judiciary of the
14 House of Representatives and of the Senate, the Com-
15 mittee on International Relations of the House of Rep-
16 resentatives, and the Committee on Foreign Relations of
17 the Senate the results of a separate study on the subjects
18 described in subsection (c).

19 (b) STUDY.—The study submitted by the Secretary
20 of State under subsection (a) shall be completed by the
21 Office of Visa and Passport Control of the Department
22 of State, in coordination with the appropriate officials of
23 the Department of Homeland Security.

24 (c) CONTENTS.—The studies described in subsection
25 (a) shall examine the feasibility, cost, potential benefits,

1 and relative importance to the objectives of tracking sus-
2 pected terrorists' travel, and apprehending suspected ter-
3 rorists, of each of the following:

4 (1) Requiring nationals of all countries to
5 present machine-readable, tamper-resistant pass-
6 ports that incorporate biometric and document au-
7 thentication identifiers.

8 (2) Creation of a database containing informa-
9 tion on the lifetime travel history of each foreign na-
10 tional or United States citizen who might seek to
11 enter the United States or another country at any
12 time, in order that border and visa issuance officials
13 may ascertain the travel history of a prospective en-
14 trant by means other than a passport.

15 (d) INCENTIVES.—The studies described in sub-
16 section (a) shall also make recommendations on incentives
17 that might be offered to encourage foreign nations to par-
18 ticipate in the initiatives described in paragraphs (1) and
19 (2) of subsection (c).

20 **SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIR-**
21 **PORTS.**

22 (a) IN GENERAL.—Section 235A(a)(4) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1225(a)(4)) is
24 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;

1 (2) \$48,000,000 for fiscal year 2006; and

2 (3) \$97,000,000 for fiscal year 2007.

3 **SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

4 (a) IN GENERAL.—Section 235A(b) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1225(b)) is amended—

6 (1) in the subsection heading, by inserting
7 “AND IMMIGRATION SECURITY INITIATIVE” after
8 “PROGRAM”; and

9 (2) by adding at the end the following:

10 “Beginning not later than December 31, 2006, the num-
11 ber of airports selected for an assignment under this sub-
12 section shall be at least 50.”

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary of
15 Homeland Security to carry out the amendments made by
16 subsection (a)—

17 (1) \$25,000,000 for fiscal year 2005;

18 (2) \$40,000,000 for fiscal year 2006; and

19 (3) \$40,000,000 for fiscal year 2007.

20 **SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-**
21 **SULAR OFFICERS.**

22 (a) INCREASED NUMBER OF CONSULAR OFFICERS.—
23 The Secretary of State, in each of fiscal years 2006
24 through 2009, may increase by 150 the number of posi-
25 tions 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 amend-
18 ed—

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”;

1 (3) in subsection (b)(3), by striking “20 years”
2 and inserting “25 years”;

3 (4) in subsection (b)(4), by striking “25 years”
4 and inserting “30 years”; and

5 (5) in subsection (c)(1), by inserting after
6 “United States” the following: “Government, a
7 State, political subdivision of a State, a foreign gov-
8 ernment, political subdivision of a foreign govern-
9 ment, an international governmental or an inter-
10 national quasi-governmental organization,”.

11 **SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITI-**
12 **ZENSHIP.**

13 Section 1015 of title 18, United States Code, is
14 amended—

15 (1) by striking the dash at the end of sub-
16 section (f) and inserting “; or”; and

17 (2) by inserting after subsection (f) the fol-
18 lowing:

19 “(g) Whoever knowingly makes any false statement
20 or claim that he is a citizen of the United States in order
21 to enter into, or remain in, the United States—”.

22 **SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE**
23 **DEPARTMENT OF STATE.**

24 (a) LIMITATION.—Notwithstanding any other provi-
25 sion of law, the Secretary of State shall ensure, subject

1 to subsection (b), that the Antiterrorism Assistance Train-
2 ing (ATA) program of the Department of State (or any
3 successor or related program) under chapter 8 of part II
4 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa
5 et seq.) (or other relevant provisions of law) is carried out
6 primarily to provide training to host nation security serv-
7 ices for the specific purpose of ensuring the physical secu-
8 rity and safety of United States Government facilities and
9 personnel abroad (as well as foreign dignitaries and train-
10 ing related to the protection of such dignitaries), including
11 security detail training and offenses related to passport
12 or visa fraud.

13 (b) EXCEPTION.—The limitation contained in sub-
14 section (a) shall not apply, and the Secretary of State may
15 expand the ATA program to include other types of
16 antiterrorism assistance training, if the Secretary first
17 consults with the Attorney General and provides written
18 notification of such proposed expansion to the appropriate
19 congressional committees.

20 (c) DEFINITION.—In this section, the term “appro-
21 priate congressional committees” means—

22 (1) the Committee on International Relations
23 and the Committee on the Judiciary of the House of
24 Representatives; and

1 (2) the Committee on Foreign Relations and
2 the Committee on the Judiciary of the Senate.

3 **SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND**
4 **CURTAIN TERRORIST TRAVEL THROUGH THE**
5 **USE OF FRAUDULENTLY OBTAINED DOCU-**
6 **MENTS.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) International terrorists travel across inter-
9 national borders to raise funds, recruit members,
10 train for operations, escape capture, communicate,
11 and plan and carry out attacks.

12 (2) The international terrorists who planned
13 and carried out the attack on the World Trade Cen-
14 ter on February 26, 1993, the attack on the embas-
15 sies of the United States in Kenya and Tanzania on
16 August 7, 1998, the attack on the USS Cole on Oc-
17 tober 12, 2000, and the attack on the World Trade
18 Center and the Pentagon on September 11, 2001,
19 traveled across international borders to plan and
20 carry out these attacks.

21 (3) The international terrorists who planned
22 other attacks on the United States, including the
23 plot to bomb New York City landmarks in 1993, the
24 plot to bomb the New York City subway in 1997,
25 and the millennium plot to bomb Los Angeles Inter-

1 national Airport on December 31, 1999, traveled
2 across international borders to plan and carry out
3 these attacks.

4 (4) Many of the international terrorists who
5 planned and carried out large-scale attacks against
6 foreign targets, including the attack in Bali, Indo-
7 nesia, on October 11, 2002, and the attack in Ma-
8 drid, Spain, on March 11, 2004, traveled across
9 international borders to plan and carry out these at-
10 tacks.

11 (5) Throughout the 1990s, international terror-
12 ists, including those involved in the attack on the
13 World Trade Center on February 26, 1993, the plot
14 to bomb New York City landmarks in 1993, and the
15 millennium plot to bomb Los Angeles International
16 Airport on December 31, 1999, traveled on fraudu-
17 lent passports and often had more than one pass-
18 port.

19 (6) Two of the September 11, 2001, hijackers
20 were carrying passports that had been manipulated
21 in a fraudulent manner and several other hijackers
22 whose passports did not survive the attacks on the
23 World Trade Center and Pentagon were likely to
24 have carried passports that were similarly manipu-
25 lated.

1 (7) The National Commission on Terrorist At-
2 tacks upon the United States, (commonly referred to
3 as the 9/11 Commission), stated that “Targeting
4 travel is at least as powerful a weapon against ter-
5 rorists as targeting their money.”.

6 (b) INTERNATIONAL AGREEMENTS TO TRACK AND
7 CURTAIL TERRORIST TRAVEL.—

8 (1) INTERNATIONAL AGREEMENT ON LOST,
9 STOLEN, OR FALSIFIED DOCUMENTS.—The Presi-
10 dent shall lead efforts to track and curtail the travel
11 of terrorists by supporting the drafting, adoption,
12 and implementation of international agreements, and
13 by supporting the expansion of existing international
14 agreements, to track and stop international travel by
15 terrorists and other criminals through the use of
16 lost, stolen, or falsified documents to augment exist-
17 ing United Nations and other international anti-ter-
18 rorism efforts.

19 (2) CONTENTS OF INTERNATIONAL AGREE-
20 MENT.—The President shall seek, in the appropriate
21 fora, the drafting, adoption, and implementation of
22 an effective international agreement requiring—

23 (A) the establishment of a system to share
24 information on lost, stolen, and fraudulent
25 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;

1 (IV) the trafficking in false or
2 stolen travel documents and breeder
3 documents for any purpose;

4 (V) the facilitation of travel by a
5 terrorist; and

6 (VI) attempts to commit, includ-
7 ing conspiracies to commit, the crimes
8 specified above;

9 (ii) to impose significant penalties so
10 as to appropriately punish violations and
11 effectively deter these crimes; and

12 (iii) to limit the issuance of citizenship
13 papers, passports, identification docu-
14 ments, and the like to persons whose iden-
15 tity is proven to the issuing authority, who
16 have a bona fide entitlement to or need for
17 such documents, and who are not issued
18 such documents principally on account of a
19 disproportional payment made by them or
20 on their behalf to the issuing authority;

21 (E) the provision of technical assistance to
22 State Parties to help them meet their obliga-
23 tions under the convention;

24 (F) the establishment and implementation
25 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

1 Committee on International Relations of the House
2 of Representatives and the Committee on Foreign
3 Relations of the Senate that the goals described in
4 subsection (b) have been fully achieved.

5 **SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION**
6 **OF NAMES INTO THE ROMAN ALPHABET FOR**
7 **INTERNATIONAL TRAVEL DOCUMENTS AND**
8 **NAME-BASED WATCHLIST SYSTEMS.**

9 (a) FINDINGS.—Congress finds that—

10 (1) the current lack of a single convention for
11 translating Arabic names enabled some of the 19 hi-
12 jackers of aircraft used in the terrorist attacks
13 against the United States that occurred on Sep-
14 tember 11, 2001, to vary the spelling of their names
15 to defeat name-based terrorist watchlist systems and
16 to make more difficult any potential efforts to locate
17 them; and

18 (2) although the development and utilization of
19 terrorist watchlist systems using biometric identi-
20 fiers will be helpful, the full development and utiliza-
21 tion of such systems will take several years, and
22 name-based terrorist watchlist systems will always
23 be useful.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that the President should seek to enter into an inter-

1 national agreement to modernize and improve standards
2 for the translation of names into the Roman alphabet in
3 order to ensure one common spelling for such names for
4 international travel documents and name-based watchlist
5 systems.

6 **SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

7 (a) FINDINGS.—Consistent with the report of the Na-
8 tional Commission on Terrorist Attacks Upon the United
9 States, Congress finds that completing a biometric entry
10 and exit data system as expeditiously as possible is an es-
11 sential investment in efforts to protect the United States
12 by preventing the entry of terrorists.

13 (b) PLAN AND REPORT.—

14 (1) DEVELOPMENT OF PLAN.—The Secretary
15 of Homeland Security shall develop a plan to accel-
16 erate the full implementation of an automated bio-
17 metric entry and exit data system required by appli-
18 cable sections of—

19 (A) the Illegal Immigration Reform and
20 Immigrant Responsibility Act of 1996 (Public
21 Law 104–208);

22 (B) the Immigration and Naturalization
23 Service Data Management Improvement Act of
24 2000 (Public Law 106–205);

1 (C) the Visa Waiver Permanent Program
2 Act (Public Law 106–396);

3 (D) the Enhanced Border Security and
4 Visa Entry Reform Act of 2002 (Public Law
5 107–173); and

6 (E) the Uniting and Strengthening Amer-
7 ica by Providing Appropriate Tools Required to
8 Intercept and Obstruct Terrorism Act of 2001
9 (Public Law 107–56).

10 (2) REPORT.—Not later than 180 days after
11 the date of the enactment of this Act, the Secretary
12 shall submit a report to Congress on the plan devel-
13 oped under paragraph (1), which shall contain—

14 (A) a description of the current
15 functionality of the entry and exit data system,
16 including—

17 (i) a listing of ports of entry with bio-
18 metric entry data systems in use and
19 whether such screening systems are located
20 at primary or secondary inspection areas;

21 (ii) a listing of ports of entry with bio-
22 metric exit data systems in use;

23 (iii) a listing of databases and data
24 systems with which the automated entry
25 and exit data system are interoperable;

1 (iv) a description of—

2 (I) identified deficiencies con-
3 cerning the accuracy or integrity of
4 the information contained in the entry
5 and exit data system;

6 (II) identified deficiencies con-
7 cerning technology associated with
8 processing individuals through the
9 system; and

10 (III) programs or policies
11 planned or implemented to correct
12 problems identified in subclause (I) or
13 (II); and

14 (v) an assessment of the effectiveness
15 of the entry and exit data system in ful-
16 filling its intended purposes, including pre-
17 venting terrorists from entering the United
18 States;

19 (B) a description of factors relevant to the
20 accelerated implementation of the biometric
21 entry and exit system, including—

22 (i) the earliest date on which the Sec-
23 retary estimates that full implementation
24 of the biometric entry and exit data system
25 can be completed;

1 (ii) the actions the Secretary will take
2 to accelerate the full implementation of the
3 biometric entry and exit data system at all
4 ports of entry through which all aliens
5 must pass that are legally required to do
6 so; and

7 (iii) the resources and authorities re-
8 quired to enable the Secretary to meet the
9 implementation date described in clause
10 (i);

11 (C) a description of any improvements
12 needed in the information technology employed
13 for the entry and exit data system; and

14 (D) a description of plans for improved or
15 added interoperability with any other databases
16 or data systems.

17 (c) INTEGRATION REQUIREMENT.—Not later than 2
18 years after the date of the enactment of this Act, the Sec-
19 retary shall integrate the biometric entry and exit data
20 system with all databases and data systems maintained
21 by the United States Citizenship and Immigration Serv-
22 ices that process or contain information on aliens.

23 (d) MAINTAINING ACCURACY AND INTEGRITY OF
24 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 (1) FINDINGS.—Consistent with the report of
2 the National Commission on Terrorist Attacks Upon
3 the United States, Congress finds that—

4 (A) expediting the travel of previously
5 screened and known travelers across the bor-
6 ders of the United States should be a high pri-
7 ority; and

8 (B) the process of expediting known trav-
9 elers across the border can permit inspectors to
10 better focus on identifying terrorists attempting
11 to enter the United States.

12 (2) DEFINITION.—The term “registered trav-
13 eler program” means any program designed to expe-
14 dite the travel of previously screened and known
15 travelers across the borders of the United States.

16 (3) REGISTERED TRAVEL PLAN.—

17 (A) IN GENERAL.—As soon as is prac-
18 ticable, the Secretary shall develop and imple-
19 ment a plan to expedite the processing of reg-
20 istered travelers who enter and exit the United
21 States through a single registered traveler pro-
22 gram.

23 (B) INTEGRATION.—The registered trav-
24 eler program developed under this paragraph
25 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

1 each of the fiscal years 2005 through 2009, such sums
2 as may be necessary to carry out the provisions of this
3 section.

4 **SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COORDI-**
5 **NATOR FOR COUNTERTERRORISM.**

6 (a) DECLARATION OF UNITED STATES POLICY.—
7 Congress declares that it shall be the policy of the United
8 States to—

9 (1) make combating terrorist travel and those
10 who assist them a priority for the United States
11 counterterrorism policy; and

12 (2) ensure that the information relating to indi-
13 viduals who help facilitate terrorist travel by cre-
14 ating false passports, visas, documents used to ob-
15 tain such travel documents, and other documents are
16 fully shared within the United States Government
17 and, to the extent possible, with and from foreign
18 governments, in order to initiate United States and
19 foreign prosecutions of such individuals.

20 (b) AMENDMENT.—Section 1(e)(2) of the State De-
21 partment Basic Authorities Act of 1956 (22 U.S.C.
22 2651a(e)(2)) is amended by adding at the end the fol-
23 lowing:

24 “(C) ADDITIONAL DUTIES RELATING TO
25 TERRORIST TRAVEL.—In addition to the prin-

1 ciproal duties of the Coordinator described in sub-
2 paragraph (B), the Coordinator shall analyze
3 methods used by terrorists to travel internation-
4 ally, develop policies with respect to curtailing
5 terrorist travel, and coordinate such policies
6 with the appropriate bureaus and other entities
7 of the Department of State, other United
8 States Government agencies, the Human Traf-
9 ficking and Smuggling Center, and foreign gov-
10 ernments.”.

11 **SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND PASS-**
12 **PORT SECURITY IN THE DEPARTMENT OF**
13 **STATE.**

14 (a) **ESTABLISHMENT.**—There is established within
15 the Bureau of Diplomatic Security of the Department of
16 State an Office of Visa and Passport Security (in this sec-
17 tion referred to as the “Office”).

18 (b) **HEAD OF OFFICE.**—

19 (1) **IN GENERAL.**—Notwithstanding any other
20 provision of law, the head of the Office shall be an
21 individual who shall have the rank and status of
22 Deputy Assistant Secretary of State for Diplomatic
23 Security (in this section referred to as the “Deputy
24 Assistant Secretary”).

1 (2) RECRUITMENT.—The Under Secretary of
2 State for Management shall chose the Deputy As-
3 sistant Secretary from among individuals who are
4 Diplomatic Security Agents.

5 (3) QUALIFICATIONS.—The Diplomatic Security
6 Agent chosen to serve as the Deputy Assistant Sec-
7 retary shall have expertise and experience in inves-
8 tigating and prosecuting visa and passport fraud.

9 (c) DUTIES.—

10 (1) PREPARATION OF STRATEGIC PLAN.—

11 (A) IN GENERAL.—The Deputy Assistant
12 Secretary, in coordination with the appropriate
13 officials of the Department of Homeland Secu-
14 rity, shall ensure the preparation of a strategic
15 plan to target and disrupt individuals and orga-
16 nizations at home and in foreign countries that
17 are involved in the fraudulent production, dis-
18 tribution, use, or other similar activity—

19 (i) of a United States visa or United
20 States passport;

21 (ii) of documents intended to help
22 fraudulently procure a United States visa
23 or United States passport, or other docu-
24 ments intended to gain unlawful entry into
25 the United States; or

1 (iii) of passports and visas issued by
2 foreign countries intended to gain unlawful
3 entry into the United States.

4 (B) EMPHASIS.—Such plan shall—

5 (i) focus particular emphasis on indi-
6 viduals and organizations that may have
7 links to domestic terrorist organizations or
8 foreign terrorist organizations (as such
9 term is defined in Section 219 of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1189));

12 (ii) require the development of a stra-
13 tegic training course under the
14 Antiterrorism Assistance Training (ATA)
15 program of the Department of State (or
16 any successor or related program) under
17 chapter 8 of part II of the Foreign Assist-
18 ance Act of 1961 (22 U.S.C. 2349aa et
19 seq.) (or other relevant provisions of law)
20 to train participants in the identification of
21 fraudulent documents and the forensic de-
22 tection of such documents which may be
23 used to obtain unlawful entry into the
24 United States; and

1 (iii) determine the benefits and costs
2 of providing technical assistance to foreign
3 governments to ensure the security of pass-
4 ports, visas, and related documents and to
5 investigate, arrest, and prosecute individ-
6 uals who facilitate travel by the creation of
7 false passports and visas, documents to ob-
8 tain such passports and visas, and other
9 types of travel documents.

10 (2) DUTIES OF OFFICE.—The Office shall have
11 the following duties:

12 (A) ANALYSIS OF METHODS.—Analyze
13 methods used by terrorists to travel internation-
14 ally, particularly the use of false or altered trav-
15 el documents to illegally enter foreign countries
16 and the United States, and advise the Bureau
17 of Consular Affairs on changes to the visa
18 issuance process that could combat such meth-
19 ods, including the introduction of new tech-
20 nologies into such process.

21 (B) IDENTIFICATION OF INDIVIDUALS AND
22 DOCUMENTS.—Identify, in cooperation with the
23 Human Trafficking and Smuggling Center, in-
24 dividuals who facilitate travel by the creation of
25 false passports and visas, documents used to

1 obtain such passports and visas, and other
2 types of travel documents, and ensure that the
3 appropriate agency is notified for further inves-
4 tigation and prosecution or, in the case of such
5 individuals abroad for which no further inves-
6 tigation or prosecution is initiated, ensure that
7 all appropriate information is shared with for-
8 eign governments in order to facilitate inves-
9 tigation, arrest, and prosecution of such individ-
10 uals.

11 (C) IDENTIFICATION OF FOREIGN COUN-
12 TRIES NEEDING ASSISTANCE.—Identify foreign
13 countries that need technical assistance, such as
14 law reform, administrative reform, prosecutorial
15 training, or assistance to police and other inves-
16 tigative services, to ensure passport, visa, and
17 related document security and to investigate,
18 arrest, and prosecute individuals who facilitate
19 travel by the creation of false passports and
20 visas, documents used to obtain such passports
21 and visas, and other types of travel documents.

22 (D) INSPECTION OF APPLICATIONS.—Ran-
23 domly inspect visa and passport applications for
24 accuracy, efficiency, and fraud, especially at
25 high terrorist threat posts, in order to prevent

1 a recurrence of the issuance of visas to those
2 who submit incomplete, fraudulent, or otherwise
3 irregular or incomplete applications.

4 (3) REPORT.—Not later than 90 days after the
5 date of the enactment of this Act, the Deputy As-
6 sistant Secretary shall submit to Congress a report
7 containing—

8 (A) a description of the strategic plan pre-
9 pared under paragraph (1); and

10 (B) an evaluation of the feasibility of es-
11 tablishing civil service positions in field offices
12 of the Bureau of Diplomatic Security to inves-
13 tigate visa and passport fraud, including an
14 evaluation of whether to allow diplomatic secu-
15 rity agents to convert to civil service officers to
16 fill such positions.

17 **Subtitle D—Terrorist Travel**

18 **SEC. 3101. INFORMATION SHARING AND COORDINATION.**

19 The Secretary of Homeland Security shall establish
20 a mechanism to—

21 (1) ensure the coordination and dissemination
22 of terrorist travel intelligence and operational infor-
23 mation among the appropriate agencies within the
24 Department of Homeland Security, including the
25 Bureau of Customs and Border Protection, the Bu-

1 reau of Immigration and Customs Enforcement, the
2 Bureau of Citizenship and Immigration Services, the
3 Transportation Security Administration, the Coast
4 Guard, and other agencies as directed by the Sec-
5 retary; and

6 (2) ensure the sharing of terrorist travel intel-
7 ligence and operational information with the Depart-
8 ment of State, the National Counterterrorism Cen-
9 ter, and other appropriate Federal agencies.

10 **SEC. 3102. TERRORIST TRAVEL PROGRAM.**

11 The Secretary of Homeland Security shall establish
12 a program to—

13 (1) analyze and utilize information and intel-
14 ligence regarding terrorist travel tactics, patterns,
15 trends, and practices; and

16 (2) disseminate that information to all front-
17 line Department of Homeland Security personnel
18 who are at ports of entry or between ports of entry,
19 to immigration benefits offices, and, in coordination
20 with the Secretary of State, to appropriate individ-
21 uals at United States embassies and consulates.

22 **SEC. 3103. TRAINING PROGRAM.**

23 (a) REVIEW, EVALUATION, AND REVISION OF EXIST-
24 ING TRAINING PROGRAMS.—The Secretary of Homeland
25 Security shall—

1 (1) review and evaluate the training currently
2 provided to Department of Homeland Security per-
3 sonnel and, in consultation with the Secretary of
4 State, relevant Department of State personnel with
5 respect to travel and identity documents, and tech-
6 niques, patterns, and trends associated with terrorist
7 travel; and

8 (2) develop and implement a revised training
9 program for border, immigration, and consular offi-
10 cials in order to teach such officials how to effec-
11 tively detect, intercept, and disrupt terrorist travel.

12 (b) REQUIRED TOPICS OF REVISED PROGRAMS.—
13 The training program developed under subsection (a)(2)
14 shall include training in the following areas:

15 (1) Methods for identifying fraudulent and gen-
16 uine travel documents.

17 (2) Methods for detecting terrorist indicators on
18 travel documents and other relevant identity docu-
19 ments.

20 (3) Recognizing travel patterns, tactics, and be-
21 haviors exhibited by terrorists.

22 (4) Effectively utilizing information contained
23 in databases and data systems available to the De-
24 partment of Homeland Security.

1 **Subtitle E—Maritime Security**
2 **Requirements**

3 **SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-**
4 **TIME SECURITY REQUIREMENTS.**

5 (a) NATIONAL MARITIME TRANSPORTATION SECUR-
6 RITY PLAN.—Section 70103(a) of the 46, United States
7 Code, is amended by striking “The Secretary” and insert-
8 ing “Not later than December 31, 2004, the Secretary”.

9 (b) FACILITY AND VESSEL VULNERABILITY ASSESS-
10 MENTS.—Section 70102(b)(1) of the 46, United States
11 Code, is amended by striking “, the Secretary” and insert-
12 ing “and by not later than December 31, 2004, the Sec-
13 retary”.

14 (c) TRANSPORTATION SECURITY CARD REGULA-
15 TIONS.—Section 70105(a) of the 46, United States Code,
16 is amended by striking “The Secretary” and inserting
17 “Not later than December 31, 2004, the Secretary”.

1 **TITLE IV—INTERNATIONAL CO-**
2 **OPERATION AND COORDINA-**
3 **TION**

4 **Subtitle A—Attack Terrorists and**
5 **Their Organizations**

6 **CHAPTER 1—PROVISIONS RELATING TO**
7 **TERRORIST SANCTUARIES**

8 **SEC. 4001. UNITED STATES POLICY ON TERRORIST SANC-**
9 **TUARIES.**

10 It is the sense of Congress that it should be the policy
11 of the United States—

12 (1) to identify and prioritize foreign countries
13 that are or that could be used as terrorist sanc-
14 tuaries;

15 (2) to assess current United States resources
16 being provided to such foreign countries;

17 (3) to develop and implement a coordinated
18 strategy to prevent terrorists from using such for-
19 eign countries as sanctuaries; and

20 (4) to work in bilateral and multilateral fora to
21 prevent foreign countries from being used as ter-
22 rorist sanctuaries.

23 **SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

24 (a) INITIAL REPORT.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of the enactment of this Act, the President
3 shall transmit to Congress a report that describes a
4 strategy for addressing and, where possible, elimi-
5 nating terrorist sanctuaries.

6 (2) CONTENT.—The report required under this
7 subsection shall include the following:

8 (A) A list that prioritizes each actual and
9 potential terrorist sanctuary and a description
10 of activities in the actual and potential sanc-
11 tuaries.

12 (B) An outline of strategies for preventing
13 the use of, disrupting, or ending the use of such
14 sanctuaries.

15 (C) A detailed description of efforts, in-
16 cluding an assessment of successes and set-
17 backs, by the United States to work with other
18 countries in bilateral and multilateral fora to
19 address or eliminate each actual or potential
20 terrorist sanctuary and disrupt or eliminate the
21 security provided to terrorists by each such
22 sanctuary.

23 (D) A description of long-term goals and
24 actions designed to reduce the conditions that
25 allow the formation of terrorist sanctuaries.

1 (b) SUBSEQUENT REPORTS.—

2 (1) REQUIREMENT OF REPORTS.—Section
3 140(a)(1) of the Foreign Relations Authorization
4 Act, Fiscal Years 1988 and 1989 (22 U.S.C.
5 2656f(a)(1)) is amended—

6 (A) by striking “(1)” and inserting
7 “(1)(A)”;

8 (B) by redesignating subparagraphs (A)
9 through (C) as clauses (i) through (iii), respec-
10 tively;

11 (C) in subparagraph (A)(iii) (as redesign-
12 ated), by adding “and” at the end; and

13 (D) by adding at the end the following:

14 “(B) detailed assessments with respect to each
15 foreign country whose territory is being used or
16 could potentially be used as a sanctuary for terror-
17 ists or terrorist organizations;”.

18 (2) PROVISIONS TO BE INCLUDED IN RE-
19 PORT.—Section 140(b) of such Act (22 U.S.C.
20 2656f(b)) is amended—

21 (A) in paragraph (1)—

22 (i) in the matter preceding subpara-
23 graph (A), by striking “subsection (a)(1)”
24 and inserting “subsection (a)(1)(A)”;

25 (ii) by striking “and” at the end;

1 (B) by redesignating paragraph (2) as
2 paragraph (3);

3 (C) by inserting after paragraph (1) the
4 following:

5 “(2) with respect to subsection (a)(1)(B)—

6 “(A) the extent of knowledge by the gov-
7 ernment of the country with respect to terrorist
8 activities in the territory of the country; and

9 “(B) the actions by the country—

10 “(i) to eliminate each terrorist sanc-
11 tuary in the territory of the country;

12 “(ii) to cooperate with United States
13 antiterrorism efforts; and

14 “(iii) to prevent the proliferation of
15 and trafficking in weapons of mass de-
16 struction in and through the territory of
17 the country;”;

18 (D) by striking the period at the end of
19 paragraph (3) (as redesignated) and inserting a
20 semicolon; and

21 (E) by inserting after paragraph (3) (as
22 redesignated) the following:

23 “(4) a strategy for addressing and, where pos-
24 sible, eliminating terrorist sanctuaries that shall in-
25 clude—

1 “(A) a description of actual and potential
2 terrorist sanctuaries, together with an assess-
3 ment of the priorities of addressing and elimi-
4 nating such sanctuaries;

5 “(B) an outline of strategies for disrupting
6 or eliminating the security provided to terrorists
7 by such sanctuaries;

8 “(C) a description of efforts by the United
9 States to work with other countries in bilateral
10 and multilateral fora to address or eliminate ac-
11 tual or potential terrorist sanctuaries and dis-
12 rupt or eliminate the security provided to ter-
13 rorists by such sanctuaries; and

14 “(D) a description of long-term goals and
15 actions designed to reduce the conditions that
16 allow the formation of terrorist sanctuaries;

17 “(5) an update of the information contained in
18 the report required to be transmitted to Congress
19 pursuant to section 4002(a)(2) of the 9/11 Rec-
20 ommendations Implementation Act;

21 “(6) to the extent practicable, complete statis-
22 tical information on the number of individuals, in-
23 cluding United States citizens and dual nationals,
24 killed, injured, or kidnapped by each terrorist group
25 during the preceding calendar year; and

1 “(7) an analysis, as appropriate, relating to
2 trends in international terrorism, including changes
3 in technology used, methods and targets of attacks,
4 demographic information on terrorists, and other ap-
5 propriate information.”.

6 (3) DEFINITIONS.—Section 140(d) of such Act
7 (22 U.S.C. 2656f(d)) is amended—

8 (A) in paragraph (2), by striking “and” at
9 the end;

10 (B) in paragraph (3), by striking the pe-
11 riod at the end and inserting a semicolon; and

12 (C) by adding at the end the following:

13 “(4) the term ‘territory’ and ‘territory of the
14 country’ means the land, waters, and airspace of the
15 country; and

16 “(5) the term ‘terrorist sanctuary’ or ‘sanc-
17 tuary’ means an area in the territory of a country
18 that is used by a terrorist group with the express or
19 implied consent of the government of the country—

20 “(A) to carry out terrorist activities, in-
21 cluding training, fundraising, financing, recruit-
22 ment, and education activities; or

23 “(B) to provide transit through the coun-
24 try.”.

1 (4) **EFFECTIVE DATE.**—The amendments made
2 by paragraphs (1), (2), and (3) apply with respect
3 to the report required to be transmitted under sec-
4 tion 140 of the Foreign Relations Authorization Act,
5 Fiscal Years 1988 and 1989, by April 30, 2006, and
6 by April 30 of each subsequent year.

7 **SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE**
8 **TERRORIST SANCTUARIES.**

9 (a) **AMENDMENTS.**—Section 6(j) of the Export Ad-
10 ministration Act of 1979 (50 U.S.C. App. 2405(j)) is
11 amended—

12 (1) in paragraph (1)—

13 (A) by redesignating subparagraph (B) as
14 subparagraph (C); and

15 (B) by inserting after subparagraph (A)
16 the following:

17 “(B) Any part of the territory of the country is
18 being used as a sanctuary for terrorists or terrorist
19 organizations.”;

20 (2) in paragraph (3), by striking “paragraph
21 (1)(A)” and inserting “subparagraph (A) or (B) of
22 paragraph (1)”;

23 (3) by redesignating paragraph (5) as para-
24 graph (6);

1 (4) by inserting after paragraph (4) the fol-
2 lowing:

3 “(5) A determination made by the Secretary of State
4 under paragraph (1)(B) may not be rescinded unless the
5 President submits to the Speaker of the House of Rep-
6 resentatives and the chairman of the Committee on Bank-
7 ing, Housing, and Urban Affairs and the chairman of the
8 Committee on Foreign Relations of the Senate before the
9 proposed rescission would take effect a report certifying
10 that the government of the country concerned —

11 “(A) is taking concrete, verifiable steps to elimi-
12 nate each terrorist sanctuary in the territory of the
13 country;

14 “(B) is cooperating with United States
15 antiterrorism efforts; and

16 “(C) is taking all appropriate actions to prevent
17 the proliferation of and trafficking in weapons of
18 mass destruction in and through the territory of the
19 country.”; and

20 (5) by inserting after paragraph (6) (as redesign-
21 nated) the following:

22 “(7) In this subsection—

23 “(A) the term ‘territory of the country’ means
24 the land, waters, and airspace of the country; and

1 “(B) the term ‘terrorist sanctuary’ or ‘sanctuary’ means an area in the territory of a country
2 that is used by a terrorist group with the express or
3 implied consent of the government of the country—

4 “(i) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

5 “(ii) to provide transit through the country.”.

6 (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.).

15 **CHAPTER 2—OTHER PROVISIONS**

16 **SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS** 17 **CONTROL AND NONPROLIFERATION ADVISORY BOARD.**

18 (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.

19 (b) CONSULTATION.—Appointments to the Board under subsection (a) shall be made in consultation with

1 the Committee on International Relations of the House
2 of Representatives and the Committee on Foreign Rela-
3 tions of the Senate.

4 **SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-**
5 **LIFERATION OF WEAPONS OF MASS DE-**
6 **STRUCTION AND CONTROL OF STRATEGIC**
7 **WEAPONS.**

8 (a) REVIEW.—

9 (1) IN GENERAL.—The Undersecretary of State
10 for Arms Control and International Security shall
11 instruct the Arms Control and Nonproliferation Ad-
12 visory Board (in this section referred to as the “Ad-
13 visory Board”) to carry out a review of existing poli-
14 cies of the United States relating to the proliferation
15 of weapons of mass destruction and the control of
16 strategic weapons.

17 (2) COMPONENTS.—The review required under
18 this subsection shall contain at a minimum the fol-
19 lowing:

20 (A) An identification of all major defi-
21 ciencies in existing United States policies relat-
22 ing to the proliferation of weapons of mass de-
23 struction and the control of strategic weapons.

24 (B) Proposals that contain a range of op-
25 tions that if implemented would adequately ad-

1 dress any significant threat deriving from the
2 deficiencies in existing United States policies
3 described in subparagraph (A).

4 (b) REPORTS.—

5 (1) INTERIM REPORT.—Not later than June 15,
6 2005, the Advisory Board shall prepare and submit
7 to the Undersecretary of State for Arms Control and
8 International Security an interim report that con-
9 tains the initial results of the review carried out pur-
10 suant to subsection (a).

11 (2) FINAL REPORT.—Not later than December
12 1, 2005, the Advisory Board shall prepare and sub-
13 mit to the Undersecretary of State for Arms Control
14 and International Security, and to the Committee on
15 International Relations of the House of Representa-
16 tives and the Committee on Foreign Relations of the
17 Senate, a final report that contains the comprehen-
18 sive results of the review carried out pursuant to
19 subsection (a).

20 (c) EXPERTS AND CONSULTANTS.— In carrying out
21 this section, the Advisory Board may procure temporary
22 and intermittent services of experts and consultants, in-
23 cluding experts and consultants from nongovernmental or-
24 ganizations, under section 3109(b) of title 5, United
25 States Code.

1 (d) FUNDING AND OTHER RESOURCES.—The Sec-
2 retary of State shall provide to the Advisory Board an ap-
3 propriate amount of funding and other resources to enable
4 the Advisory Board to carry out this section.

5 **SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT**
6 **ACTS OF INTERNATIONAL TERRORISM.**

7 Section 1(e)(2) of the State Department Basic Au-
8 thorities Act of 1956 (22 U.S.C. 2651a(e)(2)), as amend-
9 ed by section 3091(b), is further amended by adding at
10 the end the following:

11 “(D) ADDITIONAL DUTIES RELATING TO
12 INTERNATIONAL AGREEMENTS TO INTERDICT
13 ACTS OF INTERNATIONAL TERRORISM.—

14 “(i) IN GENERAL.—In addition to the
15 principal duties of the Coordinator de-
16 scribed in subparagraph (B), the Coordi-
17 nator, in consultation with relevant United
18 States Government agencies, shall seek to
19 negotiate on a bilateral basis international
20 agreements under which parties to an
21 agreement work in partnership to address
22 and interdict acts of international ter-
23 rorism.

1 “(ii) TERMS OF INTERNATIONAL
2 AGREEMENT.—It is the sense of Congress
3 that—

4 “(I) each party to an inter-
5 national agreement referred to in
6 clause (i)—

7 “(aa) should be in full com-
8 pliance with United Nations Se-
9 curity Council Resolution 1373
10 (September 28, 2001), other ap-
11 propriate international agree-
12 ments relating to antiterrorism
13 measures, and such other appro-
14 priate criteria relating to
15 antiterrorism measures;

16 “(bb) should sign and ad-
17 here to a ‘Counterterrorism
18 Pledge’ and a list of ‘Interdiction
19 Principles’, to be determined by
20 the parties to the agreement;

21 “(cc) should identify assets
22 and agree to multilateral efforts
23 that maximizes the country’s
24 strengths and resources to ad-
25 dress and interdict acts of inter-

1 national terrorism or the financ-
2 ing of such acts;

3 “(dd) should agree to joint
4 training exercises among the
5 other parties to the agreement;
6 and

7 “(ee) should agree to the ne-
8 gotiation and implementation of
9 other relevant international
10 agreements and consensus-based
11 international standards; and

12 “(II) an international agreement
13 referred to in clause (i) should contain
14 provisions that require the parties to
15 the agreement—

16 “(aa) to identify regions
17 throughout the world that are
18 emerging terrorist threats;

19 “(bb) to establish terrorism
20 interdiction centers in such re-
21 gions and other regions, as ap-
22 propriate;

23 “(cc) to deploy terrorism
24 prevention teams to such regions,

1 including United States-led
2 teams; and

3 “(dd) to integrate intel-
4 ligence, military, and law enforce-
5 ment personnel from countries
6 that are parties to the agreement
7 in order to work directly with the
8 regional centers described in item
9 (bb) and regional teams de-
10 scribed in item (cc).”.

11 **SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DE-**
12 **TENTION AND HUMANE TREATMENT OF CAP-**
13 **TURED TERRORISTS.**

14 It is the sense of Congress that the President should
15 pursue by all appropriate diplomatic means with countries
16 that are participating in the Coalition to fight terrorism
17 the development of an effective approach toward the de-
18 tention and humane treatment of captured terrorists. The
19 effective approach referred to in this section may, as ap-
20 propriate, draw on Article 3 of the Convention Relative
21 to the Treatment of Prisoners of War, done at Geneva
22 on August 12, 1949 (6 UST 3316).

1 **SEC. 4015. SENSE OF CONGRESS AND REPORT REGARDING**
2 **COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) the President should make the substantial
6 reduction of illegal drug production and trafficking
7 in Afghanistan a priority in the Global War on Ter-
8 rorism;

9 (2) the Secretary of Defense, in coordination
10 with the Secretary of State and the heads of other
11 appropriate Federal agencies, should expand co-
12 operation with the Government of Afghanistan and
13 international organizations involved in counter-drug
14 activities to assist in providing a secure environment
15 for counter-drug personnel in Afghanistan; and

16 (3) the United States, in conjunction with the
17 Government of Afghanistan and coalition partners,
18 should undertake additional efforts to reduce illegal
19 drug trafficking and related activities that provide
20 financial support for terrorist organizations in Af-
21 ghanistan and neighboring countries.

22 (b) REPORT REQUIRED.—(1) The Secretary of De-
23 fense and the Secretary of State shall jointly prepare a
24 report that describes—

1 (A) the progress made towards substantially re-
2 ducing poppy cultivation and heroin production ca-
3 pabilities in Afghanistan; and

4 (B) the extent to which profits from illegal drug
5 activity in Afghanistan are used to financially sup-
6 port terrorist organizations and groups seeking to
7 undermine the Government of Afghanistan.

8 (2) The report required by this subsection shall be
9 submitted to Congress not later than 120 days after the
10 date of the enactment of this Act.

11 **Subtitle B—Prevent the Continued**
12 **Growth of Terrorism**

13 **CHAPTER 1—UNITED STATES PUBLIC**
14 **DIPLOMACY**

15 **SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC**
16 **DIPLOMACY STRATEGY.**

17 (a) IN GENERAL.—The Secretary of State, in coordi-
18 nation with all appropriate Federal agencies, shall submit
19 to the Committee on International Relations of the House
20 of Representatives and the Committee on Foreign Rela-
21 tions of the Senate an annual assessment of the impact
22 of public diplomacy efforts on target audiences. Each as-
23 sessment shall review the United States public diplomacy
24 strategy worldwide and by region, including an examina-
25 tion of the allocation of resources and an evaluation and

1 assessment of the progress in, and barriers to, achieving
2 the goals set forth under previous plans submitted under
3 this section. Not later than March 15 of every year, the
4 Secretary shall submit the assessment required by this
5 subsection.

6 (b) FURTHER ACTION.— On the basis of such review,
7 the Secretary, in coordination with all appropriate Federal
8 agencies, shall submit, as part of the annual budget sub-
9 mission, a public diplomacy strategy plan which specifies
10 goals, agency responsibilities, and necessary resources and
11 mechanisms for achieving such goals during the next fiscal
12 year. The plan may be submitted in classified form.

13 **SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

14 (a) STATEMENT OF POLICY.—It should be the policy
15 of the United States:

16 (1) The Foreign Service should recruit individ-
17 uals with expertise and professional experience in
18 public diplomacy.

19 (2) United States chiefs of mission should have
20 a prominent role in the formulation of public diplo-
21 macy strategies for the countries and regions to
22 which they are assigned and should be accountable
23 for the operation and success of public diplomacy ef-
24 forts at their posts.

1 (3) Initial and subsequent training of Foreign
2 Service officers should be enhanced to include infor-
3 mation and training on public diplomacy and the
4 tools and technology of mass communication.

5 (b) PERSONNEL.—

6 (1) QUALIFICATIONS.—In the recruitment,
7 training, and assignment of members of the Foreign
8 Service, the Secretary of State shall emphasize the
9 importance of public diplomacy and applicable skills
10 and techniques. The Secretary shall consider the pri-
11 ority recruitment into the Foreign Service, at mid-
12 dle-level entry, of individuals with expertise and pro-
13 fessional experience in public diplomacy, mass com-
14 munications, or journalism. The Secretary shall give
15 special consideration to individuals with language fa-
16 cility and experience in particular countries and re-
17 gions.

18 (2) LANGUAGES OF SPECIAL INTEREST.—The
19 Secretary of State shall seek to increase the number
20 of Foreign Service officers proficient in languages
21 spoken in predominantly Muslim countries. Such in-
22 crease shall be accomplished through the recruit-
23 ment of new officers and incentives for officers in
24 service.

1 **SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM**
2 **COUNTRIES.**

3 (a) **DECLARATION OF POLICY.**—Congress declares
4 that the United States should commit to a long-term and
5 sustainable investment in promoting engagement with peo-
6 ple of all levels of society in countries with predominantly
7 Muslim populations, particularly with youth and those who
8 influence youth. Such an investment should make use of
9 the talents and resources in the private sector and should
10 include programs to increase the number of people who
11 can be exposed to the United States and its fundamental
12 ideas and values in order to dispel misconceptions. Such
13 programs should include youth exchange programs, young
14 ambassadors programs, international visitor programs,
15 academic and cultural exchange programs, American Cor-
16 ner programs, library programs, journalist exchange pro-
17 grams, sister city programs, and other programs related
18 to people-to-people diplomacy.

19 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
20 gress that the United States should significantly increase
21 its investment in the people-to-people programs described
22 in subsection (a).

23 **SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PRO-**
24 **MOTION IN FOREIGN SERVICE.**

25 (a) **IN GENERAL.**—Section 603(b) of the Foreign
26 Service Act of 1980 (22 U.S.C. 4003(b)) is amended by

1 adding at the end the following new sentences: “The pre-
2 cepts for such selection boards shall also consider whether
3 the member of the Service or the member of the Senior
4 Foreign Service, as the case may be, has served in at least
5 one position in which the primary responsibility of such
6 member was related to public diplomacy. A member may
7 not be promoted into or within the Senior Foreign Service
8 if such member has not served in at least one such posi-
9 tion.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect on January 1, 2009.

12 **CHAPTER 2—UNITED STATES**

13 **MULTILATERAL DIPLOMACY**

14 **SEC. 4031. PURPOSE.**

15 It is the purpose of this chapter to strengthen United
16 States leadership and effectiveness at international organi-
17 zations and multilateral institutions.

18 **SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAU-**

19 **CUS.**

20 (a) IN GENERAL.—The President, acting through the
21 Secretary of State and the relevant United States chiefs
22 of mission, shall—

23 (1) continue to strongly support and seek to ex-
24 pand the work of the democracy caucus at the

1 United Nations General Assembly and the United
2 Nations Human Rights Commission; and

3 (2) seek to establish a democracy caucus at the
4 United Nations Conference on Disarmament and at
5 other broad-based international organizations.

6 (b) PURPOSES OF THE CAUCUS.—A democracy cau-
7 cus at an international organization should—

8 (1) forge common positions, including, as ap-
9 propriate, at the ministerial level, on matters of con-
10 cern before the organization and work within and
11 across regional lines to promote agreed positions;

12 (2) work to revise an increasingly outmoded
13 system of membership selection, regional voting, and
14 decision making; and

15 (3) establish a rotational leadership agreement
16 to provide member countries an opportunity, for a
17 set period of time, to serve as the designated presi-
18 dent of the caucus, responsible for serving as its
19 voice in each organization.

20 **SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-**
21 **NATIONAL ORGANIZATIONS.**

22 (a) UNITED STATES POLICY.—The President, acting
23 through the Secretary of State and the relevant United
24 States chiefs of mission, shall use the voice, vote, and in-
25 fluence of the United States to—

1 (1) where appropriate, reform the criteria for
2 leadership and, in appropriate cases, for member-
3 ship, at all United Nations bodies and at other inter-
4 national organizations and multilateral institutions
5 to which the United States is a member so as to ex-
6 clude countries that violate the principles of the spe-
7 cific organization;

8 (2) make it a policy of the United Nations and
9 other international organizations and multilateral in-
10 stitutions of which the United States is a member
11 that a member country may not stand in nomination
12 for membership or in nomination or in rotation for
13 a leadership position in such bodies if the member
14 country is subject to sanctions imposed by the
15 United Nations Security Council; and

16 (3) work to ensure that no member country
17 stand in nomination for membership, or in nomina-
18 tion or in rotation for a leadership position in such
19 organizations, or for membership on the United Na-
20 tions Security Council, if the member country is sub-
21 ject to a determination under section 6(j)(1)(A) of
22 the Export Administration Act of 1979 (50 U.S.C.
23 App. 2405(j)(1)(A)), section 620A(a) of the Foreign
24 Assistance Act of 1961 (22 U.S.C. 2371(a)), or sec-

1 tion 40(d) of the Arms Export Control Act (22
2 U.S.C. 2780(d)).

3 (b) REPORT TO CONGRESS.—Not later than 15 days
4 after a country subject to a determination under one or
5 more of the provisions of law specified in subsection (a)(3)
6 is selected for membership or a leadership post in an inter-
7 national organization of which the United States is a
8 member or for membership on the United Nations Secu-
9 rity Council, the Secretary of State shall submit to the
10 Committee on International Relations of the House of
11 Representatives and the Committee on Foreign Relations
12 of the Senate a report on any steps taken pursuant to
13 subsection (a)(3).

14 **SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLO-**
15 **MACY.**

16 (a) TRAINING PROGRAMS.—Section 708 of the For-
17 eign Service Act of 1980 (22 U.S.C. 4028) is amended
18 by adding at the end the following new subsection:

19 “(c) TRAINING IN MULTILATERAL DIPLOMACY.—

20 “(1) IN GENERAL.—The Secretary shall estab-
21 lish a series of training courses for officers of the
22 Service, including appropriate chiefs of mission, on
23 the conduct of diplomacy at international organiza-
24 tions and other multilateral institutions and at

1 broad-based multilateral negotiations of inter-
2 national instruments.

3 “(2) PARTICULAR PROGRAMS.—The Secretary
4 shall ensure that the training described in paragraph
5 (1) is provided at various stages of the career of
6 members of the service. In particular, the Secretary
7 shall ensure that after January 1, 2006—

8 “(A) officers of the Service receive training
9 on the conduct of diplomacy at international or-
10 ganizations and other multilateral institutions
11 and at broad-based multilateral negotiations of
12 international instruments as part of their train-
13 ing upon entry into the Service; and

14 “(B) officers of the Service, including
15 chiefs of mission, who are assigned to United
16 States missions representing the United States
17 to international organizations and other multi-
18 lateral institutions or who are assigned in
19 Washington, D.C., to positions that have as
20 their primary responsibility formulation of pol-
21 icy towards such organizations and institutions
22 or towards participation in broad-based multi-
23 lateral negotiations of international instru-
24 ments, receive specialized training in the areas
25 described in paragraph (1) prior to beginning of

1 service for such assignment or, if receiving such
2 training at that time is not practical, within the
3 first year of beginning such assignment.”.

4 (b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—

5 The Secretary shall ensure that employees of the Depart-
6 ment of State who are members of the civil service and
7 who are assigned to positions described in section 708(c)
8 of the Foreign Service Act of 1980 (as amended by sub-
9 section (a)) receive training described in such section.

10 (c) CONFORMING AMENDMENTS.—Section 708 of
11 such Act is further amended—

12 (1) in subsection (a), by striking “(a) The” and
13 inserting “(a) TRAINING ON HUMAN RIGHTS.—
14 The”;

15 (2) in subsection (b), by striking “(b) The” and
16 inserting “(b) TRAINING ON REFUGEE LAW AND
17 RELIGIOUS PERSECUTION.—The”.

18 **SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OF-**

19 **FICE ON MULTILATERAL NEGOTIATIONS.**

20 (a) ESTABLISHMENT OF OFFICE.—The Secretary of
21 State is authorized to establish, within the Bureau of
22 International Organizational Affairs, an Office on Multi-
23 lateral Negotiations to be headed by a Special Representa-
24 tive for Multilateral Negotiations (in this section referred
25 to as the “Special Representative”).

1 (b) APPOINTMENT.—The Special Representative
2 shall be appointed by the President and shall have the
3 rank of Ambassador-at-Large. At the discretion of the
4 President another official at the Department may serve
5 as the Special Representative.

6 (c) STAFFING.—The Special Representative shall
7 have a staff of Foreign Service and civil service officers
8 skilled in multilateral diplomacy.

9 (d) DUTIES.—The Special Representative shall have
10 the following responsibilities:

11 (1) IN GENERAL.—The primary responsibility
12 of the Special Representative shall be to assist in the
13 organization of, and preparation for, United States
14 participation in multilateral negotiations, including
15 advocacy efforts undertaken by the Department of
16 State and other United States Government agencies.

17 (2) CONSULTATIONS.—The Special Representa-
18 tive shall consult with Congress, international orga-
19 nizations, nongovernmental organizations, and the
20 private sector on matters affecting multilateral nego-
21 tiations.

22 (3) ADVISORY ROLE.—The Special Representa-
23 tive shall advise the Assistant Secretary for Inter-
24 national Organizational Affairs and, as appropriate,
25 the Secretary of State, regarding advocacy at inter-

1 national organizations, multilateral institutions, and
2 negotiations, and shall make recommendations re-
3 garding—

4 (A) effective strategies (and tactics) to
5 achieve United States policy objectives at multi-
6 lateral negotiations;

7 (B) the need for and timing of high level
8 intervention by the President, the Secretary of
9 State, the Deputy Secretary of State, and other
10 United States officials to secure support from
11 key foreign government officials for United
12 States positions at such organizations, institu-
13 tions, and negotiations; and

14 (C) the composition of United States dele-
15 gations to multilateral negotiations.

16 (4) ANNUAL DIPLOMATIC MISSIONS OF MULTI-
17 LATERAL ISSUES.—The Special Representative, in
18 coordination with the Assistant Secretary for Inter-
19 national Organizational Affairs, shall organize an-
20 nual diplomatic missions to appropriate foreign
21 countries to conduct consultations between principal
22 officers responsible for advising the Secretary of
23 State on international organizations and high-level
24 representatives of the governments of such foreign
25 countries to promote the United States agenda at

1 the United Nations General Assembly and other key
2 international fora (such as the United Nations
3 Human Rights Commission).

4 (5) LEADERSHIP AND MEMBERSHIP OF INTER-
5 NATIONAL ORGANIZATIONS.—The Special Represent-
6 ative, in coordination with the Assistant Secretary of
7 International Organizational Affairs, shall direct the
8 efforts of the United States to reform the criteria
9 for leadership of and membership in international
10 organizations as described in section 4033.

11 (6) PARTICIPATION IN MULTILATERAL NEGO-
12 TIATIONS.—The Secretary of State may direct the
13 Special Representative to serve as a member of a
14 United States delegation to any multilateral negotia-
15 tion.

16 **CHAPTER 3—OTHER PROVISIONS**

17 **SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMER-** 18 **ICAN-SPONSORED SCHOOLS IN PREDOMI-** 19 **NANTLY MUSLIM COUNTRIES TO PROVIDE** 20 **SCHOLARSHIPS.**

21 (a) FINDINGS.—Congress finds the following:

22 (1) During the 2003–2004 school year, the Of-
23 fice of Overseas Schools of the Department of State
24 is financially assisting 189 elementary and sec-
25 ondary schools in foreign countries.

1 (2) American-sponsored elementary and sec-
2 ondary schools are located in more than 20 countries
3 with significant Muslim populations in the Near
4 East, Africa, South Asia, Central Asia, and East
5 Asia.

6 (3) American-sponsored elementary and sec-
7 ondary schools provide an American-style education
8 in English, with curricula that typically include an
9 emphasis on the development of critical thinking and
10 analytical skills.

11 (b) PURPOSE.—The United States has an interest in
12 increasing the level of financial support provided to Amer-
13 ican-sponsored elementary and secondary schools in pre-
14 dominantly Muslim countries, in order to—

15 (1) increase the number of students in such
16 countries who attend such schools;

17 (2) increase the number of young people who
18 may thereby gain at any early age an appreciation
19 for the culture, society, and history of the United
20 States; and

21 (3) increase the number of young people who
22 may thereby improve their proficiency in the English
23 language.

24 (c) PILOT PROGRAM AUTHORIZED.—The Secretary
25 of State, acting through the Director of the Office of Over-

1 seas Schools of the Department of State, may conduct a
2 pilot program to make grants to American-sponsored ele-
3 mentary and secondary schools in predominantly Muslim
4 countries for the purpose of providing full or partial merit-
5 based scholarships to students from lower- and middle-in-
6 come families of such countries to attend such schools.

7 (d) DETERMINATION OF ELIGIBLE STUDENTS.—For
8 purposes of expending grant funds, an American-spon-
9 sored elementary and secondary school that receives a
10 grant under subsection (c) is authorized to establish cri-
11 teria to be implemented by such school to determine what
12 constitutes lower- and middle-income families in the coun-
13 try (or region of the country, if regional variations in in-
14 come levels in the country are significant) in which such
15 school is located.

16 (e) RESTRICTION ON USE OF FUNDS.—Amounts ap-
17 propriated to the Secretary of State pursuant to the au-
18 thorization of appropriations in subsection (h) shall be
19 used for the sole purpose of making grants under this sec-
20 tion, and may not be used for the administration of the
21 Office of Overseas Schools of the Department of State or
22 for any other activity of the Office.

23 (f) VOLUNTARY PARTICIPATION.—Nothing in this
24 section shall be construed to require participation in the

1 pilot program by an American-sponsored elementary or
2 secondary school in a predominantly Muslim country.

3 (g) REPORT.—Not later than April 15, 2006, the
4 Secretary shall submit to the Committee on International
5 Relations of the House of Representatives and the Com-
6 mittee on Foreign Relations of the Senate a report on the
7 pilot program. The report shall assess the success of the
8 program, examine any obstacles encountered in its imple-
9 mentation, and address whether it should be continued,
10 and if so, provide recommendations to increase its effec-
11 tiveness.

12 (h) FUNDING.—There are authorized to be appro-
13 priated to the Secretary of State such sums as may be
14 necessary for each of fiscal years 2005, 2006, and 2007
15 to carry out this section.

16 **SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

17 (a) FINDINGS.—Congress makes the following find-
18 ings:

19 (1) Freedom of speech and freedom of the press
20 are fundamental human rights.

21 (2) The United States has a national interest in
22 promoting these freedoms by supporting free media
23 abroad, which is essential to the development of free
24 and democratic societies consistent with our own.

1 (3) Free media is undermined, endangered, or
2 non-existent in many repressive and transitional soci-
3 eties around the world, including in Eurasia, Africa,
4 and the Middle East.

5 (4) Individuals lacking access to a plurality of
6 free media are vulnerable to misinformation and
7 propaganda and are potentially more likely to adopt
8 anti-American views.

9 (5) Foreign governments have a responsibility
10 to actively and publicly discourage and rebut unpro-
11 fessional and unethical media while respecting jour-
12 nalist integrity and editorial independence.

13 (b) STATEMENTS OF POLICY.—It shall be the policy
14 of the United States, acting through the Secretary of
15 State, to—

16 (1) ensure that the promotion of press freedoms
17 and free media worldwide is a priority of United
18 States foreign policy and an integral component of
19 United States public diplomacy;

20 (2) respect the journalistic integrity and edi-
21 torial independence of free media worldwide; and

22 (3) ensure that widely accepted standards for
23 professional and ethical journalistic and editorial
24 practices are employed when assessing international
25 media.

1 (c) GRANTS TO PRIVATE SECTOR GROUP TO ESTAB-
2 LISH MEDIA NETWORK.—

3 (1) IN GENERAL.—Grants made available to the
4 National Endowment for Democracy (NED) pursu-
5 ant to paragraph (3) shall be used by NED to pro-
6 vide funding to a private sector group to establish
7 and manage a free and independent media network
8 in accordance with paragraph (2).

9 (2) PURPOSE.—The purpose of the network
10 shall be to provide an effective forum to convene a
11 broad range of individuals, organizations, and gov-
12 ernmental participants involved in journalistic activi-
13 ties and the development of free and independent
14 media to—

15 (A) fund a clearinghouse to collect and
16 share information concerning international
17 media development and training;

18 (B) improve research in the field of media
19 assistance and program evaluation to better in-
20 form decisions regarding funding and program
21 design for government and private donors;

22 (C) explore the most appropriate use of ex-
23 isting means to more effectively encourage the
24 involvement of the private sector in the field of
25 media assistance; and

1 (D) identify effective methods for the de-
2 velopment of a free and independent media in
3 societies in transition.

4 (3) FUNDING.—For grants made by the De-
5 partment of State to NED as authorized by the Na-
6 tional Endowment for Democracy Act (Pub. L. 98-
7 164, 97 Stat. 1039), there are authorized to be ap-
8 propriated to the Secretary of State such sums as
9 may be necessary for each of fiscal years 2005,
10 2006, and 2007 to carry out this section.

11 **SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA**

12 **COVERAGE OF THE UNITED STATES.**

13 (a) FINDINGS.—Congress finds the following:

14 (1) Biased or false media coverage of the
15 United States and its allies is a significant factor en-
16 couraging terrorist acts against the people of the
17 United States.

18 (2) Public diplomacy efforts designed to encour-
19 age an accurate understanding of the people of the
20 United States and the policies of the United States
21 are unlikely to succeed if foreign publics are sub-
22 jected to unrelenting biased or false local media cov-
23 erage of the United States.

24 (3) Where freedom of the press exists in foreign
25 countries the United States can combat biased or

1 false media coverage by responding in the foreign
2 media or by communicating directly to foreign
3 publics in such countries.

4 (4) Foreign governments which encourage bi-
5 ased or false media coverage of the United States
6 bear a significant degree of responsibility for cre-
7 ating a climate within which terrorism can flourish.
8 Such governments are responsible for encouraging
9 biased or false media coverage if they—

10 (A) issue direct or indirect instructions to
11 the media to publish biased or false information
12 regarding the United States;

13 (B) make deliberately biased or false
14 charges expecting that such charges will be dis-
15 seminated; or

16 (C) so severely constrain the ability of the
17 media to express criticism of any such govern-
18 ment that one of the few means of political ex-
19 pression available is criticism of the United
20 States.

21 (b) STATEMENTS OF POLICY.—

22 (1) FOREIGN GOVERNMENTS.—It shall be the
23 policy of the United States to regard foreign govern-
24 ments as knowingly engaged in unfriendly acts to-
25 ward the United States if such governments—

1 (A) instruct their state-owned or influ-
2 enced media to include content that is anti-
3 American or prejudicial to the foreign and secu-
4 rity policies of the United States; or

5 (B) make deliberately false charges regard-
6 ing the United States or permit false or biased
7 charges against the United States to be made
8 while constraining normal political discourse.

9 (2) SEEKING MEDIA ACCESS; RESPONDING TO
10 FALSE CHARGES.—It shall be the policy of the
11 United States to—

12 (A) seek access to the media in foreign
13 countries on terms no less favorable than those
14 afforded any other foreign entity or on terms
15 available to the foreign country in the United
16 States; and

17 (B) combat biased or false media coverage
18 in foreign countries of the United States and its
19 allies by responding in the foreign media or by
20 communicating directly to foreign publics.

21 (c) RESPONSIBILITIES REGARDING BIASED OR
22 FALSE MEDIA COVERAGE.—

23 (1) SECRETARY OF STATE.—The Secretary of
24 State shall instruct chiefs of mission to report on
25 and combat biased or false media coverage origi-

1 nating in or received in foreign countries to which
2 such chiefs are posted. Based on such reports and
3 other information available to the Secretary, the
4 Secretary shall prioritize efforts to combat such
5 media coverage, giving special attention to audiences
6 where fostering popular opposition to terrorism is
7 most important and such media coverage is most
8 prevalent.

9 (2) CHIEFS OF MISSION.—Chiefs of mission
10 shall have the following responsibilities:

11 (A) Chiefs of mission shall give strong pri-
12 ority to combatting biased or false media re-
13 ports in foreign countries to which such chiefs
14 are posted regarding the United States.

15 (B) Chiefs of mission posted to foreign
16 countries in which freedom of the press exists
17 shall inform the governments of such countries
18 of the policies of the United States regarding
19 biased or false media coverage of the United
20 States, and shall make strong efforts to per-
21 suade such governments to change policies that
22 encourage such media coverage.

23 (d) REPORTS.—Not later than 120 days after the
24 date of the enactment of this Act and at least annually
25 thereafter until January 1, 2015, the Secretary shall sub-

1 mit to the Committee on International Relations of the
2 House of Representatives and the Committee on Foreign
3 Relations of the Senate a report regarding the major
4 themes of biased or false media coverage of the United
5 States in foreign countries, the actions taken to persuade
6 foreign governments to change policies that encourage
7 such media coverage (and the results of such actions), and
8 any other actions taken to combat such media coverage
9 in foreign countries.

10 **SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.**

11 (a) REPORT.—Not later than 180 days after the date
12 of the enactment of this Act, the President shall transmit
13 to the Committee on International Relations of the House
14 of Representatives and the Committee on Foreign Rela-
15 tions of the Senate a report on the strategy of the United
16 States to expand its outreach to foreign Muslim audiences
17 through broadcast media.

18 (b) CONTENT.—The report required under subsection
19 (a) shall contain the following:

20 (1) An assessment of the Broadcasting Board
21 of Governors and the public diplomacy activities of
22 the Department of State with respect to outreach to
23 foreign Muslim audiences through broadcast media.

24 (2) An outline of recommended actions that the
25 United States should take to more regularly and

1 comprehensively present a United States point of
2 view through indigenous broadcast media in coun-
3 tries with sizeable Muslim populations, including in-
4 creasing appearances by United States Government
5 officials, experts, and citizens.

6 (3) An assessment of potential incentives for,
7 and costs associated with, encouraging United
8 States broadcasters to dub or subtitle into Arabic
9 and other relevant languages their news and public
10 affairs programs broadcast in Muslim countries in
11 order to present those programs to a much broader
12 Muslim audience than is currently reached.

13 (4) An assessment of providing a training pro-
14 gram in media and press affairs for members of the
15 Foreign Service.

16 **SEC. 4045. OFFICE RELOCATION.**

17 As soon as practicable after the date of the enactment
18 of this Act, the Secretary of State shall take such actions
19 as are necessary to consolidate within the Harry S. Tru-
20 man Building all offices of the Department of State that
21 are responsible for the conduct of public diplomacy, in-
22 cluding the Bureau of Educational and Cultural Affairs.

1 **SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOC-**
2 **RACIES FOR MUSLIM COUNTRIES.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the United States—

5 (1) should work with the Community of Democ-
6 racies to discuss, develop, and refine policies and as-
7 sistance programs to support and promote political,
8 economic, judicial, educational, and social reforms in
9 Muslim countries;

10 (2) should, as part of that effort, secure sup-
11 port to require countries seeking membership in the
12 Community of Democracies to be in full compliance
13 with the Community’s criteria for participation, as
14 established by the Community’s Convening Group,
15 should work to ensure that the criteria are part of
16 a legally binding document, and should urge other
17 donor countries to use compliance with the criteria
18 as a basis for determining diplomatic and economic
19 relations (including assistance programs) with such
20 participating countries; and

21 (3) should seek support for international con-
22 tributions to the Community of Democracies and
23 should seek authority for the Community’s Con-
24 vening Group to oversee adherence and compliance
25 of participating countries with the criteria.

1 (b) MIDDLE EAST PARTNERSHIP INITIATIVE AND
2 BROADER MIDDLE EAST AND NORTH AFRICA INITIATIVE
3 .—Amounts made available to carry out the Middle East
4 Partnership Initiative and the Broader Middle East and
5 North Africa Initiative may be made available to the Com-
6 munity of Democracies in order to strengthen and expand
7 its work with Muslim countries.

8 (c) REPORT.—The Secretary of State shall include in
9 the annual report entitled “Supporting Human Rights and
10 Democracy: The U.S. Record” a description of efforts by
11 the Community of Democracies to support and promote
12 political, economic, judicial, educational, and social re-
13 forms in Muslim countries and the extent to which such
14 countries meet the criteria for participation in the Com-
15 munity of Democracies.

16 **Subtitle C—Reform of Designation**
17 **of Foreign Terrorist Organizations**

18 **SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANI-**
19 **ZATIONS.**

20 (a) PERIOD OF DESIGNATION.—Section 219(a)(4) of
21 the Immigration and Nationality Act (8 U.S.C.
22 1189(a)(4)) is amended—

23 (1) in subparagraph (A)—

24 (A) by striking “Subject to paragraphs (5)

25 and (6), a” and inserting “A”; and

1 (B) by striking “for a period of 2 years be-
2 ginning on the effective date of the designation
3 under paragraph (2)(B)” and inserting “until
4 revoked under paragraph (5) or (6) or set aside
5 pursuant to subsection (c)”;

6 (2) by striking subparagraph (B) and inserting
7 the following:

8 “(B) REVIEW OF DESIGNATION UPON PE-
9 TITION.—

10 “(i) IN GENERAL.—The Secretary
11 shall review the designation of a foreign
12 terrorist organization under the procedures
13 set forth in clauses (iii) and (iv) if the des-
14 ignated organization files a petition for
15 revocation within the petition period de-
16 scribed in clause (ii).

17 “(ii) PETITION PERIOD.—For pur-
18 poses of clause (i)—

19 “(I) if the designated organiza-
20 tion has not previously filed a petition
21 for revocation under this subpara-
22 graph, the petition period begins 2
23 years after the date on which the des-
24 ignation was made; or

1 “(II) if the designated organiza-
2 tion has previously filed a petition for
3 revocation under this subparagraph,
4 the petition period begins 2 years
5 after the date of the determination
6 made under clause (iv) on that peti-
7 tion.

8 “(iii) PROCEDURES.—Any foreign ter-
9 rorist organization that submits a petition
10 for revocation under this subparagraph
11 must provide evidence in that petition that
12 the relevant circumstances described in
13 paragraph (1) have changed in such a
14 manner as to warrant revocation with re-
15 spect to the organization.

16 “(iv) DETERMINATION.—

17 “(I) IN GENERAL.—Not later
18 than 180 days after receiving a peti-
19 tion for revocation submitted under
20 this subparagraph, the Secretary shall
21 make a determination as to such rev-
22 ocation.

23 “(II) CLASSIFIED INFORMA-
24 TION.—The Secretary may consider
25 classified information in making a de-

1 termination in response to a petition
2 for revocation. Classified information
3 shall not be subject to disclosure for
4 such time as it remains classified, ex-
5 cept that such information may be
6 disclosed to a court ex parte and in
7 camera for purposes of judicial review
8 under subsection (c).

9 “(III) PUBLICATION OF DETER-
10 MINATION.—A determination made by
11 the Secretary under this clause shall
12 be published in the Federal Register.

13 “(IV) PROCEDURES.—Any rev-
14 ocation by the Secretary shall be
15 made in accordance with paragraph
16 (6).”; and

17 (3) by adding at the end the following:

18 “(C) OTHER REVIEW OF DESIGNATION.—

19 “(i) IN GENERAL.—If in a 6-year pe-
20 riod no review has taken place under sub-
21 paragraph (B), the Secretary shall review
22 the designation of the foreign terrorist or-
23 ganization in order to determine whether
24 such designation should be revoked pursu-
25 ant to paragraph (6).

1 “(ii) PROCEDURES.—If a review does
2 not take place pursuant to subparagraph
3 (B) in response to a petition for revocation
4 that is filed in accordance with that sub-
5 paragraph, then the review shall be con-
6 ducted pursuant to procedures established
7 by the Secretary. The results of such re-
8 view and the applicable procedures shall
9 not be reviewable in any court.

10 “(iii) PUBLICATION OF RESULTS OF
11 REVIEW.—The Secretary shall publish any
12 determination made pursuant to this sub-
13 paragraph in the Federal Register.”.

14 (b) ALIASES.—Section 219 of the Immigration and
15 Nationality Act (8 U.S.C. 1189) is amended—

16 (1) by redesignating subsections (b) and (c) as
17 subsections (c) and (d), respectively; and

18 (2) by inserting after subsection (a) the fol-
19 lowing new subsection (b):

20 “(b) AMENDMENTS TO A DESIGNATION.—

21 “(1) IN GENERAL.—The Secretary may amend
22 a designation under this subsection if the Secretary
23 finds that the organization has changed its name,
24 adopted a new alias, dissolved and then reconsti-

1 tuted itself under a different name or names, or
2 merged with another organization.

3 “(2) PROCEDURE.—Amendments made to a
4 designation in accordance with paragraph (1) shall
5 be effective upon publication in the Federal Register.
6 Subparagraphs (B) and (C) of subsection (a)(2)
7 shall apply to an amended designation upon such
8 publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),
9 and (8) of subsection (a) shall also apply to an
10 amended designation.

11 “(3) ADMINISTRATIVE RECORD.—The adminis-
12 trative record shall be corrected to include the
13 amendments as well as any additional relevant infor-
14 mation that supports those amendments.

15 “(4) CLASSIFIED INFORMATION.—The Sec-
16 retary may consider classified information in amend-
17 ing a designation in accordance with this subsection.
18 Classified information shall not be subject to disclo-
19 sure for such time as it remains classified, except
20 that such information may be disclosed to a court ex
21 parte and in camera for purposes of judicial review
22 under subsection (c).”.

23 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
24 Section 219 of the Immigration and Nationality Act (8
25 U.S.C. 1189) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (3)(B), by striking “sub-
3 section (b)” and inserting “subsection (c)”;

4 (B) in paragraph (6)(A)—

5 (i) in the matter preceding clause (i),
6 by striking “or a redesignation made under
7 paragraph (4)(B)” and inserting “at any
8 time, and shall revoke a designation upon
9 completion of a review conducted pursuant
10 to subparagraphs (B) and (C) of para-
11 graph (4)”;

12 (ii) in clause (i), by striking “or redesi-
13 gnation”;

14 (C) in paragraph (7), by striking “, or the
15 revocation of a redesignation under paragraph
16 (6),”; and

17 (D) in paragraph (8)—

18 (i) by striking “, or if a redesignation
19 under this subsection has become effective
20 under paragraph (4)(B),”; and

21 (ii) by striking “or redesignation”;

22 and

23 (2) in subsection (c), as so redesignated—

24 (A) in paragraph (1), by striking “of the
25 designation in the Federal Register,” and all

1 that follows through “review of the designa-
2 tion” and inserting “in the Federal Register of
3 a designation, an amended designation, or a de-
4 termination in response to a petition for revoca-
5 tion, the designated organization may seek judi-
6 cial review”;

7 (B) in paragraph (2), by inserting “,
8 amended designation, or determination in re-
9 sponse to a petition for revocation” after “des-
10 ignation”;

11 (C) in paragraph (3), by inserting “,
12 amended designation, or determination in re-
13 sponse to a petition for revocation” after “des-
14 ignation”; and

15 (D) in paragraph (4), by inserting “,
16 amended designation, or determination in re-
17 sponse to a petition for revocation” after “des-
18 ignation” each place that term appears.

19 (d) SAVINGS PROVISION.—For purposes of applying
20 section 219 of the Immigration and Nationality Act on
21 or after the date of enactment of this Act, the term “des-
22 ignation”, as used in that section, includes all redesigna-
23 tions made pursuant to section 219(a)(4)(B) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1189(a)(4)(B))
25 prior to the date of enactment of this Act, and such redes-

1 ignations shall continue to be effective until revoked as
2 provided in paragraph (5) or (6) of section 219(a) of the
3 Immigration and Nationality Act (8 U.S.C. 1189(a)).

4 **SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE**
5 **COUNTRY REPORTS ON TERRORISM OF IN-**
6 **FORMATION ON TERRORIST GROUPS THAT**
7 **SEEK WEAPONS OF MASS DESTRUCTION AND**
8 **GROUPS THAT HAVE BEEN DESIGNATED AS**
9 **FOREIGN TERRORIST ORGANIZATIONS.**

10 (a) INCLUSION IN REPORTS.—Section 140 of the
11 Foreign Relations Authorization Act, Fiscal Years 1988
12 and 1989 (22 U.S.C. 2656f) is amended—

13 (1) in subsection (a)(2)—

14 (A) by inserting “any terrorist group
15 known to have obtained or developed, or to have
16 attempted to obtain or develop, weapons of
17 mass destruction,” after “during the preceding
18 five years,”; and

19 (B) by inserting “any group designated by
20 the Secretary as a foreign terrorist organization
21 under section 219 of the Immigration and Na-
22 tionality Act (8 U.S.C. 1189),” after “Export
23 Administration Act of 1979,”;

24 (2) in subsection (b)(1)(C)(iii), by striking
25 “and” at the end;

1 (3) in subsection (b)(1)(C)—

2 (A) by redesignating clause (iv) as clause

3 (v); and

4 (B) by inserting after clause (iii) the fol-
5 lowing new clause:

6 “(iv) providing weapons of mass de-
7 struction, or assistance in obtaining or de-
8 veloping such weapons, to terrorists or ter-
9 rorist groups; and”;

10 (4) in subsection (b)(3) (as redesignated by sec-
11 tion 4002(b)(2)(B) of this Act)—

12 (A) by redesignating subparagraphs (C),
13 (D), and (E) as (D), (E), and (F), respectively;
14 and

15 (B) by inserting after subparagraph (B)
16 the following new subparagraph:

17 “(C) efforts by those groups to obtain or
18 develop weapons of mass destruction;”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply beginning with the first report
21 under section 140 of the Foreign Relations Authorization
22 Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), sub-
23 mitted more than one year after the date of the enactment
24 of this Act.

1 **Subtitle D—Afghanistan Freedom**
2 **Support Act Amendments of 2004**

3 **SEC. 4061. SHORT TITLE.**

4 This subtitle may be cited as the “Afghanistan Free-
5 dom Support Act Amendments of 2004”.

6 **SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANI-**
7 **STAN.**

8 (a) FINDINGS.—Congress finds that—

9 (1) the Final Report of the National Commis-
10 sion on Terrorist Attacks Upon the United States
11 criticized the provision of United States assistance
12 to Afghanistan for being too inflexible; and

13 (2) the Afghanistan Freedom Support Act of
14 2002 (Public Law 107–327; 22 U.S.C. 7501 et seq.)
15 contains provisions that provide for flexibility in the
16 provision of assistance for Afghanistan and are not
17 subject to the requirements of typical foreign assist-
18 ance programs and provide for the designation of a
19 coordinator to oversee United States assistance for
20 Afghanistan.

21 (b) DESIGNATION OF COORDINATOR.—Section
22 104(a) of the Afghanistan Freedom Support Act of 2002
23 (22 U.S.C. 7514(a)) is amended in the matter preceding
24 paragraph (1) by striking “is strongly urged to” and in-
25 serting “shall”.

1 (c) OTHER MATTERS.—Section 104 of such Act (22
2 U.S.C. 7514) is amended by adding at the end the fol-
3 lowing:

4 “(c) PROGRAM PLAN.—The coordinator designated
5 under subsection (a) shall annually submit to the Commit-
6 tees on International Relations and Appropriations of the
7 House of Representatives and the Committees on Foreign
8 Relations and Appropriations of the Senate the Adminis-
9 tration’s plan for assistance to Afghanistan together with
10 a description of such assistance in prior years.

11 “(d) COORDINATION WITH INTERNATIONAL COMMU-
12 NITY.—The coordinator designated under subsection (a)
13 shall work with the international community, including
14 multilateral organizations and international financial in-
15 stitutions, and the Government of Afghanistan to ensure
16 that assistance to Afghanistan is implemented in a coher-
17 ent, consistent, and efficient manner to prevent duplica-
18 tion and waste.”

19 **SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-**
20 **GHANISTAN FREEDOM SUPPORT ACT OF 2002.**

21 (a) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL
22 AND SOCIAL DEVELOPMENT.—

23 (1) DECLARATION OF POLICY.—Congress reaf-
24 firms the authorities contained in title I of the Af-
25 ghanistan Freedom Support Act of 2002 (22 U.S.C.

1 7501 et seq.; relating to economic and democratic
2 development assistance for Afghanistan).

3 (2) PROVISION OF ASSISTANCE.—Section
4 103(a) of such Act (22 U.S.C. 7513(a)) is amended
5 in the matter preceding paragraph (1) by striking
6 “section 512 of Public Law 107–115 or any other
7 similar” and inserting “any other”.

8 (b) DECLARATIONS OF POLICY.—Congress makes the
9 following declarations:

10 (1) The United States reaffirms the support
11 that it and other countries expressed for the report
12 entitled “Securing Afghanistan’s Future” in their
13 Berlin Declaration of April 2004. The United States
14 should help enable the growth needed to create an
15 economically sustainable Afghanistan capable of the
16 poverty reduction and social development foreseen in
17 the report.

18 (2) The United States supports the parliamen-
19 tary elections to be held in Afghanistan by April
20 2005 and will help ensure that such elections are not
21 undermined by warlords or narcotics traffickers.

22 (3)(A) The United States continues to urge
23 North Atlantic Treaty Organization members and
24 other friendly countries to make much greater mili-

1 tary contributions toward securing the peace in Af-
2 ghanistan.

3 (B) The United States should continue to lead
4 in the security domain by, among other things, pro-
5 viding logistical support to facilitate those contribu-
6 tions.

7 (C) In coordination with the Government of Af-
8 ghanistan, the United States should urge others,
9 and act itself, to increase efforts to promote disar-
10 mament, demobilization, and reintegration efforts, to
11 enhance counternarcotics activities, to expand de-
12 ployments of Provincial Reconstruction Teams, and
13 to increase training of Afghanistan's National Army
14 and its police and border security forces.

15 (c) LONG-TERM STRATEGY.—

16 (1) STRATEGY.—Title III of such Act (22
17 U.S.C. 7551 et seq.) is amended by adding at the
18 end the following:

19 **“SEC. 304. FORMULATION OF LONG-TERM STRATEGY FOR**
20 **AFGHANISTAN.**

21 “(a) STRATEGY.—

22 “(1) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of the Afghanistan
24 Freedom Support Act Amendments of 2004, the
25 President shall formulate and transmit to the Com-

1 mittee on International Relations of the House of
2 Representatives and the Committee on Foreign Re-
3 lations of the Senate a 5-year strategy for Afghani-
4 stan that includes specific and measurable goals,
5 timeframes for accomplishing such goals, and spe-
6 cific resource levels necessary for accomplishing such
7 goals for addressing the long-term development and
8 security needs of Afghanistan, including sectors such
9 as agriculture and irrigation, parliamentary and
10 democratic development, the judicial system and rule
11 of law, human rights, education, health, tele-
12 communications, electricity, women’s rights, counter-
13 narcotics, police, border security, anti-corruption,
14 and other law-enforcement activities.

15 “(2) ADDITIONAL REQUIREMENT.—The strat-
16 egy shall also delineate responsibilities for achieving
17 such goals and identify and address possible external
18 factors that could significantly affect the achieve-
19 ment of such goals.

20 “(b) IMPLEMENTATION.—Not later than 30 days
21 after the date of the transmission of the strategy required
22 by subsection (a), the Secretary of State, the Adminis-
23 trator of the United States Agency for International De-
24 velopment, and the Secretary of Defense shall submit to
25 the Committee on International Relations of the House

1 of Representatives and the Committee on Foreign Rela-
2 tions of the Senate a written 5-year action plan to imple-
3 ment the strategy developed pursuant to subsection (a).
4 Such action plan shall include a description and schedule
5 of the program evaluations that will monitor progress to-
6 ward achieving the goals described in subsection (a).

7 “(c) REVIEW.—The Secretary of State, the Adminis-
8 trator of the United States Agency for International De-
9 velopment, and the Secretary of Defense shall carry out
10 an annual review of the strategy required by subsection
11 (a) and the action plan required by subsection (b).

12 “(d) MONITORING.—The report required by section
13 206(c)(2) of this Act shall include—

14 “(1) a description of progress toward implemen-
15 tation of both the strategy required by subsection
16 (a) and the action plan required by subsection (b);
17 and

18 “(2) a description of any changes to the strat-
19 egy or action plan since the date of the submission
20 of the last report required by such section.”.

21 (2) CLERICAL AMENDMENT.—The table of con-
22 tents for such Act (22 U.S.C. 7501 note) is amend-
23 ed by adding after the item relating to section 303
24 the following:

“Sec. 304. Formulation of long-term strategy for Afghanistan.”.

1 **SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

2 Section 103(a)(5)(A) of the Afghanistan Freedom
3 Support Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amend-
4 ed—

5 (1) in clause (v), to read as follows:

6 “(v) support for the activities of the
7 Government of Afghanistan to develop
8 modern legal codes and court rules, to pro-
9 vide for the creation of legal assistance
10 programs, and other initiatives to promote
11 the rule of law in Afghanistan;”;

12 (2) in clause (xii), to read as follows:

13 “(xii) support for the effective admin-
14 istration of justice at the national, re-
15 gional, and local levels, including programs
16 to improve penal institutions and the reha-
17 bilitation of prisoners, to establish a re-
18 sponsible and community-based police
19 force, and to rehabilitate or construct
20 courthouses and detention facilities;”;

21 (3) in clause (xiii), by striking “and” at the
22 end;

23 (4) in clause (xiv), by striking the period at the
24 end and inserting “; and”; and

25 (5) by adding at the end the following:

1 “(xv) assistance for the protection of
2 Afghanistan’s culture, history, and na-
3 tional identity, including with the rehabili-
4 tation of Afghanistan’s museums and sites
5 of cultural significance.”.

6 **SEC. 4065. MONITORING OF ASSISTANCE.**

7 Section 108 of the Afghanistan Freedom Support Act
8 of 2002 (22 U.S.C. 7518) is amended by adding at the
9 end the following:

10 “(c) MONITORING OF ASSISTANCE FOR AFGHANI-
11 STAN.—

12 “(1) REPORT.—Not later than January 15,
13 2005, and every six months thereafter, the Secretary
14 of State, in consultation with the Administrator for
15 the United States Agency for International Develop-
16 ment, shall submit to the Committee on Inter-
17 national Relations of the House of Representatives
18 and the Committee on Foreign Relations of the Sen-
19 ate a report on the obligations and expenditures of
20 United States assistance for Afghanistan from all
21 United States Government agencies.

22 “(2) SUBMISSION OF INFORMATION FOR RE-
23 PORT.—The head of each United States Government
24 agency referred to in paragraph (1) shall provide on
25 a timely basis to the Secretary of State such infor-

1 mation as the Secretary may reasonably require to
2 allow the Secretary to prepare and submit the report
3 required by such paragraph.”.

4 **SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-**
5 **MAMENT OF PRIVATE MILITIAS AND TO SUP-**
6 **PORT EXPANSION OF INTERNATIONAL**
7 **PEACEKEEPING AND SECURITY OPERATIONS**
8 **IN AFGHANISTAN.**

9 (a) DISARMAMENT OF PRIVATE MILITIAS.—Section
10 103 of the Afghanistan Freedom Support Act of 2002 (22
11 U.S.C. 7513) is amended by adding at the end the fol-
12 lowing:

13 “(d) UNITED STATES POLICY RELATING TO DISAR-
14 MAMENT OF PRIVATE MILITIAS.—

15 “(1) IN GENERAL.—It shall be the policy of the
16 United States to take immediate steps to provide ac-
17 tive support for the disarmament, demobilization,
18 and reintegration of armed soldiers, particularly
19 child soldiers, in Afghanistan, in close consultation
20 with the President of Afghanistan.

21 “(2) REPORT.—The report required by section
22 206(c)(2) of this Act shall include a description of
23 the progress to implement paragraph (1).”.

24 (b) INTERNATIONAL PEACEKEEPING AND SECURITY
25 OPERATIONS.—Section 103 of such Act (22 U.S.C.

1 7513(d)), as amended by subsection (a), is further amend-
2 ed by adding at the end the following:

3 “(e) UNITED STATES POLICY RELATING TO INTER-
4 NATIONAL PEACEKEEPING AND SECURITY OPER-
5 ATIONS.—It shall be the policy of the United States to
6 make every effort to support the expansion of inter-
7 national peacekeeping and security operations in Afghani-
8 stan in order to—

9 “(1) increase the area in which security is pro-
10 vided and undertake vital tasks related to promoting
11 security, such as disarming warlords, militias, and
12 irregulars, and disrupting opium production; and

13 “(2) safeguard highways in order to allow the
14 free flow of commerce and to allow material assist-
15 ance to the people of Afghanistan, and aid personnel
16 in Afghanistan, to move more freely.”.

17 **SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACE-**
18 **KEEPING AND SECURITY OPERATIONS IN AF-**
19 **GHANISTAN.**

20 Section 206(d)(1) of the Afghanistan Freedom Sup-
21 port Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to
22 read as follows:

23 “(1) EFFORTS TO EXPAND INTERNATIONAL
24 PEACEKEEPING AND SECURITY OPERATIONS IN AF-
25 GHANISTAN.—

1 “(A) EFFORTS.—The President shall en-
2 courage, and, as authorized by law, enable other
3 countries to actively participate in expanded
4 international peacekeeping and security oper-
5 ations in Afghanistan, especially through the
6 provision of military personnel for extended pe-
7 riods of time.

8 “(B) REPORTS.—The President shall pre-
9 pare and transmit to the Committee on Inter-
10 national Relations of the House of Representa-
11 tives and the Committee on Foreign Relations
12 of the Senate a report on efforts carried out
13 pursuant to subparagraph (A). The first report
14 under this subparagraph shall be transmitted
15 not later than 60 days after the date of the en-
16 actment of the Afghanistan Freedom Support
17 Act Amendments of 2004 and subsequent re-
18 ports shall be transmitted every six months
19 thereafter and may be included in the report re-
20 quired by section 206(c)(2) of this Act.”.

21 **SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS**

22 **EFFORTS IN AFGHANISTAN.**

23 (a) COUNTERNARCOTICS EFFORTS.—The Afghani-
24 stan Freedom Support Act of 2002 (22 U.S.C. 7501 et
25 seq.) is amended—

1 (1) by redesignating—

2 (A) title III as title IV; and

3 (B) sections 301 through 304 as sections
4 401 through 404, respectively; and

5 (2) by inserting after title II the following:

6 **“TITLE III—PROVISIONS RELAT-**
7 **ING TO COUNTERNARCOTICS**
8 **EFFORTS IN AFGHANISTAN**

9 **“SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EF-**
10 **FORTS.**

11 “In addition to programs established pursuant to sec-
12 tion 103(a)(3) of this Act or other similar programs, the
13 President is authorized and encouraged to implement spe-
14 cific initiatives to assist in the eradication of poppy cul-
15 tivation and the disruption of heroin production in Af-
16 ghanistan, such as—

17 “(1) promoting alternatives to poppy cultiva-
18 tion, including the introduction of high value crops
19 that are suitable for export and the provision of ap-
20 propriate technical assistance and credit mechanisms
21 for farmers;

22 “(2) enhancing the ability of farmers to bring
23 legitimate agricultural goods to market;

24 “(3) notwithstanding section 660 of the For-
25 eign Assistance Act of 1961 (22 U.S.C. 2420), as-

1 assistance, including nonlethal equipment, training (in-
2 cluding training in internationally recognized stand-
3 ards of human rights, the rule of law, anti-corrup-
4 tion, and the promotion of civilian police roles that
5 support democracy), and payments, during fiscal
6 years 2006 through 2008, for salaries for special
7 counternarcotics police and supporting units;

8 “(4) training the Afghan National Army in
9 counternarcotics activities; and

10 “(5) creating special counternarcotics courts,
11 prosecutors, and places of incarceration.”.

12 (b) CLERICAL AMENDMENTS.—The table of contents
13 for such Act (22 U.S.C. 7501 note) is amended—

14 (1) by redesignating—

15 (A) the item relating to title III as the
16 item relating to title IV; and

17 (B) the items relating to sections 301
18 through 304 as the items relating to sections
19 401 through 404; and

20 (2) by inserting after the items relating to title

21 II the following:

“TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS
EFFORTS IN AFGHANISTAN

“Sec. 301. Assistance for counternarcotics efforts.”.

1 **SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANI-**
2 **STAN FREEDOM SUPPORT ACT OF 2002.**

3 (a) TECHNICAL AMENDMENT.—Section
4 103(a)(7)(A)(xii) of the Afghanistan Freedom Support
5 Act of 2002 (22 U.S.C. 7513(a)(7)(A)(xii)) is amended
6 by striking “National” and inserting “Afghan Inde-
7 pendent”.

8 (b) REPORTING REQUIREMENT.—Section 206(c)(2)
9 of such Act (22 U.S.C. 7536(c)(2)) is amended in the mat-
10 ter preceding subparagraph (A) by striking “2007” and
11 inserting “2012”.

12 **SEC. 4070. REPEAL.**

13 Section 620D of the Foreign Assistance Act of 1961
14 (22 U.S.C. 2374; relating to prohibition on assistance to
15 Afghanistan) is hereby repealed.

16 **Subtitle E—Provisions Relating to**
17 **Saudi Arabia and Pakistan**

18 **SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATION-**
19 **SHIP WITH SAUDI ARABIA.**

20 (a) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that the relationship between the United States and
22 Saudi Arabia should include a more robust dialogue be-
23 tween the people and Government of the United States
24 and the people and Government of Saudi Arabia in order
25 to provide for a reevaluation of, and improvements to, the
26 relationship by both sides.

1 (b) REPORT.—

2 (1) IN GENERAL.— Not later than one year
3 after the date of the enactment of this Act, the
4 President shall transmit to the Committee on Inter-
5 national Relations of the House of Representatives
6 and the Committee on Foreign Relations of the Sen-
7 ate a strategy for collaboration with the people and
8 Government of Saudi Arabia on subjects of mutual
9 interest and importance to the United States.

10 (2) CONTENTS.—The strategy required under
11 paragraph (1) shall include the following provisions:

12 (A) A framework for security cooperation
13 in the fight against terrorism, with special ref-
14 erence to combating terrorist financing and an
15 examination of the origins of modern terrorism.

16 (B) A framework for political and eco-
17 nomic reform in Saudi Arabia and throughout
18 the Middle East.

19 (C) An examination of steps that should be
20 taken to reverse the trend toward extremism in
21 Saudi Arabia and other Muslim countries and
22 throughout the Middle East.

23 (D) A framework for promoting greater
24 tolerance and respect for cultural and religious

1 diversity in Saudi Arabia and throughout the
2 Middle East.

3 **SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE**
4 **OF PAKISTAN.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the United States should, over a long-term pe-
7 riod, help to ensure a promising, stable, and secure future
8 for Pakistan, and should in particular provide assistance
9 to encourage and enable Pakistan—

10 (1) to continue and improve upon its commit-
11 ment to combating extremists;

12 (2) to seek to resolve any outstanding difficul-
13 ties with its neighbors and other countries in its re-
14 gion;

15 (3) to continue to make efforts to fully control
16 its territory and borders;

17 (4) to progress towards becoming a more effec-
18 tive and participatory democracy;

19 (5) to participate more vigorously in the global
20 marketplace and to continue to modernize its econ-
21 omy;

22 (6) to take all necessary steps to halt the
23 spread of weapons of mass destruction;

24 (7) to continue to reform its education system;
25 and

1 (8) to, in other ways, implement a general
2 strategy of moderation.

3 (b) STRATEGY.—Not later than 180 days after the
4 date of the enactment of this Act, the President shall
5 transmit to Congress a detailed proposed strategy for the
6 future, long-term, engagement of the United States with
7 Pakistan.

8 **SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.**

9 The Act entitled “An Act to authorize the President
10 to exercise waivers of foreign assistance restrictions with
11 respect to Pakistan through September 30, 2003, and for
12 other purposes”, approved October 27, 2001 (Public Law
13 107–57; 115 Stat. 403), as amended by section 2213 of
14 the Emergency Supplemental Appropriations Act for De-
15 fense and for the Reconstruction of Iraq and Afghanistan,
16 2004 (Public Law 108–106; 117 Stat. 1232), is further
17 amended—

18 (1) in section 1(b)—

19 (A) in the heading, by striking “FISCAL
20 YEAR 2004” and inserting “FISCAL YEARS
21 2005 AND 2006”; and

22 (B) in paragraph (1), by striking “2004”
23 and inserting “2005 or 2006”;

24 (2) in section 3(2), by striking “and 2004,”
25 and inserting “2004, 2005, and 2006”; and

1 (3) in section 6, by striking “2004” and insert-
2 ing “2006”.

3 **Subtitle F—Oversight Provisions**

4 **SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

5 (a) AVAILABILITY OF TREATIES AND INTER-
6 NATIONAL AGREEMENTS.—Section 112a of title 1, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “(d) The Secretary of State shall cause to be pub-
10 lished in slip form or otherwise made publicly available
11 through the Internet website of the Department of State
12 each treaty or international agreement proposed to be
13 published in the compilation entitled ‘United States Trea-
14 ties and Other International Agreements’ not later than
15 180 days after the date on which the treaty or agreement
16 enters into force.”.

17 (b) TRANSMISSION TO CONGRESS.—Section 112b(a)
18 of title 1, United States Code (commonly referred to as
19 the “Case-Zablocki Act”), is amended—

20 (1) in the first sentence, by striking “has en-
21 tered into force” and inserting “has been signed or
22 entered into force”; and

23 (2) in the second sentence, by striking “Com-
24 mittee on Foreign Affairs” and inserting “Com-
25 mittee on International Relations”.

1 (c) REPORT.—Section 112b of title 1, United States
2 Code, is amended—

3 (1) by redesignating subsections (d) and (e) as
4 subsections (e) and (f), respectively; and

5 (2) by inserting after subsection (c) the fol-
6 lowing:

7 “(d)(1) The Secretary of State shall submit to Con-
8 gress on an annual basis a report that contains an index
9 of all international agreements (including oral agree-
10 ments), listed by country, date, title, and summary of each
11 such agreement (including a description of the duration
12 of activities under the agreement and the agreement
13 itself), that the United States—

14 “(A) has signed, proclaimed, or with reference
15 to which any other final formality has been executed,
16 or that has been extended or otherwise modified,
17 during the preceding calendar year; and

18 “(B) has not been published, or is not proposed
19 to be published, in the compilation entitled ‘United
20 States Treaties and Other International Agree-
21 ments’.

22 “(2) The report described in paragraph (1) may be
23 submitted in classified form.”.

1 (d) DETERMINATION OF INTERNATIONAL AGREE-
2 MENT.—Subsection (e) of section 112b of title 1, United
3 States Code, (as redesignated) is amended—

4 (1) by striking “(e) The Secretary of State”
5 and inserting “(e)(1) Subject to paragraph (2), the
6 Secretary of State”; and

7 (2) by adding at the end the following:

8 “(2)(A) An arrangement shall constitute an inter-
9 national agreement within the meaning of this section
10 (other than subsection (c) of this section) irrespective of
11 the duration of activities under the arrangement or the
12 arrangement itself.

13 “(B) Arrangements that constitute an international
14 agreement within the meaning of this section (other than
15 subsection (c) of this section) include, but are not limited
16 to, the following:

17 “(i) A bilateral or multilateral counterterrorism
18 agreement.

19 “(ii) A bilateral agreement with a country that
20 is subject to a determination under section
21 6(j)(1)(A) of the Export Administration Act of 1979
22 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of
23 the Foreign Assistance Act of 1961 (22 U.S.C.
24 2371(a)), or section 40(d) of the Arms Export Con-
25 trol Act (22 U.S.C. 2780(d)).”.

1 (e) ENFORCEMENT OF REQUIREMENTS.—Section
2 139(b) of the Foreign Relations Authorization Act, Fiscal
3 Years 1988 and 1989 is amended to read as follows:

4 “(b) EFFECTIVE DATE.—Subsection (a) shall take
5 effect 60 days after the date of the enactment of the 9/
6 11 Recommendations Implementation Act and shall apply
7 during fiscal years 2005, 2006, and 2007.”.

8 **Subtitle G—Additional Protections**
9 **of United States Aviation Sys-**
10 **tem from Terrorist Attacks**

11 **SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**
12 **IMUM DEPLOYMENT OF FEDERAL FLIGHT**
13 **DECK OFFICERS.**

14 The President is encouraged to pursue aggressively
15 international agreements with foreign governments to
16 allow the maximum deployment of Federal air marshals
17 and Federal flight deck officers on international flights.

18 **SEC. 4102. FEDERAL AIR MARSHAL TRAINING.**

19 Section 44917 of title 49, United States Code, is
20 amended by adding at the end the following:

21 “(d) TRAINING FOR FOREIGN LAW ENFORCEMENT
22 PERSONNEL.—

23 “(1) IN GENERAL.—The Assistant Secretary for
24 Immigration and Customs Enforcement of the De-
25 partment of Homeland Security, after consultation

1 with the Secretary of State, may direct the Federal
2 Air Marshal Service to provide appropriate air mar-
3 shal training to law enforcement personnel of foreign
4 countries.

5 “(2) WATCHLIST SCREENING.—The Federal
6 Air Marshal Service may only provide appropriate
7 air marshal training to law enforcement personnel of
8 foreign countries after comparing the identifying in-
9 formation and records of law enforcement personnel
10 of foreign countries against appropriate records in
11 the consolidated and integrated terrorist watchlists
12 of the Federal Government.

13 “(3) FEES.—The Assistant Secretary shall es-
14 tablish reasonable fees and charges to pay expenses
15 incurred in carrying out this subsection. Funds col-
16 lected under this subsection shall be credited to the
17 account in the Treasury from which the expenses
18 were incurred and shall be available to the Assistant
19 Secretary for purposes for which amounts in such
20 account are available.”

21 **SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS**
22 **(MANPADS).**

23 (a) UNITED STATES POLICY ON NONPROLIFERATION
24 AND EXPORT CONTROL.—

1 (1) TO LIMIT AVAILABILITY AND TRANSFER OF
2 MANPADS.—The President shall pursue, on an ur-
3 gent basis, further strong international diplomatic
4 and cooperative efforts, including bilateral and mul-
5 tilateral treaties, in the appropriate forum to limit
6 the availability, transfer, and proliferation of
7 MANPADSs worldwide.

8 (2) TO LIMIT THE PROLIFERATION OF
9 MANPADS.—The President is encouraged to seek to
10 enter into agreements with the governments of for-
11 eign countries that, at a minimum, would—

12 (A) prohibit the entry into force of a
13 MANPADS manufacturing license agreement
14 and MANPADS co-production agreement, other
15 than the entry into force of a manufacturing li-
16 cense or co-production agreement with a coun-
17 try that is party to such an agreement;

18 (B) prohibit, except pursuant to transfers
19 between governments, the export of a
20 MANPADS, including any component, part, ac-
21 cessory, or attachment thereof, without an indi-
22 vidual validated license; and

23 (C) prohibit the reexport or retransfer of a
24 MANPADS, including any component, part, ac-
25 cessory, or attachment thereof, to a third per-

1 son, organization, or government unless the
2 written consent of the government that ap-
3 proved the original export or transfer is first
4 obtained.

5 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—

6 The President should continue to pursue further
7 strong international diplomatic and cooperative ef-
8 forts, including bilateral and multilateral treaties, in
9 the appropriate forum to assure the destruction of
10 excess, obsolete, and illicit stocks of MANPADSs
11 worldwide.

12 (4) REPORTING AND BRIEFING REQUIRE-
13 MENT.—

14 (A) PRESIDENT'S REPORT.—Not later
15 than 180 days after the date of enactment of
16 this Act, the President shall transmit to the ap-
17 propriate congressional committees a report
18 that contains a detailed description of the sta-
19 tus of diplomatic efforts under paragraphs (1),
20 (2), and (3) and of efforts by the appropriate
21 United States agencies to comply with the rec-
22 ommendations of the General Accounting Office
23 set forth in its report GAO-04-519, entitled
24 “Nonproliferation: Further Improvements

1 Needed in U.S. Efforts to Counter Threats
2 from Man-Portable Air Defense Systems”.

3 (B) ANNUAL BRIEFINGS.—Annually after
4 the date of submission of the report under sub-
5 paragraph (A) and until completion of the dip-
6 lomatic and compliance efforts referred to in
7 subparagraph (A), the Secretary of State shall
8 brief the appropriate congressional committees
9 on the status of such efforts.

10 (b) FAA AIRWORTHINESS CERTIFICATION OF MIS-
11 SILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

12 (1) IN GENERAL.—As soon as practicable, but
13 not later than the date of completion of Phase II of
14 the Department of Homeland Security’s counter-
15 man-portable air defense system (MANPADS) devel-
16 opment and demonstration program, the Adminis-
17 trator of the Federal Aviation Administration shall
18 establish a process for conducting airworthiness and
19 safety certification of missile defense systems for
20 commercial aircraft certified as effective and func-
21 tional by the Department of Homeland Security.
22 The process shall require a certification by the Ad-
23 ministrator that such systems can be safely inte-
24 grated into aircraft systems and ensure airworthi-
25 ness and aircraft system integrity.

1 (2) CERTIFICATION ACCEPTANCE.—Under the
2 process, the Administrator shall accept the certifi-
3 cation of the Department of Homeland Security that
4 a missile defense system is effective and functional
5 to defend commercial aircraft against MANPADSs.

6 (3) EXPEDITIOUS CERTIFICATION.—Under the
7 process, the Administrator shall expedite the air-
8 worthiness and safety certification of missile defense
9 systems for commercial aircraft certified by the De-
10 partment of Homeland Security.

11 (4) REPORTS.—Not later than 90 days after
12 the first airworthiness and safety certification for a
13 missile defense system for commercial aircraft is
14 issued by the Administrator, and annually thereafter
15 until December 31, 2008, the Federal Aviation Ad-
16 ministration shall transmit to the Committee on
17 Transportation and Infrastructure of the House of
18 Representatives and the Committee on Commerce,
19 Science, and Transportation of the Senate a report
20 that contains a detailed description of each air-
21 worthiness and safety certification issued for a mis-
22 sile defense system for commercial aircraft.

23 (c) PROGRAMS TO REDUCE MANPADS.—

24 (1) IN GENERAL.—The President is encouraged
25 to pursue strong programs to reduce the number of

1 MANPADSs worldwide so that fewer MANPADSs
2 will be available for trade, proliferation, and sale.

3 (2) REPORTING AND BRIEFING REQUIRE-
4 MENTS.—Not later than 180 days after the date of
5 enactment of this Act, the President shall transmit
6 to the appropriate congressional committees a report
7 that contains a detailed description of the status of
8 the programs being pursued under subsection (a).
9 Annually thereafter until the programs are no longer
10 needed, the Secretary of State shall brief the appro-
11 priate congressional committees on the status of pro-
12 grams.

13 (3) FUNDING.—There are authorized to be ap-
14 propriated such sums as may be necessary to carry
15 out this section.

16 (d) MANPADS VULNERABILITY ASSESSMENTS RE-
17 PORT.—

18 (1) IN GENERAL.—Not later than one year
19 after the date of enactment of this Act, the Sec-
20 retary of Homeland Security shall transmit to the
21 Committee on Transportation and Infrastructure of
22 the House of Representatives and the Committee on
23 Commerce, Science, and Transportation of the Sen-
24 ate a report describing the Department of Homeland
25 Security's plans to secure airports and the aircraft

1 arriving and departing from airports against
2 MANPADSs attacks.

3 (2) MATTERS TO BE ADDRESSED.—The Sec-
4 retary's report shall address, at a minimum, the fol-
5 lowing:

6 (A) The status of the Department's efforts
7 to conduct MANPADSs vulnerability assess-
8 ments at United States airports at which the
9 Department is conducting assessments.

10 (B) How intelligence is shared between the
11 United States intelligence agencies and Federal,
12 State, and local law enforcement to address the
13 MANPADS threat and potential ways to im-
14 prove such intelligence sharing.

15 (C) Contingency plans that the Depart-
16 ment has developed in the event that it receives
17 intelligence indicating a high threat of a
18 MANPADS attack on aircraft at or near
19 United States airports.

20 (D) The feasibility and effectiveness of im-
21 plementing public education and neighborhood
22 watch programs in areas surrounding United
23 States airports in cases in which intelligence re-
24 ports indicate there is a high risk of
25 MANPADS attacks on aircraft.

1 (E) Any other issues that the Secretary
2 deems relevant.

3 (3) FORMAT.—The report required by this sub-
4 section may be submitted in a classified format.

5 (e) DEFINITIONS.—In this section, the following defi-
6 nitions apply:

7 (1) APPROPRIATE CONGRESSIONAL COMMIT-
8 TEES.—The term “appropriate congressional com-
9 mittees” means—

10 (A) the Committee on Armed Services, the
11 Committee on International Relations, and the
12 Committee on Transportation and Infrastruc-
13 ture of the House of Representatives; and

14 (B) the Committee on Armed Services, the
15 Committee on Foreign Relations, and the Com-
16 mittee on Commerce, Science, and Transpor-
17 tation of the Senate.

18 (2) MANPADS.—The term “MANPADS”
19 means—

20 (A) a surface-to-air missile system de-
21 signed to be man-portable and carried and fired
22 by a single individual; and

23 (B) any other surface-to-air missile system
24 designed to be operated and fired by more than

1 one individual acting as a crew and portable by
2 several individuals.

3 **Subtitle H—Improving Inter-**
4 **national Standards and Co-**
5 **operation to Fight Terrorist Fi-**
6 **nancing**

7 **SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS**
8 **IN MULTILATERAL ORGANIZATIONS.**

9 (a) **COMMENDATION.**—The Congress commends the
10 Secretary of the Treasury for success and leadership in
11 establishing international standards for fighting terrorist
12 finance through multilateral organizations, including the
13 Financial Action Task Force (FATF) at the Organization
14 for Economic Cooperation and Development, the Inter-
15 national Monetary Fund, the International Bank for Re-
16 construction and Development, and the regional multilat-
17 eral development banks.

18 (b) **POLICY GUIDANCE.**—The Congress encourages
19 the Secretary of the Treasury to direct the United States
20 Executive Director at each international financial institu-
21 tion to use the voice and vote of the United States to urge
22 the institution, and encourages the Secretary of the Treas-
23 ury to use the voice and vote of the United States in other
24 multilateral financial policymaking bodies, to—

1 (1) provide funding for the implementation of
2 FATF anti-money laundering and anti-terrorist fi-
3 nancing standards; and

4 (2) promote economic development in the Mid-
5 dle East.

6 **SEC. 4112. EXPANDED REPORTING REQUIREMENT FOR THE**
7 **SECRETARY OF THE TREASURY.**

8 (a) IN GENERAL.—Section 1701(b) of the Inter-
9 national Financial Institutions Act (22 U.S.C. 262r(b)) is
10 amended—

11 (1) by striking “and” at the end of paragraph
12 (10); and

13 (2) by redesignating paragraph (11) as para-
14 graph (12) and inserting after paragraph (10) the
15 following:

16 “(11) an assessment of—

17 “(A) the progress made by the Inter-
18 national Terrorist Finance Coordinating Coun-
19 cil in developing policies to be pursued with the
20 international financial institutions and other
21 multilateral financial policymaking bodies re-
22 garding anti-terrorist financing initiatives;

23 “(B) the progress made by the United
24 States in negotiations with the international fi-
25 nancial institutions and other multilateral fi-

1 nancial policymaking bodies to set common
2 anti-terrorist financing standards;

3 “(C) the extent to which the international
4 financial institutions and other multilateral fi-
5 nancial policymaking bodies have adopted anti-
6 terrorist financing standards advocated by the
7 United States; and

8 “(D) whether and how the international fi-
9 nancial institutions are contributing to the fight
10 against the financing of terrorist activities;
11 and”.

12 (b) OTHER MULTILATERAL POLICYMAKING BODIES
13 DEFINED.—Section 1701(c) of such Act (22 U.S.C.
14 262r(e)) is amended by adding at the end the following:

15 “(5) OTHER MULTILATERAL FINANCIAL POL-
16 ICYMAKING BODIES.—The term ‘other multilateral
17 financial policymaking bodies’ means—

18 “(A) the Financial Action Task Force at
19 the Organization for Economic Cooperation and
20 Development;

21 “(B) the international network of financial
22 intelligence units known as the ‘Egmont
23 Group’;

24 “(C) the United States, Canada, the
25 United Kingdom, France, Germany, Italy,

1 Japan, and Russia, when meeting as the Group
2 of Eight; and

3 “(D) any other multilateral financial pol-
4 icymaking group in which the Secretary of the
5 Treasury represents the United States.”.

6 **SEC. 4113. INTERNATIONAL TERRORIST FINANCE COORDI-**
7 **NATING COUNCIL.**

8 (a) ESTABLISHMENT.—The Secretary of the Treas-
9 ury shall establish and convene an interagency council, to
10 be known as the “International Terrorist Finance Coordi-
11 nating Council” (in this section referred to as the “Coun-
12 cil”), which shall advise the Secretary on policies to be
13 pursued by the United States at meetings of the inter-
14 national financial institutions and other multilateral finan-
15 cial policymaking bodies, regarding the development of
16 international anti-terrorist financing standards.

17 (b) MEETINGS.—

18 (1) ATTENDEES.—

19 (A) GENERAL ATTENDEES.—The Sec-
20 retary of the Treasury (or a representative of
21 the Secretary of the Treasury) and the Sec-
22 retary of State (or a representative of the Sec-
23 retary of State) shall attend each Council meet-
24 ing.

1 (B) OTHER ATTENDEES.—The Secretary
2 of the Treasury shall determine which other of-
3 ficers of the Federal Government shall attend a
4 Council meeting, on the basis of the issues to
5 be raised for consideration at the meeting. The
6 Secretary shall include in the meeting rep-
7 resentatives from all relevant Federal agencies
8 with authority to address the issues.

9 (2) SCHEDULE.—Not less frequently than an-
10 nually, the Secretary of the Treasury shall convene
11 Council meetings at such times as the Secretary
12 deems appropriate, based on the notice, schedule,
13 and agenda items of the international financial insti-
14 tutions and other multilateral financial policymaking
15 bodies.

16 **SEC. 4114. DEFINITIONS.**

17 In this subtitle:

18 (1) INTERNATIONAL FINANCIAL INSTITU-
19 TIONS.—The term “international financial institu-
20 tions” has the meaning given in section 1701(e)(2)
21 of the International Financial Institutions Act.

22 (2) OTHER MULTILATERAL FINANCIAL POLICY-
23 MAKING BODIES.—The term “other multilateral fi-
24 nancial policymaking bodies” means—

1 (A) the Financial Action Task Force at the
2 Organization for Economic Cooperation and
3 Development;

4 (B) the international network of financial
5 intelligence units known as the “Egmont
6 Group”;

7 (C) the United States, Canada, the United
8 Kingdom, France, Germany, Italy, Japan, and
9 Russia, when meeting as the Group of Eight;
10 and

11 (D) any other multilateral financial policy-
12 making group in which the Secretary of the
13 Treasury represents the United States.

14 **TITLE V—GOVERNMENT**
15 **RESTRUCTURING**

16 **Subtitle A—Faster and Smarter**
17 **Funding for First Responders**

18 **SEC. 5001. SHORT TITLE.**

19 This subtitle may be cited as the “Faster and Smart-
20 er Funding for First Responders Act of 2004”.

21 **SEC. 5002. FINDINGS.**

22 The Congress finds the following:

23 (1) In order to achieve its objective of mini-
24 mizing the damage, and assisting in the recovery,
25 from terrorist attacks, the Department of Homeland

1 Security must play a leading role in assisting com-
2 munities to reach the level of preparedness they need
3 to respond to a terrorist attack.

4 (2) First responder funding is not reaching the
5 men and women of our Nation's first response teams
6 quickly enough, and sometimes not at all.

7 (3) To reform the current bureaucratic process
8 so that homeland security dollars reach the first re-
9 sponders who need it most, it is necessary to clarify
10 and consolidate the authority and procedures of the
11 Department of Homeland Security that support first
12 responders.

13 (4) Ensuring adequate resources for the new
14 national mission of homeland security, without de-
15 grading the ability to address effectively other types
16 of major disasters and emergencies, requires a dis-
17 crete and separate grant making process for home-
18 land security funds for first response to terrorist
19 acts, on the one hand, and for first responder pro-
20 grams designed to meet pre-September 11 priorities,
21 on the other.

22 (5) While a discrete homeland security grant
23 making process is necessary to ensure proper focus
24 on the unique aspects of terrorism prevention, pre-
25 paredness, and response, it is essential that State

1 and local strategies for utilizing such grants be inte-
2 grated, to the greatest extent practicable, with exist-
3 ing State and local emergency management plans.

4 (6) Homeland security grants to first respon-
5 ders must be based on the best intelligence con-
6 cerning the capabilities and intentions of our ter-
7 rorist enemies, and that intelligence must be used to
8 target resources to the Nation's greatest threats,
9 vulnerabilities, and consequences.

10 (7) The Nation's first response capabilities will
11 be improved by sharing resources, training, plan-
12 ning, personnel, and equipment among neighboring
13 jurisdictions through mutual aid agreements and re-
14 gional cooperation. Such regional cooperation should
15 be supported, where appropriate, through direct
16 grants from the Department of Homeland Security.

17 (8) An essential prerequisite to achieving the
18 Nation's homeland security objectives for first re-
19 sponders is the establishment of well-defined na-
20 tional goals for terrorism preparedness. These goals
21 should delineate the essential capabilities that every
22 jurisdiction in the United States should possess or
23 to which it should have access.

24 (9) A national determination of essential capa-
25 bilities is needed to identify levels of State and local

1 government terrorism preparedness, to determine
2 the nature and extent of State and local first re-
3 sponder needs, to identify the human and financial
4 resources required to fulfill them, and to direct fund-
5 ing to meet those needs and to measure prepared-
6 ness levels on a national scale.

7 (10) To facilitate progress in achieving, main-
8 taining, and enhancing essential capabilities for
9 State and local first responders, the Department of
10 Homeland Security should seek to allocate homeland
11 security funding for first responders to meet nation-
12 wide needs.

13 (11) Private sector resources and citizen volun-
14 teers can perform critical functions in assisting in
15 preventing and responding to terrorist attacks, and
16 should be integrated into State and local planning
17 efforts to ensure that their capabilities and roles are
18 understood, so as to provide enhanced State and
19 local operational capability and surge capacity.

20 (12) Public-private partnerships, such as the
21 partnerships between the Business Executives for
22 National Security and the States of New Jersey and
23 Georgia, can be useful to identify and coordinate pri-
24 vate sector support for State and local first respond-

1 ers. Such models should be expanded to cover all
2 States and territories.

3 (13) An important aspect of essential capabili-
4 ties is measurability, so that it is possible to deter-
5 mine how prepared a State or local government is
6 now, and what additional steps it needs to take, in
7 order to respond to acts of terrorism.

8 (14) The Department of Homeland Security
9 should establish, publish, and regularly update na-
10 tional voluntary consensus standards for both equip-
11 ment and training, in cooperation with both public
12 and private sector standard setting organizations, to
13 assist State and local governments in obtaining the
14 equipment and training to attain the essential capa-
15 bilities for first response to acts of terrorism, and to
16 ensure that first responder funds are spent wisely.

17 **SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST RE-**
18 **SPONDERS.**

19 (a) IN GENERAL.—The Homeland Security Act of
20 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is
21 amended—

22 (1) in section 1(b) in the table of contents by
23 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

1 (2) by adding at the end the following:

2 **“TITLE XVIII—FUNDING FOR**
3 **FIRST RESPONDERS**

4 **“SEC. 1801. DEFINITIONS.**

5 “In this title:

6 “(1) BOARD.—The term ‘Board’ means the
7 First Responder Grants Board established under
8 section 1805(f).

9 “(2) COVERED GRANT.—The term ‘covered
10 grant’ means any grant to which this title applies
11 under section 1802.

12 “(3) DIRECTLY ELIGIBLE TRIBE.—The term
13 ‘directly eligible tribe’ means any Indian tribe or
14 consortium of Indian tribes that—

15 “(A) meets the criteria for inclusion in the
16 qualified applicant pool for Self-Governance
17 that are set forth in section 402(c) of the In-
18 dian Self-Determination and Education Assist-
19 ance Act (25 U.S.C. 458bb(c));

20 “(B) employs at least 10 full-time per-
21 sonnel in a law enforcement or emergency re-
22 sponse agency with the capacity to respond to

1 calls for law enforcement or emergency services;
2 and

3 “(C)(i) is located on, or within 5 miles of,
4 an international border or waterway;

5 “(ii) is located within 5 miles of a facility
6 within a critical infrastructure sector identified
7 in section 1803(c)(2);

8 “(iii) is located within or contiguous to one
9 of the 50 largest metropolitan statistical areas
10 in the United States; or

11 “(iv) has more than 1,000 square miles of
12 Indian country, as that term is defined in sec-
13 tion 1151 of title 18, United States Code.

14 “(4) ELEVATIONS IN THE THREAT ALERT
15 LEVEL.—The term ‘elevations in the threat alert
16 level’ means any designation (including those that
17 are less than national in scope) that raises the
18 homeland security threat level to either the highest
19 or second highest threat level under the Homeland
20 Security Advisory System referred to in section
21 201(d)(7).

22 “(5) EMERGENCY PREPAREDNESS.—The term
23 ‘emergency preparedness’ shall have the same mean-
24 ing that term has under section 602 of the Robert

1 T. Stafford Disaster Relief and Emergency Assist-
2 ance Act (42 U.S.C. 5195a).

3 “(6) ESSENTIAL CAPABILITIES.—The term ‘es-
4 sential capabilities’ means the levels, availability,
5 and competence of emergency personnel, planning,
6 training, and equipment across a variety of dis-
7 ciplines needed to effectively and efficiently prevent,
8 prepare for, and respond to acts of terrorism con-
9 sistent with established practices.

10 “(7) FIRST RESPONDER.—The term ‘first re-
11 sponder’ shall have the same meaning as the term
12 ‘emergency response provider’.

13 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
14 means any Indian tribe, band, nation, or other orga-
15 nized group or community, including any Alaskan
16 Native village or regional or village corporation as
17 defined in or established pursuant to the Alaskan
18 Native Claims Settlement Act (43 U.S.C. 1601 et
19 seq.), which is recognized as eligible for the special
20 programs and services provided by the United States
21 to Indians because of their status as Indians.

22 “(9) REGION.—The term ‘region’ means—

23 “(A) any geographic area consisting of all
24 or parts of 2 or more contiguous States, coun-
25 ties, municipalities, or other local governments

1 that have a combined population of at least
2 1,650,000 or have an area of not less than
3 20,000 square miles, and that, for purposes of
4 an application for a covered grant, is rep-
5 resented by 1 or more governments or govern-
6 mental agencies within such geographic area,
7 and that is established by law or by agreement
8 of 2 or more such governments or governmental
9 agencies in a mutual aid agreement; or

10 “(B) any other combination of contiguous
11 local government units (including such a com-
12 bination established by law or agreement of two
13 or more governments or governmental agencies
14 in a mutual aid agreement) that is formally cer-
15 tified by the Secretary as a region for purposes
16 of this Act with the consent of—

17 “(i) the State or States in which they
18 are located, including a multi-State entity
19 established by a compact between two or
20 more States; and

21 “(ii) the incorporated municipalities,
22 counties, and parishes that they encom-
23 pass.

1 “(10) TASK FORCE.—The term ‘Task Force’
2 means the Task Force on Essential Capabilities for
3 First Responders established under section 1804.

4 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
5 **SPONDERS.**

6 “(a) COVERED GRANTS.—This title applies to grants
7 provided by the Department to States, regions, or directly
8 eligible tribes for the primary purpose of improving the
9 ability of first responders to prevent, prepare for, respond
10 to, or mitigate threatened or actual terrorist attacks, espe-
11 cially those involving weapons of mass destruction, admin-
12 istered under the following:

13 “(1) STATE HOMELAND SECURITY GRANT PRO-
14 GRAM.—The State Homeland Security Grant Pro-
15 gram of the Department, or any successor to such
16 grant program.

17 “(2) URBAN AREA SECURITY INITIATIVE.—The
18 Urban Area Security Initiative of the Department,
19 or any successor to such grant program.

20 “(3) LAW ENFORCEMENT TERRORISM PREVEN-
21 TION PROGRAM.—The Law Enforcement Terrorism
22 Prevention Program of the Department, or any suc-
23 cessor to such grant program.

1 “(4) CITIZEN CORPS PROGRAM.—The Citizen
2 Corps Program of the Department, or any successor
3 to such grant program.

4 “(b) EXCLUDED PROGRAMS.—This title does not
5 apply to or otherwise affect the following Federal grant
6 programs or any grant under such a program:

7 “(1) NONDEPARTMENT PROGRAMS.—Any Fed-
8 eral grant program that is not administered by the
9 Department.

10 “(2) FIRE GRANT PROGRAMS.—The fire grant
11 programs authorized by sections 33 and 34 of the
12 Federal Fire Prevention and Control Act of 1974
13 (15 U.S.C. 2229, 2229a).

14 “(3) EMERGENCY MANAGEMENT PLANNING
15 AND ASSISTANCE ACCOUNT GRANTS.—The Emer-
16 gency Management Performance Grant program and
17 the Urban Search and Rescue Grants program au-
18 thorized by title VI of the Robert T. Stafford Dis-
19 aster Relief and Emergency Assistance Act (42
20 U.S.C. 5195 et seq.); the Departments of Veterans
21 Affairs and Housing and Urban Development, and
22 Independent Agencies Appropriations Act, 2000
23 (113 Stat. 1047 et seq.); and the Earthquake Haz-
24 ards Reduction Act of 1977 (42 U.S.C. 7701 et
25 seq.).

1 **“SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPOND-**
2 **ERS.**

3 “(a) ESTABLISHMENT OF ESSENTIAL CAPABILI-
4 TIES.—

5 “(1) IN GENERAL.—For purposes of covered
6 grants, the Secretary shall establish clearly defined
7 essential capabilities for State and local government
8 preparedness for terrorism, in consultation with—

9 “(A) the Task Force on Essential Capabili-
10 ties for First Responders established under sec-
11 tion 1804;

12 “(B) the Under Secretaries for Emergency
13 Preparedness and Response, Border and Trans-
14 portation Security, Information Analysis and
15 Infrastructure Protection, and Science and
16 Technology, and the Director of the Office for
17 Domestic Preparedness;

18 “(C) the Secretary of Health and Human
19 Services;

20 “(D) other appropriate Federal agencies;

21 “(E) State and local first responder agen-
22 cies and officials; and

23 “(F) consensus-based standard making or-
24 ganizations responsible for setting standards
25 relevant to the first responder community.

26 “(2) DEADLINES.—The Secretary shall—

1 “(A) establish essential capabilities under
2 paragraph (1) within 30 days after receipt of
3 the report under section 1804(b); and

4 “(B) regularly update such essential capa-
5 bilities as necessary, but not less than every 3
6 years.

7 “(3) PROVISION OF ESSENTIAL CAPABILI-
8 TIES.—The Secretary shall ensure that a detailed
9 description of the essential capabilities established
10 under paragraph (1) is provided promptly to the
11 States and to the Congress. The States shall make
12 the essential capabilities available as necessary and
13 appropriate to local governments within their juris-
14 dictions.

15 “(b) OBJECTIVES.—The Secretary shall ensure that
16 essential capabilities established under subsection (a)(1)
17 meet the following objectives:

18 “(1) SPECIFICITY.—The determination of es-
19 sential capabilities specifically shall describe the
20 training, planning, personnel, and equipment that
21 different types of communities in the Nation should
22 possess, or to which they should have access, in
23 order to meet the Department’s goals for terrorism
24 preparedness based upon—

1 “(A) the most current risk assessment
2 available by the Directorate for Information
3 Analysis and Infrastructure Protection of the
4 threats of terrorism against the United States;

5 “(B) the types of threats, vulnerabilities,
6 geography, size, and other factors that the Sec-
7 retary has determined to be applicable to each
8 different type of community; and

9 “(C) the principles of regional coordination
10 and mutual aid among State and local govern-
11 ments.

12 “(2) FLEXIBILITY.—The establishment of es-
13 sential capabilities shall be sufficiently flexible to
14 allow State and local government officials to set pri-
15 orities based on particular needs, while reaching na-
16 tionally determined terrorism preparedness levels
17 within a specified time period.

18 “(3) MEASURABILITY.—The establishment of
19 essential capabilities shall be designed to enable
20 measurement of progress towards specific terrorism
21 preparedness goals.

22 “(4) COMPREHENSIVENESS.—The determina-
23 tion of essential capabilities for terrorism prepared-
24 ness shall be made within the context of a com-
25 prehensive State emergency management system.

1 “(c) FACTORS TO BE CONSIDERED.—

2 “(1) IN GENERAL.—In establishing essential ca-
3 pabilities under subsection (a)(1), the Secretary spe-
4 cifically shall consider the variables of threat, vulner-
5 ability, and consequences with respect to the Na-
6 tion’s population (including transient commuting
7 and tourist populations) and critical infrastructure.
8 Such consideration shall be based upon the most
9 current risk assessment available by the Directorate
10 for Information Analysis and Infrastructure Protec-
11 tion of the threats of terrorism against the United
12 States.

13 “(2) CRITICAL INFRASTRUCTURE SECTORS.—
14 The Secretary specifically shall consider threats of
15 terrorism against the following critical infrastructure
16 sectors in all areas of the Nation, urban and rural:

17 “(A) Agriculture.

18 “(B) Banking and finance.

19 “(C) Chemical industries.

20 “(D) The defense industrial base.

21 “(E) Emergency services.

22 “(F) Energy.

23 “(G) Food.

24 “(H) Government.

25 “(I) Postal and shipping.

1 “(J) Public health.

2 “(K) Information and telecommunications
3 networks.

4 “(L) Transportation.

5 “(M) Water.

6 The order in which the critical infrastructure sectors
7 are listed in this paragraph shall not be construed
8 as an order of priority for consideration of the im-
9 portance of such sectors.

10 “(3) TYPES OF THREAT.—The Secretary spe-
11 cifically shall consider the following types of threat
12 to the critical infrastructure sectors described in
13 paragraph (2), and to populations in all areas of the
14 Nation, urban and rural:

15 “(A) Biological threats.

16 “(B) Nuclear threats.

17 “(C) Radiological threats.

18 “(D) Incendiary threats.

19 “(E) Chemical threats.

20 “(F) Explosives.

21 “(G) Suicide bombers.

22 “(H) Cyber threats.

23 “(I) Any other threats based on proximity
24 to specific past acts of terrorism or the known
25 activity of any terrorist group.

1 The order in which the types of threat are listed in
2 this paragraph shall not be construed as an order of
3 priority for consideration of the importance of such
4 threats.

5 “(4) CONSIDERATION OF ADDITIONAL FAC-
6 TORS.—In establishing essential capabilities under
7 subsection (a)(1), the Secretary shall take into ac-
8 count any other specific threat to a population (in-
9 cluding a transient commuting or tourist population)
10 or critical infrastructure sector that the Secretary
11 has determined to exist.

12 **“SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES FOR**
13 **FIRST RESPONDERS.**

14 “(a) ESTABLISHMENT.—To assist the Secretary in
15 establishing essential capabilities under section
16 1803(a)(1), the Secretary shall establish an advisory body
17 pursuant to section 871(a) not later than 60 days after
18 the date of the enactment of this section, which shall be
19 known as the Task Force on Essential Capabilities for
20 First Responders.

21 “(b) REPORT.—

22 “(1) IN GENERAL.—The Task Force shall sub-
23 mit to the Secretary, not later than 9 months after
24 its establishment by the Secretary under subsection
25 (a) and every 3 years thereafter, a report on its rec-

1 ommendations for essential capabilities for prepared-
2 ness for terrorism.

3 “(2) CONTENTS.—The report shall—

4 “(A) include a priority ranking of essential
5 capabilities in order to provide guidance to the
6 Secretary and to the Congress on determining
7 the appropriate allocation of, and funding levels
8 for, first responder needs;

9 “(B) set forth a methodology by which any
10 State or local government will be able to deter-
11 mine the extent to which it possesses or has ac-
12 cess to the essential capabilities that States and
13 local governments having similar risks should
14 obtain;

15 “(C) describe the availability of national
16 voluntary consensus standards, and whether
17 there is a need for new national voluntary con-
18 sensus standards, with respect to first re-
19 sponder training and equipment;

20 “(D) include such additional matters as
21 the Secretary may specify in order to further
22 the terrorism preparedness capabilities of first
23 responders; and

24 “(E) include such revisions to the contents
25 of past reports as are necessary to take into ac-

1 count changes in the most current risk assess-
2 ment available by the Directorate for Informa-
3 tion Analysis and Infrastructure Protection or
4 other relevant information as determined by the
5 Secretary.

6 “(3) CONSISTENCY WITH FEDERAL WORKING
7 GROUP.—The Task Force shall ensure that its rec-
8 ommendations for essential capabilities are, to the
9 extent feasible, consistent with any preparedness
10 goals or recommendations of the Federal working
11 group established under section 319F(a) of the Pub-
12 lic Health Service Act (42 U.S.C. 247d–6(a)).

13 “(4) COMPREHENSIVENESS.—The Task Force
14 shall ensure that its recommendations regarding es-
15 sential capabilities for terrorism preparedness are
16 made within the context of a comprehensive State
17 emergency management system.

18 “(5) PRIOR MEASURES.—The Task Force shall
19 ensure that its recommendations regarding essential
20 capabilities for terrorism preparedness take into ac-
21 count any capabilities that State or local officials
22 have determined to be essential and have undertaken
23 since September 11, 2001, to prevent or prepare for
24 terrorist attacks.

25 “(c) MEMBERSHIP.—

1 “(1) IN GENERAL.—The Task Force shall con-
2 sist of 25 members appointed by the Secretary, and
3 shall, to the extent practicable, represent a geo-
4 graphic and substantive cross section of govern-
5 mental and nongovernmental first responder dis-
6 ciplines from the State and local levels, including as
7 appropriate—

8 “(A) members selected from the emergency
9 response field, including fire service and law en-
10 forcement, hazardous materials response, emer-
11 gency medical services, and emergency manage-
12 ment personnel (including public works per-
13 sonnel routinely engaged in emergency re-
14 sponse);

15 “(B) health scientists, emergency and in-
16 patient medical providers, and public health
17 professionals, including experts in emergency
18 health care response to chemical, biological, ra-
19 diological, and nuclear terrorism, and experts in
20 providing mental health care during emergency
21 response operations;

22 “(C) experts from Federal, State, and local
23 governments, and the private sector, rep-
24 resenting standards-setting organizations, in-
25 cluding representation from the voluntary con-

1 sensus codes and standards development com-
2 munity, particularly those with expertise in first
3 responder disciplines; and

4 “(D) State and local officials with exper-
5 tise in terrorism preparedness, subject to the
6 condition that if any such official is an elected
7 official representing one of the two major polit-
8 ical parties, an equal number of elected officials
9 shall be selected from each such party.

10 “(2) COORDINATION WITH THE DEPARTMENT
11 OF HEALTH AND HEALTH SERVICES.—In the selec-
12 tion of members of the Task Force who are health
13 professionals, including emergency medical profes-
14 sionals, the Secretary shall coordinate the selection
15 with the Secretary of Health and Human Services.

16 “(3) EX OFFICIO MEMBERS.—The Secretary
17 and the Secretary of Health and Human Services
18 shall each designate one or more officers of their re-
19 spective Departments to serve as ex officio members
20 of the Task Force. One of the ex officio members
21 from the Department of Homeland Security shall be
22 the designated officer of the Federal Government for
23 purposes of subsection (e) of section 10 of the Fed-
24 eral Advisory Committee Act (5 App. U.S.C.).

1 “(d) APPLICABILITY OF FEDERAL ADVISORY COM-
2 MITTEE ACT.—Notwithstanding section 871(a), the Fed-
3 eral Advisory Committee Act (5 U.S.C. App.), including
4 subsections (a), (b), and (d) of section 10 of such Act,
5 and section 552b(c) of title 5, United States Code, shall
6 apply to the Task Force.

7 **“SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.**

8 “(a) GRANT ELIGIBILITY.—Any State, region, or di-
9 rectly eligible tribe shall be eligible to apply for a covered
10 grant.

11 “(b) GRANT CRITERIA.—In awarding covered grants,
12 the Secretary shall assist States and local governments in
13 achieving, maintaining, and enhancing the essential capa-
14 bilities for first responders established by the Secretary
15 under section 1803.

16 “(c) STATE HOMELAND SECURITY PLANS.—

17 “(1) SUBMISSION OF PLANS.—The Secretary
18 shall require that any State applying to the Sec-
19 retary for a covered grant must submit to the Sec-
20 retary a 3-year State homeland security plan that—

21 “(A) demonstrates the extent to which the
22 State has achieved the essential capabilities
23 that apply to the State;

1 “(B) demonstrates the needs of the State
2 necessary to achieve, maintain, or enhance the
3 essential capabilities that apply to the State;

4 “(C) includes a prioritization of such needs
5 based on threat, vulnerability, and consequence
6 assessment factors applicable to the State;

7 “(D) describes how the State intends—

8 “(i) to address such needs at the city,
9 county, regional, tribal, State, and inter-
10 state level, including a precise description
11 of any regional structure the State has es-
12 tablished for the purpose of organizing
13 homeland security preparedness activities
14 funded by covered grants;

15 “(ii) to use all Federal, State, and
16 local resources available for the purpose of
17 addressing such needs; and

18 “(iii) to give particular emphasis to
19 regional planning and cooperation, includ-
20 ing the activities of multijurisdictional
21 planning agencies governed by local offi-
22 cials, both within its jurisdictional borders
23 and with neighboring States;

1 “(E) is developed in consultation with and
2 subject to appropriate comment by local govern-
3 ments within the State; and

4 “(F) with respect to the emergency pre-
5 paredness of first responders, addresses the
6 unique aspects of terrorism as part of a com-
7 prehensive State emergency management plan.

8 “(2) APPROVAL BY SECRETARY.—The Sec-
9 retary may not award any covered grant to a State
10 unless the Secretary has approved the applicable
11 State homeland security plan.

12 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-
13 retary shall ensure that each covered grant is used to sup-
14 plement and support, in a consistent and coordinated
15 manner, the applicable State homeland security plan or
16 plans.

17 “(e) APPLICATION FOR GRANT.—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, any State, region, or di-
20 rectly eligible tribe may apply for a covered grant by
21 submitting to the Secretary an application at such
22 time, in such manner, and containing such informa-
23 tion as is required under this subsection, or as the
24 Secretary may reasonably require.

1 “(2) DEADLINES FOR APPLICATIONS AND
2 AWARDS.—All applications for covered grants must
3 be submitted at such time as the Secretary may rea-
4 sonably require for the fiscal year for which they are
5 submitted. The Secretary shall award covered grants
6 pursuant to all approved applications for such fiscal
7 year as soon as practicable, but not later than
8 March 1 of such year.

9 “(3) AVAILABILITY OF FUNDS.—All funds
10 awarded by the Secretary under covered grants in a
11 fiscal year shall be available for obligation through
12 the end of the subsequent fiscal year.

13 “(4) MINIMUM CONTENTS OF APPLICATION.—
14 The Secretary shall require that each applicant in-
15 clude in its application, at a minimum—

16 “(A) the purpose for which the applicant
17 seeks covered grant funds and the reasons why
18 the applicant needs the covered grant to meet
19 the essential capabilities for terrorism prepared-
20 ness within the State, region, or directly eligible
21 tribe to which the application pertains;

22 “(B) a description of how, by reference to
23 the applicable State homeland security plan or
24 plans under subsection (c), the allocation of
25 grant funding proposed in the application, in-

1 including, where applicable, the amount not
2 passed through under section 1806(g)(1), would
3 assist in fulfilling the essential capabilities spec-
4 ified in such plan or plans;

5 “(C) a statement of whether a mutual aid
6 agreement applies to the use of all or any por-
7 tion of the covered grant funds;

8 “(D) if the applicant is a State, a descrip-
9 tion of how the State plans to allocate the cov-
10 ered grant funds to regions, local governments,
11 and Indian tribes;

12 “(E) if the applicant is a region—

13 “(i) a precise geographical description
14 of the region and a specification of all par-
15 ticipating and nonparticipating local gov-
16 ernments within the geographical area
17 comprising that region;

18 “(ii) a specification of what govern-
19 mental entity within the region will admin-
20 ister the expenditure of funds under the
21 covered grant; and

22 “(iii) a designation of a specific indi-
23 vidual to serve as regional liaison;

1 “(F) a capital budget showing how the ap-
2 plicant intends to allocate and expend the cov-
3 ered grant funds;

4 “(G) if the applicant is a directly eligible
5 tribe, a designation of a specific individual to
6 serve as the tribal liaison; and

7 “(H) a statement of how the applicant in-
8 tends to meet the matching requirement, if any,
9 that applies under section 1806(g)(2).

10 “(5) REGIONAL APPLICATIONS.—

11 “(A) RELATIONSHIP TO STATE APPLICA-
12 TIONS.—A regional application—

13 “(i) shall be coordinated with an ap-
14 plication submitted by the State or States
15 of which such region is a part;

16 “(ii) shall supplement and avoid dupli-
17 cation with such State application; and

18 “(iii) shall address the unique regional
19 aspects of such region’s terrorism pre-
20 paredness needs beyond those provided for
21 in the application of such State or States.

22 “(B) STATE REVIEW AND SUBMISSION.—
23 To ensure the consistency required under sub-
24 section (d) and the coordination required under
25 subparagraph (A) of this paragraph, an appli-

1 cant that is a region must submit its applica-
2 tion to each State of which any part is included
3 in the region for review and concurrence prior
4 to the submission of such application to the
5 Secretary. The regional application shall be
6 transmitted to the Secretary through each such
7 State within 30 days of its receipt, unless the
8 Governor of such a State notifies the Secretary,
9 in writing, that such regional application is in-
10 consistent with the State’s homeland security
11 plan and provides an explanation of the reasons
12 therefor.

13 “(C) DISTRIBUTION OF REGIONAL
14 AWARDS.—If the Secretary approves a regional
15 application, then the Secretary shall distribute
16 a regional award to the State or States submit-
17 ting the applicable regional application under
18 subparagraph (B), and each such State shall,
19 not later than the end of the 45-day period be-
20 ginning on the date after receiving a regional
21 award, pass through to the region all covered
22 grant funds or resources purchased with such
23 funds, except those funds necessary for the
24 State to carry out its responsibilities with re-
25 spect to such regional application; *Provided*

1 That, in no such case shall the State or States
2 pass through to the region less than 80 percent
3 of the regional award.

4 “(D) CERTIFICATIONS REGARDING DIS-
5 TRIBUTION OF GRANT FUNDS TO REGIONS.—
6 Any State that receives a regional award under
7 subparagraph (C) shall certify to the Secretary,
8 by not later than 30 days after the expiration
9 of the period described in subparagraph (C)
10 with respect to the grant, that the State has
11 made available to the region the required funds
12 and resources in accordance with subparagraph
13 (C).

14 “(E) DIRECT PAYMENTS TO REGIONS.—If
15 any State fails to pass through a regional
16 award to a region as required by subparagraph
17 (C) within 45 days after receiving such award
18 and does not request or receive an extension of
19 such period under section 1806(h)(2), the re-
20 gion may petition the Secretary to receive di-
21 rectly the portion of the regional award that is
22 required to be passed through to such region
23 under subparagraph (C).

1 “(F) REGIONAL LIAISONS.—A regional li-
2 aision designated under paragraph (4)(E)(iii)
3 shall—

4 “(i) coordinate with Federal, State,
5 local, regional, and private officials within
6 the region concerning terrorism prepared-
7 ness;

8 “(ii) develop a process for receiving
9 input from Federal, State, local, regional,
10 and private sector officials within the re-
11 gion to assist in the development of the re-
12 gional application and to improve the re-
13 gion’s access to covered grants; and

14 “(iii) administer, in consultation with
15 State, local, regional, and private officials
16 within the region, covered grants awarded
17 to the region.

18 “(6) TRIBAL APPLICATIONS.—

19 “(A) SUBMISSION TO THE STATE OR
20 STATES.—To ensure the consistency required
21 under subsection (d), an applicant that is a di-
22 rectly eligible tribe must submit its application
23 to each State within the boundaries of which
24 any part of such tribe is located for direct sub-

1 mission to the Department along with the appli-
2 cation of such State or States.

3 “(B) OPPORTUNITY FOR STATE COM-
4 MENT.—Before awarding any covered grant to
5 a directly eligible tribe, the Secretary shall pro-
6 vide an opportunity to each State within the
7 boundaries of which any part of such tribe is lo-
8 cated to comment to the Secretary on the con-
9 sistency of the tribe’s application with the
10 State’s homeland security plan. Any such com-
11 ments shall be submitted to the Secretary con-
12 currently with the submission of the State and
13 tribal applications.

14 “(C) FINAL AUTHORITY.—The Secretary
15 shall have final authority to determine the con-
16 sistency of any application of a directly eligible
17 tribe with the applicable State homeland secu-
18 rity plan or plans, and to approve any applica-
19 tion of such tribe. The Secretary shall notify
20 each State within the boundaries of which any
21 part of such tribe is located of the approval of
22 an application by such tribe.

23 “(D) TRIBAL LIAISON.—A tribal liaison
24 designated under paragraph (4)(G) shall—

1 “(i) coordinate with Federal, State,
2 local, regional, and private officials con-
3 cerning terrorism preparedness;

4 “(ii) develop a process for receiving
5 input from Federal, State, local, regional,
6 and private sector officials to assist in the
7 development of the application of such
8 tribe and to improve the tribe’s access to
9 covered grants; and

10 “(iii) administer, in consultation with
11 State, local, regional, and private officials,
12 covered grants awarded to such tribe.

13 “(E) LIMITATION ON THE NUMBER OF DI-
14 RECT GRANTS.—The Secretary may make cov-
15 ered grants directly to not more than 20 di-
16 rectly eligible tribes per fiscal year.

17 “(F) TRIBES NOT RECEIVING DIRECT
18 GRANTS.—An Indian tribe that does not receive
19 a grant directly under this section is eligible to
20 receive funds under a covered grant from the
21 State or States within the boundaries of which
22 any part of such tribe is located, consistent with
23 the homeland security plan of the State as de-
24 scribed in subsection (c). If a State fails to
25 comply with section 1806(g)(1), the tribe may

1 request payment under section 1806(h)(3) in
2 the same manner as a local government.

3 “(7) EQUIPMENT STANDARDS.—If an applicant
4 for a covered grant proposes to upgrade or purchase,
5 with assistance provided under the grant, new equip-
6 ment or systems that do not meet or exceed any ap-
7 plicable national voluntary consensus standards es-
8 tablished by the Secretary under section 1807(a),
9 the applicant shall include in the application an ex-
10 planation of why such equipment or systems will
11 serve the needs of the applicant better than equip-
12 ment or systems that meet or exceed such standards.

13 “(f) FIRST RESPONDER GRANTS BOARD.—

14 “(1) ESTABLISHMENT OF BOARD.—The Sec-
15 retary shall establish a First Responder Grants
16 Board, consisting of—

17 “(A) the Secretary;

18 “(B) the Under Secretary for Emergency
19 Preparedness and Response;

20 “(C) the Under Secretary for Border and
21 Transportation Security;

22 “(D) the Under Secretary for Information
23 Analysis and Infrastructure Protection;

24 “(E) the Under Secretary for Science and
25 Technology; and

1 “(F) the Director of the Office for Domes-
2 tic Preparedness.

3 “(2) CHAIRMAN.—

4 “(A) IN GENERAL.—The Secretary shall be
5 the Chairman of the Board.

6 “(B) EXERCISE OF AUTHORITIES BY DEP-
7 UTY SECRETARY.—The Deputy Secretary of
8 Homeland Security may exercise the authorities
9 of the Chairman, if the Secretary so directs.

10 “(3) RANKING OF GRANT APPLICATIONS.—

11 “(A) PRIORITIZATION OF GRANTS.—The
12 Board—

13 “(i) shall evaluate and annually
14 prioritize all pending applications for cov-
15 ered grants based upon the degree to
16 which they would, by achieving, maintain-
17 ing, or enhancing the essential capabilities
18 of the applicants on a nationwide basis,
19 lessen the threat to, vulnerability of, and
20 consequences for persons and critical infra-
21 structure; and

22 “(ii) in evaluating the threat to per-
23 sons and critical infrastructure for pur-
24 poses of prioritizing covered grants, shall
25 give greater weight to threats of terrorism

1 based on their specificity and credibility,
2 including any pattern of repetition.

3 “(B) MINIMUM AMOUNTS.—After evalu-
4 ating and prioritizing grant applications under
5 subparagraph (A), the Board shall ensure that,
6 for each fiscal year—

7 “(i) each of the States, other than the
8 Virgin Islands, American Samoa, Guam,
9 and the Northern Mariana Islands, that
10 has an approved State homeland security
11 plan receives no less than 0.25 percent of
12 the funds available for covered grants for
13 that fiscal year for purposes of imple-
14 menting its homeland security plan in ac-
15 cordance with the prioritization of needs
16 under subsection (c)(1)(C);

17 “(ii) each of the States, other than
18 the Virgin Islands, American Samoa,
19 Guam, and the Northern Mariana Islands,
20 that has an approved State homeland secu-
21 rity plan and that meets one or both of the
22 additional high-risk qualifying criteria
23 under subparagraph (C) receives no less
24 than 0.45 percent of the funds available
25 for covered grants for that fiscal year for

1 purposes of implementing its homeland se-
2 curity plan in accordance with the
3 prioritization of needs under subsection
4 (c)(1)(C);

5 “(iii) the Virgin Islands, American
6 Samoa, Guam, and the Northern Mariana
7 Islands each receives no less than 0.08 per-
8 cent of the funds available for covered
9 grants for that fiscal year for purposes of
10 implementing its approved State homeland
11 security plan in accordance with the
12 prioritization of needs under subsection
13 (c)(1)(C); and

14 “(iv) directly eligible tribes collectively
15 receive no less than 0.08 percent of the
16 funds available for covered grants for such
17 fiscal year for purposes of addressing the
18 needs identified in the applications of such
19 tribes, consistent with the homeland secu-
20 rity plan of each State within the bound-
21 aries of which any part of any such tribe
22 is located, except that this clause shall not
23 apply with respect to funds available for a
24 fiscal year if the Secretary receives less
25 than 5 applications for such fiscal year

1 from such tribes under subsection
2 (e)(6)(A) or does not approve at least one
3 such application.

4 “(C) ADDITIONAL HIGH-RISK QUALIFYING
5 CRITERIA.—For purposes of subparagraph
6 (B)(ii), additional high-risk qualifying criteria
7 consist of—

8 “(i) having a significant international
9 land border; or

10 “(ii) adjoining a body of water within
11 North America through which an inter-
12 national boundary line extends.

13 “(4) EFFECT OF REGIONAL AWARDS ON STATE
14 MINIMUM.—Any regional award, or portion thereof,
15 provided to a State under subsection (e)(5)(C) shall
16 not be considered in calculating the minimum State
17 award under paragraph (3)(B) of this subsection.

18 “(5) FUNCTIONS OF UNDER SECRETARIES.—
19 The Under Secretaries referred to in paragraph (1)
20 shall seek to ensure that the relevant expertise and
21 input of the staff of their directorates are available
22 to and considered by the Board.

1 **“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY RE-**
2 **QUIREMENTS.**

3 “(a) IN GENERAL.—A covered grant may be used
4 for—

5 “(1) purchasing or upgrading equipment, in-
6 cluding computer software, to enhance terrorism
7 preparedness and response;

8 “(2) exercises to strengthen terrorism prepared-
9 ness and response;

10 “(3) training for prevention (including detec-
11 tion) of, preparedness for, or response to attacks in-
12 volving weapons of mass destruction, including train-
13 ing in the use of equipment and computer software;

14 “(4) developing or updating response plans;

15 “(5) establishing or enhancing mechanisms for
16 sharing terrorism threat information;

17 “(6) systems architecture and engineering, pro-
18 gram planning and management, strategy formula-
19 tion and strategic planning, life-cycle systems de-
20 sign, product and technology evaluation, and proto-
21 type development for terrorism preparedness and re-
22 sponse purposes;

23 “(7) additional personnel costs resulting from—

24 “(A) elevations in the threat alert level of
25 the Homeland Security Advisory System by the
26 Secretary, or a similar elevation in threat alert

1 level issued by a State, region, or local govern-
2 ment with the approval of the Secretary;

3 “(B) travel to and participation in exer-
4 cises and training in the use of equipment and
5 on prevention activities; and

6 “(C) the temporary replacement of per-
7 sonnel during any period of travel to and par-
8 ticipation in exercises and training in the use of
9 equipment and on prevention activities;

10 “(8) the costs of equipment (including software)
11 required to receive, transmit, handle, and store clas-
12 sified information;

13 “(9) protecting critical infrastructure against
14 potential attack by the addition of barriers, fences,
15 gates, and other such devices, except that the cost
16 of such measures may not exceed the greater of—

17 “(A) \$1,000,000 per project; or

18 “(B) such greater amount as may be ap-
19 proved by the Secretary, which may not exceed
20 10 percent of the total amount of the covered
21 grant;

22 “(10) the costs of commercially available inter-
23 operable communications equipment (which, where
24 applicable, is based on national, voluntary consensus
25 standards) that the Secretary, in consultation with

1 the Chairman of the Federal Communications Com-
2 mission, deems best suited to facilitate interoper-
3 ability, coordination, and integration between and
4 among emergency communications systems, and that
5 complies with prevailing grant guidance of the De-
6 partment for interoperable communications;

7 “(11) educational curricula development for
8 first responders to ensure that they are prepared for
9 terrorist attacks;

10 “(12) training and exercises to assist public ele-
11 mentary and secondary schools in developing and
12 implementing programs to instruct students regard-
13 ing age-appropriate skills to prepare for and respond
14 to an act of terrorism;

15 “(13) paying of administrative expenses directly
16 related to administration of the grant, except that
17 such expenses may not exceed 3 percent of the
18 amount of the grant; and

19 “(14) other appropriate activities as determined
20 by the Secretary.

21 “(b) PROHIBITED USES.—Funds provided as a cov-
22 ered grant may not be used—

23 “(1) to supplant State or local funds;

24 “(2) to construct buildings or other physical fa-
25 cilities;

1 “(3) to acquire land; or

2 “(4) for any State or local government cost
3 sharing contribution.

4 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
5 section shall be construed to preclude State and local gov-
6 ernments from using covered grant funds in a manner
7 that also enhances first responder preparedness for emer-
8 gencies and disasters unrelated to acts of terrorism, if
9 such use assists such governments in achieving essential
10 capabilities for terrorism preparedness established by the
11 Secretary under section 1803.

12 “(d) REIMBURSEMENT OF COSTS.—In addition to
13 the activities described in subsection (a), a covered grant
14 may be used to provide a reasonable stipend to paid-on-
15 call or volunteer first responders who are not otherwise
16 compensated for travel to or participation in training cov-
17 ered by this section. Any such reimbursement shall not
18 be considered compensation for purposes of rendering
19 such a first responder an employee under the Fair Labor
20 Standards Act of 1938 (29 U.S.C. 201 et seq.).

21 “(e) ASSISTANCE REQUIREMENT.—The Secretary
22 may not request that equipment paid for, wholly or in
23 part, with funds provided as a covered grant be made
24 available for responding to emergencies in surrounding
25 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 DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—
23 Any State that receives a covered grant shall certify
24 to the Secretary, by not later than 30 days after the
25

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 SECUR-
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 SECUR-
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

1 must simultaneously submit its report to each State
2 of which any part is included in the region. Each re-
3 cipient of a covered grant that is a directly eligible
4 tribe must simultaneously submit its report to each
5 State within the boundaries of which any part of
6 such tribe is located. Each report must include the
7 following:

8 “(A) The amount, ultimate recipients, and
9 dates of receipt of all funds received under the
10 grant during the previous fiscal year.

11 “(B) The amount and the dates of dis-
12 bursements of all such funds expended in com-
13 pliance with paragraph (1) or pursuant to mu-
14 tual aid agreements or other sharing arrange-
15 ments that apply within the State, region, or di-
16 rectly eligible tribe, as applicable, during the
17 previous fiscal year.

18 “(C) How the funds were utilized by each
19 ultimate recipient or beneficiary during the pre-
20 ceeding fiscal year.

21 “(D) The extent to which essential capa-
22 bilities identified in the applicable State home-
23 land security plan or plans were achieved, main-
24 tained, 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

1 (g)(1), reducing grant payments to the
2 grant recipient from the portion of grant
3 funds that is not required to be passed
4 through under subsection (g)(1), except
5 that the total amount of such reduction
6 may not exceed 20 percent of the total
7 amount of the grant.

8 “(2) EXTENSION OF PERIOD.—The Governor of
9 a State may request in writing that the Secretary
10 extend the 45-day period under section
11 1805(e)(5)(E) or paragraph (1) for an additional
12 15-day period. The Secretary may approve such a
13 request, and may extend such period for additional
14 15-day periods, if the Secretary determines that the
15 resulting delay in providing grant funding to the
16 local government entities that will receive funding
17 under the grant will not have a significant detri-
18 mental impact on such entities’ terrorism prepared-
19 ness efforts.

20 “(3) PROVISION OF NON-LOCAL SHARE TO
21 LOCAL GOVERNMENT.—

22 “(A) IN GENERAL.—The Secretary may
23 upon request by a local government pay to the
24 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

1 were required to be passed through under
2 subsection (g)(1); and

3 “(iv) it did not receive the portion of
4 the overall grant that was earmarked or
5 designated for its use or benefit.

6 “(C) EFFECT OF PAYMENT.—Payment of
7 grant funds to a local government under this
8 paragraph—

9 “(i) shall not affect any payment to
10 another local government under this para-
11 graph; and

12 “(ii) shall not prejudice consideration
13 of a request for payment under this para-
14 graph that is submitted by another local
15 government.

16 “(D) DEADLINE FOR ACTION BY SEC-
17 RETARY.—The Secretary shall approve or dis-
18 approve each request for payment under this
19 paragraph by not later than 15 days after the
20 date the request is received by the Department.

21 “(i) REPORTS TO CONGRESS.—The Secretary shall
22 submit an annual report to the Congress by December 31
23 of each year—

24 “(1) describing in detail the amount of Federal
25 funds provided as covered grants that were directed

1 to each State, region, and directly eligible tribe in
2 the preceding fiscal year;

3 “(2) containing information on the use of such
4 grant funds by grantees; and

5 “(3) describing—

6 “(A) the Nation’s progress in achieving,
7 maintaining, and enhancing the essential capa-
8 bilities established under section 1803(a) as a
9 result of the expenditure of covered grant funds
10 during the preceding fiscal year; and

11 “(B) an estimate of the amount of expend-
12 itures required to attain across the United
13 States the essential capabilities established
14 under section 1803(a).

15 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER**
16 **EQUIPMENT AND TRAINING.**

17 “(a) EQUIPMENT STANDARDS.—

18 “(1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Under Secretaries for Emergency Pre-
20 paredness and Response and Science and Tech-
21 nology and the Director of the Office for Domestic
22 Preparedness, shall, not later than 6 months after
23 the date of enactment of this section, support the
24 development of, promulgate, and update as nec-
25 essary national voluntary consensus standards for

1 the performance, use, and validation of first re-
2 sponder equipment for purposes of section
3 1805(e)(7). Such standards—

4 “(A) shall be, to the maximum extent prac-
5 ticable, consistent with any existing voluntary
6 consensus standards;

7 “(B) shall take into account, as appro-
8 priate, new types of terrorism threats that may
9 not have been contemplated when such existing
10 standards were developed;

11 “(C) shall be focused on maximizing inter-
12 operability, interchangeability, durability, flexi-
13 bility, efficiency, efficacy, portability, sustain-
14 ability, and safety; and

15 “(D) shall cover all appropriate uses of the
16 equipment.

17 “(2) REQUIRED CATEGORIES.—In carrying out
18 paragraph (1), the Secretary shall specifically con-
19 sider the following categories of first responder
20 equipment:

21 “(A) Thermal imaging equipment.

22 “(B) Radiation detection and analysis
23 equipment.

24 “(C) Biological detection and analysis
25 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

1 shall coordinate activities under this section with the Sec-
2 retary of Health and Human Services.”.

3 (b) DEFINITION OF EMERGENCY RESPONSE PRO-
4 VIDERS.—Paragraph (6) of section 2 of the Homeland Se-
5 curity Act of 2002 (Public Law 107–296; 6 U.S.C.
6 101(6)) is amended by striking “includes” and all that
7 follows and inserting “includes Federal, State, and local
8 governmental and nongovernmental emergency public
9 safety, law enforcement, fire, emergency response, emer-
10 gency medical (including hospital emergency facilities),
11 and related personnel, organizations, agencies, and au-
12 thorities.”.

13 (c) TEMPORARY LIMITATIONS ON APPLICATION.—

14 (1) 1-YEAR DELAY IN APPLICATION.—The fol-
15 lowing provisions of title XVIII of the Homeland Se-
16 curity Act of 2002, as amended by subsection (a),
17 shall not apply during the 1-year period beginning
18 on the date of the enactment of this Act:

19 (A) Subsections (b), (c), and (e)(4)(A) and
20 (B) of section 1805.

21 (B) In section 1805(f)(3)(A), the phrase “,
22 by enhancing the essential capabilities of the
23 applicants,”.

24 (2) 2-YEAR DELAY IN APPLICATION.—The fol-
25 lowing provisions of title XVIII of the Homeland Se-

1 security Act of 2002, as amended by subsection (a),
2 shall not apply during the 2-year period beginning
3 on the date of the enactment of this Act:

4 (A) Subparagraphs (D) and (E) of section
5 1806(g)(5).

6 (B) Section 1806(i)(3).

7 **SEC. 5004. MODIFICATION OF HOMELAND SECURITY ADVI-**
8 **SORY SYSTEM.**

9 (a) IN GENERAL.—Subtitle A of title II of the Home-
10 land Security Act of 2002 (Public Law 107–296; 6 U.S.C.
11 121 et seq.) is amended by adding at the end the fol-
12 lowing:

13 **“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

14 “(a) IN GENERAL.—The Secretary shall revise the
15 Homeland Security Advisory System referred to in section
16 201(d)(7) to require that any designation of a threat level
17 or other warning shall be accompanied by a designation
18 of the geographic regions or economic sectors to which the
19 designation applies.

20 “(b) REPORTS.—The Secretary shall report to the
21 Congress annually by not later than December 31 each
22 year regarding the geographic region-specific warnings
23 and economic sector-specific warnings issued during the
24 preceding fiscal year under the Homeland Security Advi-
25 sory System referred to in section 201(d)(7), and the

1 bases for such warnings. The report shall be submitted
2 in unclassified form and may, as necessary, include a clas-
3 sified annex.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in section 1(b) of the Homeland Security Act of 2002 (6
6 U.S.C. 101 et seq.) is amended by inserting after the item
7 relating to section 202 the following:

“203. Homeland Security Advisory System.”.

8 **SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.**

9 Section 102(f) of the Homeland Security Act of 2002
10 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by
11 striking “and” after the semicolon at the end of paragraph
12 (6), by striking the period at the end of paragraph (7)
13 and inserting “; and”, and by adding at the end the fol-
14 lowing:

15 “(8) coordinating industry efforts, with respect
16 to functions of the Department of Homeland Secu-
17 rity, to identify private sector resources and capabili-
18 ties that could be effective in supplementing Federal,
19 State, and local government agency efforts to pre-
20 vent or respond to a terrorist attack.”.

21 **SEC. 5006. SUPERSEDED PROVISION.**

22 This subtitle supersedes section 1014 of Public Law
23 107–56.

1 **SEC. 5007. SENSE OF CONGRESS REGARDING INTEROPER-**
2 **ABLE COMMUNICATIONS.**

3 (a) FINDING.—The Congress finds that—

4 (1) many first responders working in the same
5 jurisdiction or in different jurisdictions cannot effec-
6 tively and efficiently communicate with one another;
7 and

8 (2) their inability to do so threatens the public’s
9 safety and may result in unnecessary loss of lives
10 and property.

11 (b) SENSE OF CONGRESS.—It is the sense of the
12 Congress that interoperable emergency communications
13 systems and radios should continue to be deployed as soon
14 as practicable for use by the first responder community,
15 and that upgraded and new digital communications sys-
16 tems and new digital radios must meet prevailing national,
17 voluntary consensus standards for interoperability.

18 **SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN**
19 **CORPS COUNCILS.**

20 (a) FINDING.—The Congress finds that Citizen
21 Corps councils help to enhance local citizen participation
22 in terrorism preparedness by coordinating multiple Citizen
23 Corps programs, developing community action plans, as-
24 sessing possible threats, and identifying local resources.

25 (b) SENSE OF CONGRESS.—It is the sense of the
26 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.

1 (c) REPORT.—Not later than 9 months after the date
2 of the enactment of this Act, the Secretary shall submit
3 to the Congress a report regarding the conclusions of the
4 study.

5 **SEC. 5010. REQUIRED COORDINATION.**

6 The Secretary of Homeland Security shall ensure
7 that there is effective and ongoing coordination of Federal
8 efforts to prevent, prepare for, and respond to acts of ter-
9 rorism and other major disasters and emergencies among
10 the divisions of the Department of Homeland Security, in-
11 cluding the Directorate of Emergency Preparedness and
12 Response and the Office for State and Local Government
13 Coordination and Preparedness.

14 **Subtitle B—Government**
15 **Reorganization Authority**

16 **SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY**
17 **REORGANIZATION PLANS.**

18 (a) REORGANIZATION PLANS.—Section 903(a)(2) of
19 title 5, United States Code, is amended to read as follows:

20 “(2) the abolition of all or a part of the func-
21 tions of an agency;”.

22 (b) REPEAL OF LIMITATIONS.—Section 905 of title
23 5, United States Code, is amended to read as follows:

1 **“§ 905. Limitation on authority.**

2 “The authority to submit reorganization plans under
3 this chapter is limited to the following organizational
4 units:

5 “(1) The Office of the National Intelligence Di-
6 rector.

7 “(2) The Central Intelligence Agency.

8 “(3) The National Security Agency.

9 “(4) The Defense Intelligence Agency.

10 “(5) The National Geospatial-Intelligence Agen-
11 cy.

12 “(6) The National Reconnaissance Office.

13 “(7) Other offices within the Department of
14 Defense for the collection of specialized national in-
15 telligence through reconnaissance programs.

16 “(8) The intelligence elements of the Army, the
17 Navy, the Air Force, the Marine Corps, the Federal
18 Bureau of Investigation, and the Department of En-
19 ergy.

20 “(9) The Bureau of Intelligence and Research
21 of the Department of State.

22 “(10) The Office of Intelligence Analysis of the
23 Department of Treasury.

24 “(11) The elements of the Department of
25 Homeland Security concerned with the analysis of

1 intelligence information, including the Office of In-
2 telligence of the Coast Guard.

3 “(12) Such other elements of any other depart-
4 ment or agency as may be designated by the Presi-
5 dent, or designated jointly by the National Intel-
6 ligence Director and the head of the department or
7 agency concerned, as an element of the intelligence
8 community.”.

9 (c) REORGANIZATION PLANS.—903(a) of title 5,
10 United States Code, is amended—

11 (1) in paragraph (5), by striking “or” after the
12 semicolon;

13 (2) in paragraph (6), by striking the period and
14 inserting “; or”; and

15 (3) by inserting after paragraph (6) the fol-
16 lowing:

17 “(7) the creation of an agency.”.

18 (d) APPLICATION OF CHAPTER.—Chapter 9 of title
19 5, United States Code, is amended by adding at the end
20 the following:

21 **“§ 913. Application of chapter**

22 “This chapter shall apply to any reorganization plan
23 transmitted to Congress in accordance with section 903(b)
24 on or after the date of enactment of this section.”.

25 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) TABLE OF SECTIONS.—The table of sections
2 for chapter 9 of title 5, United States Code, is
3 amended by adding after the item relating to section
4 912 the following:

“913. Application of chapter.”.

5 (2) REFERENCES.—Chapter 9 of title 5, United
6 States Code, is amended—

7 (A) in section 908(1), by striking “on or
8 before December 31, 1984”; and (B) in section
9 910, by striking “Government Operations” each
10 place it appears and inserting “Government Re-
11 form”.

12 (3) DATE MODIFICATION.—Section 909 of title
13 5, United States Code, is amended in the first sen-
14 tence by striking “19” and inserting “20”.

15 **Subtitle C—Restructuring Relating**
16 **to the Department of Homeland**
17 **Security and Congressional**
18 **Oversight**

19 **SEC. 5025. RESPONSIBILITIES OF COUNTERNARCOTICS OF-**
20 **FICE.**

21 (a) AMENDMENT.—Section 878 of the Homeland Se-
22 curity Act of 2002 (6 U.S.C. 458) is amended to read
23 as follows:

1 **“SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCE-**
2 **MENT.**

3 “(a) OFFICE.—There shall be in the Department an
4 Office of Counternarcotics Enforcement, which shall be
5 headed by a Director appointed by the President, by and
6 with the advice and consent of the Senate.

7 “(b) ASSIGNMENT OF PERSONNEL.—(1) The Sec-
8 retary shall assign to the Office permanent staff and other
9 appropriate personnel detailed from other subdivisions of
10 the Department to carry out responsibilities under this
11 section.

12 “(2) The Secretary shall designate senior employees
13 from each appropriate subdivision of the Department that
14 has significant counternarcotics responsibilities to act as
15 a liaison between that subdivision and the Office of Coun-
16 ternarcotics Enforcement.

17 “(c) LIMITATION ON CONCURRENT EMPLOYMENT.—
18 Except as provided in subsection (d), the Director of the
19 Office of Counternarcotics Enforcement shall not be em-
20 ployed by, assigned to, or serve as the head of, any other
21 branch of the Federal Government, any State or local gov-
22 ernment, or any subdivision of the Department other than
23 the Office of Counternarcotics Enforcement.

24 “(d) ELIGIBILITY TO SERVE AS THE UNITED
25 STATES INTERDICTION COORDINATOR.—The Director of
26 the Office of Counternarcotics Enforcement may be ap-

1 pointed as the United States Interdiction Coordinator by
2 the Director of the Office of National Drug Control Policy,
3 and shall be the only person at the Department eligible
4 to be so appointed.

5 “(e) RESPONSIBILITIES.—The Secretary shall direct
6 the Director of the Office of Counternarcotics Enforce-
7 ment—

8 “(1) to coordinate policy and operations within
9 the Department, between the Department and other
10 Federal departments and agencies, and between the
11 Department and State and local agencies with re-
12 spect to stopping the entry of illegal drugs into the
13 United States;

14 “(2) to ensure the adequacy of resources within
15 the Department for stopping the entry of illegal
16 drugs into the United States;

17 “(3) to recommend the appropriate financial
18 and personnel resources necessary to help the De-
19 partment better fulfill its responsibility to stop the
20 entry of illegal drugs into the United States;

21 “(4) to track and sever connections between il-
22 legal drug trafficking and terrorism; and

23 “(5) to be a representative of the Department
24 on all task forces, committees, or other entities
25 whose purpose is to coordinate the counternarcotics

1 enforcement activities of the Department and other
2 Federal, state or local agencies.

3 “(f) REPORTS TO CONGRESS.—

4 “(1) ANNUAL BUDGET REVIEW.—The Director
5 of the Office of Counternarcotics Enforcement shall,
6 not later than 30 days after the submission by the
7 President to Congress of any request for expendi-
8 tures for the Department, submit to the Committees
9 on Appropriations and the authorizing committees of
10 jurisdiction of the House of Representatives and the
11 Senate a review and evaluation of such request. The
12 review and evaluation shall—

13 “(A) identify any request or subpart of any
14 request that affects or may affect the counter-
15 narcotics activities of the Department or any of
16 its subdivisions, or that affects the ability of the
17 Department or any subdivision of the Depart-
18 ment to meet its responsibility to stop the entry
19 of illegal drugs into the United States;

20 “(B) describe with particularity how such
21 requested funds would be or could be expended
22 in furtherance of counternarcotics activities;
23 and

1 “(C) compare such requests with requests
2 for expenditures and amounts appropriated by
3 Congress in the previous fiscal year.

4 “(2) EVALUATION OF COUNTERNARCOTICS AC-
5 TIVITIES.—The Director of the Office of Counter-
6 narcotics Enforcement shall, not later than Feb-
7 ruary 1 of each year, submit to the Committees on
8 Appropriations and the authorizing committees of
9 jurisdiction of the House of Representatives and the
10 Senate a review and evaluation of the counter-
11 narcotics activities of the Department for the pre-
12 vious fiscal year. The review and evaluation shall—

13 “(A) describe the counternarcotics activi-
14 ties of the Department and each subdivision of
15 the Department (whether individually or in co-
16 operation with other subdivisions of the Depart-
17 ment, or in cooperation with other branches of
18 the Federal Government or with State or local
19 agencies), including the methods, procedures,
20 and systems (including computer systems) for
21 collecting, analyzing, sharing, and dissemi-
22 nating information concerning narcotics activity
23 within the Department and between the De-
24 partment and other Federal, State, and local
25 agencies;

1 “(B) describe the results of those activi-
2 ties, using quantifiable data whenever possible;

3 “(C) state whether those activities were
4 sufficient to meet the responsibility of the De-
5 partment to stop the entry of illegal drugs into
6 the United States, including a description of the
7 performance measures of effectiveness that were
8 used in making that determination; and

9 “(D) recommend, where appropriate,
10 changes to those activities to improve the per-
11 formance of the Department in meeting its re-
12 sponsibility to stop the entry of illegal drugs
13 into the United States.

14 “(3) CLASSIFIED OR LAW ENFORCEMENT SEN-
15 SITIVE INFORMATION.—Any content of a review and
16 evaluation described in the reports required in this
17 subsection that involves information classified under
18 criteria established by an Executive order, or whose
19 public disclosure, as determined by the Secretary,
20 would be detrimental to the law enforcement or na-
21 tional security activities of the Department or any
22 other Federal, State, or local agency, shall be pre-
23 sented to Congress separately from the rest of the
24 review and evaluation.”.

1 (b) CONFORMING AMENDMENT.—Section 103(a) of
2 the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is
3 amended—

4 (1) by redesignating paragraphs (8) and (9) as
5 paragraphs (9) and (10), respectively; and

6 (2) by inserting after paragraph (7) the fol-
7 lowing new paragraph (8):

8 “(8) A Director of the Office of Counter-
9 narcotics Enforcement.”.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—Of the
11 amounts appropriated for the Department of Homeland
12 Security for Departmental management and operations
13 for fiscal year 2005, there is authorized up to \$6,000,000
14 to carry out section 878 of the Department of Homeland
15 Security Act of 2002 (as amended by this section).

16 **SEC. 5026. USE OF COUNTERNARCOTICS ENFORCEMENT**
17 **ACTIVITIES IN CERTAIN EMPLOYEE PER-**
18 **FORMANCE APPRAISALS.**

19 (a) IN GENERAL.—Subtitle E of title VIII of the
20 Homeland Security Act of 2002 (6 U.S.C. 411 and fol-
21 lowing) is amended by adding at the end the following:

1 **“SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT**
 2 **ACTIVITIES IN CERTAIN EMPLOYEE PER-**
 3 **FORMANCE APPRAISALS.**

4 “(a) IN GENERAL.—Each subdivision of the Depart-
 5 ment that is a National Drug Control Program Agency
 6 shall include as one of the criteria in its performance ap-
 7 praisal system, for each employee directly or indirectly in-
 8 volved in the enforcement of Federal, State, or local nar-
 9 cotics laws, the performance of that employee with respect
 10 to the enforcement of Federal, State, or local narcotics
 11 laws, relying to the greatest extent practicable on objective
 12 performance measures, including—

13 “(1) the contribution of that employee to sei-
 14 zures of narcotics and arrests of violators of Fed-
 15 eral, State, or local narcotics laws; and

16 “(2) the degree to which that employee cooper-
 17 ated with or contributed to the efforts of other em-
 18 ployees, either within the Department or other Fed-
 19 eral, State, or local agencies, in counternarcotics en-
 20 forcement.

21 “(b) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘National Drug Control Program
 23 Agency’ means—

24 “(A) a National Drug Control Program
 25 Agency, as defined in section 702(7) of the Of-

1 fice of National Drug Control Policy Reauthor-
2 ization Act of 1998 (as last in effect); and

3 “(B) any subdivision of the Department
4 that has a significant counternarcotics responsi-
5 bility, as determined by—

6 “(i) the counternarcotics officer, ap-
7 pointed under section 878; or

8 “(ii) if applicable, the counter-
9 narcotics officer’s successor in function (as
10 determined by the Secretary); and

11 “(2) the term ‘performance appraisal system’
12 means a system under which periodic appraisals of
13 job performance of employees are made, whether
14 under chapter 43 of title 5, United States Code, or
15 otherwise.”.

16 (b) CLERICAL AMENDMENT.—The table of contents
17 for the Homeland Security Act of 2002 is amended by
18 inserting after the item relating to section 842 the fol-
19 lowing:

 “Sec. 843. Use of counternarcotics enforcement activities in certain employee
 performance appraisals.”.

20 **SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES ON**
21 **ADDRESSING HOMELAND SECURITY FOR THE**
22 **AMERICAN PEOPLE.**

23 (a) FINDINGS.—The House of Representatives finds
24 that—

1 (1) the House of Representatives created a Se-
2 lect Committee on Homeland Security at the start of
3 the 108th Congress to provide for vigorous congress-
4 sional oversight for the implementation and oper-
5 ation of the Department of Homeland Security;

6 (2) the House of Representatives also charged
7 the Select Committee on Homeland Security, includ-
8 ing its Subcommittee on Rules, with undertaking a
9 thorough and complete study of the operation and
10 implementation of the rules of the House, including
11 the rule governing committee jurisdiction, with re-
12 spect to the issue of homeland security and to make
13 their recommendations to the Committee on Rules;

14 (3) on February 11, 2003, the Committee on
15 Appropriations of the House of Representatives cre-
16 ated a new Subcommittee on Homeland Security
17 with jurisdiction over the Transportation Security
18 Administration, the Coast Guard, and other entities
19 within the Department of Homeland Security to help
20 address the integration of the Department of Home-
21 land Security's 22 legacy agencies; and

22 (4) during the 108th Congress, the House of
23 Representatives has taken several steps to help en-
24 sure its continuity in the event of a terrorist attack,
25 including—

1 (A) adopting H.R. 2844, the Continuity of
2 Representation Act, a bill to require States to
3 hold expedited special elections to fill vacancies
4 in the House of Representatives not later than
5 45 days after the vacancy is announced by the
6 Speaker in extraordinary circumstances;

7 (B) granting authority for joint-leadership
8 recalls from a period of adjournment to an al-
9 ternate place;

10 (C) allowing for anticipatory consent with
11 the Senate to assemble in an alternate place;

12 (D) establishing the requirement that the
13 Speaker submit to the Clerk a list of Members
14 in the order in which each shall act as Speaker
15 pro tempore in the case of a vacancy in the Of-
16 fice of Speaker (including physical inability of
17 the Speaker to discharge his duties) until the
18 election of a Speaker or a Speaker pro tempore,
19 exercising such authorities of the Speaker as
20 may be necessary and appropriate to that end;

21 (E) granting authority for the Speaker to
22 declare an emergency recess of the House sub-
23 ject to the call of the Chair when notified of an
24 imminent threat to the safety of the House;

1 (F) granting authority for the Speaker,
2 during any recess or adjournment of not more
3 than three days, in consultation with the Minor-
4 ity Leader, to postpone the time for recon-
5 vening or to reconvene before the time pre-
6 viously appointed solely to declare the House in
7 recess, in each case within the constitutional
8 three-day limit;

9 (G) establishing the authority for the
10 Speaker to convene the House in an alternate
11 place within the seat of Government; and

12 (H) codifying the long-standing practice
13 that the death, resignation, expulsion, disquali-
14 fication, or removal of a Member results in an
15 adjustment of the quorum of the House, which
16 the Speaker shall announce to the House and
17 which shall not be subject to appeal.

18 (b) SENSE OF THE HOUSE.—It is the sense of the
19 House of Representatives that the Committee on Rules
20 should act upon the recommendations provided by the Se-
21 lect Committee on Homeland Security, and other commit-
22 tees of existing jurisdiction, regarding the jurisdiction over
23 proposed legislation, messages, petitions, memorials and
24 other matters relating to homeland security prior to or at
25 the start of the 109th Congress.

1 **Subtitle D—Improvements to**
2 **Information Security**

3 **SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS**
4 **TO ENHANCE AGENCY PLANNING FOR INFOR-**
5 **MATION SECURITY NEEDS.**

6 Chapter 113 of title 40, United States Code, is
7 amended—

8 (1) in section 11302(b), by inserting “security,”
9 after “use,”;

10 (2) in section 11302(e), by inserting “, includ-
11 ing information security risks,” after “risks” both
12 places it appears;

13 (3) in section 11312(b)(1), by striking “infor-
14 mation technology investments” and inserting “in-
15 vestments in information technology (including infor-
16 mation security needs)”; and

17 (4) in section 11315(b)(2), by inserting “, se-
18 cure,” after “sound”.

1 **Subtitle E—Personnel Management**
2 **Improvements**

3 **CHAPTER 1—APPOINTMENTS PROCESS**
4 **REFORM**

5 **SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSI-**
6 **TIONS.**

7 (a) DEFINITION OF NATIONAL SECURITY POSI-
8 TION.—For purposes of this section, the term “national
9 security position” shall include—

10 (1) those positions that involve activities of the
11 United States Government that are concerned with
12 the protection of the Nation from foreign aggression,
13 terrorism, or espionage, including development of de-
14 fense plans or policies, intelligence or counterintel-
15 ligence activities, and related activities concerned
16 with the preservation of military strength of the
17 United States and protection of the homeland; and

18 (2) positions that require regular use of, or ac-
19 cess to, classified information.

20 (b) PUBLICATION IN THE FEDERAL REGISTER.—Not
21 later than 60 days after the effective date of this section,
22 the Director of the Office of Personnel Management shall
23 publish in the Federal Register a list of offices that con-
24 stitute national security positions under section (a) for
25 which Senate confirmation is required by law, and the Di-

1 rector shall revise such list from time to time as appro-
2 priate.

3 (c) PRESIDENTIAL APPOINTMENTS.—(1) With re-
4 spect to appointment of individuals to offices identified
5 under section (b) and listed in sections 5315 or 5316 of
6 title 5, United States Code, which shall arise after the
7 publication of the list required by section (b), and notwith-
8 standing any other provision of law, the advice and con-
9 sent of the Senate shall not be required, but rather such
10 appointment shall be made by the President alone.

11 (2) With respect to appointment of individuals to of-
12 fices identified under section (b) and listed in sections
13 5313 or 5314 of title 5, United States Code, which shall
14 arise after the publication of the list required by section
15 (b), and notwithstanding any other provision of law, the
16 advice and consent of the Senate shall be required, except
17 that if 30 legislative days shall have expired from the date
18 on which a nomination is submitted to the Senate without
19 a confirmation vote occurring in the Senate, such appoint-
20 ment shall be made by the President alone.

21 (3) For the purposes of this subsection, the term
22 “legislative day” means a day on which the Senate is in
23 session.

1 **SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.**

2 Subsections (a) and (b) of section 3349a of title 5,
3 United States Code, are amended to read as follows:

4 “(a) As used in this section—

5 “(1) the term ‘inauguration day’ means the
6 date on which any person swears or affirms the oath
7 of office as President; and

8 “(2) the term ‘specified national security posi-
9 tion’ shall mean not more than 20 positions requir-
10 ing Senate confirmation, not to include more than 3
11 heads of Executive Departments, which are des-
12 ignated by the President on or after an inauguration
13 day as positions for which the duties involve sub-
14 stantial responsibility for national security.

15 “(b) With respect to any vacancy that exists during
16 the 60-day period beginning on an inauguration day, ex-
17 cept where the person swearing or affirming the oath of
18 office was the President on the date preceding the date
19 of swearing or affirming such oath of office, the 210-day
20 period under section 3346 or 3348 shall be deemed to
21 begin on the later of the date occurring—

22 “(1) 90 days after such transitional inaugura-
23 tion day; or

24 “(2) 90 days after the date on which the va-
25 cancy occurs.

1 “(c) With respect to any vacancy in any specified na-
2 tional security position that exists during the 60-day pe-
3 riod beginning on an inauguration day, the requirements
4 of subparagraphs (A) and (B) of section 3345(a)(3) shall
5 not apply.”.

6 **SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE IN-**
7 **TELLIGENCE COMMUNITY.**

8 (a) IN GENERAL.—The Ethics in Government Act of
9 1978 (5 U.S.C. App.) is amended by inserting before title
10 IV the following:

11 **“TITLE III—INTELLIGENCE PER-**
12 **SONNEL FINANCIAL DISCLO-**
13 **SURE REQUIREMENTS**

14 **“SEC. 301. PERSONS REQUIRED TO FILE.**

15 “(a) Within 30 days of assuming the position of an
16 officer or employee described in subsection (e), an indi-
17 vidual shall file a report containing the information de-
18 scribed in section 302(b) unless the individual has left an-
19 other position described in subsection (e) within 30 days
20 prior to assuming such new position or has already filed
21 a report under this title with respect to nomination for
22 the new position or as a candidate for the position.

23 “(b)(1) Within 5 days of the transmittal by the Presi-
24 dent to the Senate of the nomination of an individual to
25 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 (e) 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

1 of an individual need not be reported, and any gift
2 with a fair market value of \$100 or less, as adjusted
3 at the same time and by the same percentage as the
4 minimal value is adjusted, need not be aggregated
5 for purposes of this subparagraph.

6 “(B) The identity of the source and a brief de-
7 scription (including dates of travel and nature of ex-
8 penses provided) of reimbursements received from
9 any source aggregating more than the minimal value
10 as established by section 7342(a)(5) of title 5,
11 United States Code, or \$250, whichever is greater
12 and received during the preceding calendar year.

13 “(3) The identity and category of value of any
14 interest in property held during the preceding cal-
15 endar year in a trade or business, or for investment
16 or the production of income, which has a fair market
17 value which exceeds \$5,000 as of the close of the
18 preceding calendar year, excluding any personal li-
19 ability owed to the reporting individual by a spouse,
20 or by a parent, brother, sister, or child of the report-
21 ing individual or of the reporting individual’s spouse,
22 or any deposit accounts aggregating \$100,000 or
23 less in a financial institution, or any Federal Gov-
24 ernment securities aggregating \$100,000 or less.

1 “(4) The identity and category of value of the
2 total liabilities owed to any creditor other than a
3 spouse, or a parent, brother, sister, or child of the
4 reporting individual or of the reporting individual’s
5 spouse which exceed \$20,000 at any time during the
6 preceding calendar year, excluding—

7 “(A) any mortgage secured by real prop-
8 erty which is a personal residence of the report-
9 ing individual or his spouse; and

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

14 With respect to revolving charge accounts, only
15 those with an outstanding liability which exceeds
16 \$20,000 as of the close of the preceding calendar
17 year need be reported under this paragraph. Not-
18 withstanding the preceding sentence, individuals re-
19 quired to file pursuant to section 301(b) shall also
20 report the aggregate sum of the outstanding bal-
21 ances of all revolving charge accounts as of any date
22 that is within 30 days of the date of filing if the ag-
23 gregate sum of those balances exceeds \$20,000.

24 “(5) Except as provided in this paragraph, a
25 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

1 political entity and positions solely of an honorary
2 nature.

3 “(B) If any person, other than a person re-
4 ported as a source of income under paragraph
5 (1)(A) or the United States Government, paid a
6 nonelected reporting individual compensation in ex-
7 cess of \$25,000 in the calendar year in which, or the
8 calendar year prior to the calendar year in which,
9 the individual files his first report under this title,
10 the individual shall include in the report—

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

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

16 The preceding sentence shall not require any individual
17 to include in such report any information which is consid-
18 ered confidential as a result of a privileged relationship,
19 established by law, between such individual and any per-
20 son or any information which the person for whom the
21 services are provided has a reasonable expectation of pri-
22 vacy, nor shall it require an individual to report any infor-
23 mation with respect to any person for whom services were
24 provided by any firm or association of which such indi-
25 vidual 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

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

6 “(3) For purposes of this subsection, the term ‘quali-
7 fied blind trust’ includes any trust in which a reporting
8 individual, his spouse, or any minor or dependent child
9 has a beneficial interest in the principal or income, and
10 which meets the following requirements:

11 “(A)(i) The trustee of the trust and any other
12 entity designated in the trust instrument to perform
13 fiduciary duties is a financial institution, an attor-
14 ney, a certified public accountant, a broker, or an in-
15 vestment advisor who—

16 “(I) is independent of and not associated
17 with any interested party so that the trustee or
18 other person cannot be controlled or influenced
19 in the administration of the trust by any inter-
20 ested party;

21 “(II) is not and has not been an employee
22 of or affiliated with any interested party and is
23 not a partner of, or involved in any joint ven-
24 ture or other investment with, any interested
25 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

1 the assets of the trust shall not consult or no-
2 tify any interested party;

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

6 “(iii) the trustee shall promptly notify the
7 reporting individual and the Office of Govern-
8 ment Ethics when the holdings of any par-
9 ticular asset transferred to the trust by any in-
10 terested party are disposed of or when the value
11 of such holding is less than \$1,000;

12 “(iv) the trust tax return shall be prepared
13 by the trustee or his designee, and such return
14 and any information relating thereto (other
15 than the trust income summarized in appro-
16 priate categories necessary to complete an inter-
17 ested party’s tax return), shall not be disclosed
18 to any interested party;

19 “(v) an interested party shall not receive
20 any report on the holdings and sources of in-
21 come of the trust, except a report at the end of
22 each calendar quarter with respect to the total
23 cash value of the interest of the interested party
24 in the trust or the net income or loss of the
25 trust or any reports necessary to enable the in-

1 interested 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

1 of Government Ethics within 5 days of the date of the
2 communication.

3 “(6)(A) A trustee of a qualified blind trust shall not
4 knowingly and willfully, or negligently, (i) disclose any in-
5 formation to an interested party with respect to such trust
6 that may not be disclosed under paragraph (3); (ii) ac-
7 quire any holding the ownership of which is prohibited by
8 the trust instrument; (iii) solicit advice from any inter-
9 ested party with respect to such trust, which solicitation
10 is prohibited by paragraph (3) or the trust agreement; or
11 (iv) fail to file any document required by this subsection.

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

18 “(C)(i) The Attorney General may bring a civil action
19 in any appropriate United States district court against
20 any individual who knowingly and willfully violates the
21 provisions of subparagraph (A) or (B). The court in which
22 such action is brought may assess against such individual
23 a civil penalty in any amount not to exceed \$10,000.

24 “(ii) The Attorney General may bring a civil action
25 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

1 advisory opinion is rendered in accordance with this para-
2 graph, and any other individual covered by this title who
3 is involved in a fact situation which is indistinguishable
4 in all material aspects, and who acts in good faith in ac-
5 cordance with the provisions and findings of such advisory
6 opinion shall not, as a result of such act, be subject to
7 any penalty or sanction provided by this title.

8 **“SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDI-**
9 **TIONAL REQUIREMENTS.**

10 “(a)(1) The Office of Government Ethics may require
11 officers and employees of the executive branch (including
12 special Government employees as defined in section 202
13 of title 18, United States Code) to file confidential finan-
14 cial disclosure reports, in such form as it may prescribe.
15 The information required to be reported under this sub-
16 section by the officers and employees of any department
17 or agency listed in section 301(e) shall be set forth in rules
18 or regulations prescribed by the Office of Government
19 Ethics, and may be less extensive than otherwise required
20 by this title, or more extensive when determined by the
21 Office of Government Ethics to be necessary and appro-
22 priate in light of sections 202 through 209 of title 18,
23 United States Code, regulations promulgated thereunder,
24 or the authorized activities of such officers or employees.
25 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 percede 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.

1 **“SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.**

2 “The Comptroller General shall have access to finan-
3 cial disclosure reports filed under this title for the pur-
4 poses of carrying out his statutory responsibilities.

5 **“SEC. 309. DEFINITIONS.**

6 “For the purposes of this title—

7 “(1) the term ‘dependent child’ means, when
8 used with respect to any reporting individual, any
9 individual who is a son, daughter, stepson, or step-
10 daughter and who—

11 “(A) is unmarried and under age 21 and
12 is living in the household of such reporting indi-
13 vidual; or

14 “(B) is a dependent of such reporting indi-
15 vidual within the meaning of section 152 of the
16 Internal Revenue Code of 1986 (26 U.S.C.
17 152);

18 “(2) the term ‘designated agency ethics official’
19 means an officer or employee who is designated to
20 administer the provisions of this title within an
21 agency;

22 “(3) the term ‘executive branch’ includes—

23 “(A) each Executive agency (as defined in
24 section 105 of title 5, United States Code),
25 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

1 individual under section 7342 of title 5, United
2 States Code.

3 “(5) the term ‘honorarium’ means a payment of
4 money or anything of value for an appearance,
5 speech, or article;

6 “(6) the term ‘income’ means all income from
7 whatever source derived, including but not limited to
8 the following items: compensation for services, in-
9 cluding fees, commissions, and similar items; gross
10 income derived from business (and net income if the
11 individual elects to include it); gains derived from
12 dealings in property; interest; rents; royalties; prizes
13 and awards; dividends; annuities; income from life
14 insurance and endowment contracts; pensions; in-
15 come from discharge of indebtedness; distributive
16 share of partnership income; and income from an in-
17 terest in an estate or trust;

18 “(7) the term ‘personal hospitality of any indi-
19 vidual’ means hospitality extended for a nonbusiness
20 purpose by an individual, not a corporation or orga-
21 nization, at the personal residence of that individual
22 or his family or on property or facilities owned by
23 that individual or his family;

24 “(8) the term ‘reimbursement’ means any pay-
25 ment or other thing of value received by the report-

1 ing individual, other than gifts, to cover travel-re-
2 lated expenses of such individual other than those
3 which are—

4 “(A) provided by the United States Gov-
5 ernment, the District of Columbia, or a State or
6 local government or political subdivision thereof;

7 “(B) required to be reported by the report-
8 ing individual under section 7342 of title 5,
9 United States Code; or

10 “(C) required to be reported under section
11 304 of the Federal Election Campaign Act of
12 1971 (2 U.S.C. 434);

13 “(9) the term ‘relative’ means an individual
14 who is related to the reporting individual, as father,
15 mother, son, daughter, brother, sister, uncle, aunt,
16 great aunt, great uncle, first cousin, nephew, niece,
17 husband, wife, grandfather, grandmother, grandson,
18 granddaughter, father-in-law, mother-in-law, son-in-
19 law, daughter-in-law, brother-in-law, sister-in-law,
20 stepfather, stepmother, stepson, stepdaughter, step-
21 brother, stepsister, half brother, half sister, or who
22 is the grandfather or grandmother of the spouse of
23 the reporting individual, and shall be deemed to in-
24 clude the fiancé or fiancée of the reporting indi-
25 vidual;

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.

1 (2) CONTENT.—The plan under this subsection
2 shall provide for the reduction of—

3 (A) the number of positions within that
4 agency that require an appointment by the
5 President, by and with the advice and consent
6 of the Senate; and

7 (B) the number of levels of such positions
8 within that agency.

9 **SEC. 5045. EFFECTIVE DATES.**

10 (a) SECTION 5043.—

11 (1) IN GENERAL.—Subject to paragraph (2),
12 the amendments made by section 5043 shall take ef-
13 fect on January 1 of the year following the year in
14 which occurs the date of enactment of this Act.

15 (2) LATER DATE.—If this Act is enacted on or
16 after July 1 of a year, the amendments made by sec-
17 tion 301 shall take effect on July 1 of the following
18 year.

19 (b) SECTION 5044.—Section 5044 shall take effect
20 on the date of enactment of this Act.

21 **CHAPTER 2—FEDERAL BUREAU OF**
22 **INVESTIGATION REVITALIZATION**

23 **SEC. 5051. MANDATORY SEPARATION AGE.**

24 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section
25 8335(b) of title 5, United States Code, is amended—

1 (1) by striking “(b)” and inserting “(b)(1)”;

2 and

3 (2) by adding at the end the following:

4 “(2) In the case of employees of the Federal Bureau
5 of Investigation, the second sentence of paragraph (1)
6 shall be applied by substituting ‘65 years of age’ for ‘60
7 years of age’. The authority to grant exemptions in ac-
8 cordance with the preceding sentence shall cease to be
9 available after December 31, 2009.”.

10 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

11 Section 8425(b) of title 5, United States Code, is amend-
12 ed—

13 (1) by striking “(b)” and inserting “(b)(1)”;

14 and

15 (2) by adding at the end the following:

16 “(2) In the case of employees of the Federal Bureau
17 of Investigation, the second sentence of paragraph (1)
18 shall be applied by substituting ‘65 years of age’ for ‘60
19 years of age’. The authority to grant exemptions in ac-
20 cordance with the preceding sentence shall cease to be
21 available after December 31, 2009.”.

22 **SEC. 5052. RETENTION AND RELOCATION BONUSES.**

23 (a) IN GENERAL.—Subchapter IV of chapter 57 of
24 title 5, United States Code, is amended by adding at the
25 end the following:

1 **“§ 5759. Retention and relocation bonuses for the**
2 **Federal Bureau of Investigation**

3 “(a) **AUTHORITY.**—The Director of the Federal Bu-
4 reau of Investigation, after consultation with the Director
5 of the Office of Personnel Management, may pay, on a
6 case-by-case basis, a bonus under this section to an em-
7 ployee of the Bureau if—

8 “(1)(A) the unusually high or unique qualifica-
9 tions of the employee or a special need of the Bu-
10 reau for the employee’s services makes it essential to
11 retain the employee; and

12 “(B) the Director of the Federal Bureau of In-
13 vestigation determines that, in the absence of such
14 a bonus, the employee would be likely to leave—

15 “(i) the Federal service; or

16 “(ii) for a different position in the Federal
17 service; or

18 “(2) the individual is transferred to a different
19 geographic area with a higher cost of living (as de-
20 termined by the Director of the Federal Bureau of
21 Investigation).

22 “(b) **SERVICE AGREEMENT.**—Payment of a bonus
23 under this section is contingent upon the employee enter-
24 ing into a written service agreement with the Bureau to
25 complete a period of service with the Bureau. Such agree-
26 ment shall include—

1 “(1) the period of service the individual shall be
2 required to complete in return for the bonus; and

3 “(2) the conditions under which the agreement
4 may be terminated before the agreed-upon service
5 period has been completed, and the effect of the ter-
6 mination.

7 “(c) **LIMITATION ON AUTHORITY.**—A bonus paid
8 under this section may not exceed 50 percent of the em-
9 ployee’s basic pay.

10 “(d) **IMPACT ON BASIC PAY.**—A retention bonus is
11 not part of the basic pay of an employee for any purpose.

12 “(e) **TERMINATION OF AUTHORITY.**—The authority
13 to grant bonuses under this section shall cease to be avail-
14 able after December 31, 2009.”.

15 (b) **CLERICAL AMENDMENT.**—The analysis for chap-
16 ter 57 of title 5, United States Code, is amended by add-
17 ing at the end the following:

“5759. Retention and relocation bonuses for the Federal Bureau of Investiga-
tion.”.

18 **SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE**
19 **SERVICE.**

20 (a) **IN GENERAL.**—Chapter 35 of title 5, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

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

1 (3) by inserting after subparagraph (F) the fol-
2 lowing:

3 “(G) a position at the Federal Bureau of
4 Investigation, the primary duties and respon-
5 sibilities of which relate to intelligence functions
6 (as determined by the Director of the Federal
7 Bureau of Investigation).”.

8 **CHAPTER 3—MANAGEMENT AUTHORITY**

9 **SEC. 5061. MANAGEMENT AUTHORITY.**

10 (a) MANAGEMENT AUTHORITY.—Section
11 7103(b)(1)(A) of title 5, United States Code, is amended
12 by adding “homeland security,” after “investigative,”.

13 (b) EXCLUSIONARY AUTHORITY.—Section 842 of the
14 Homeland Security Act (Public Law 107–296; 6 U.S.C.
15 412) is repealed.

16 **Subtitle F—Security Clearance** 17 **Modernization**

18 **SEC. 5071. DEFINITIONS.**

19 In this subtitle:

20 (1) The term “Director” means the National
21 Intelligence Director.

22 (2) The term “agency” means—

23 (A) an executive agency, as defined in sec-
24 tion 105 of title 5, United States Code;

1 (B) a military department, as defined in
2 section 102 of title 5, United States Code; and

3 (C) elements of the intelligence community,
4 as defined in section 3(4) of the National Secu-
5 rity Act of 1947 (50 U.S.C. 401a(4)).

6 (3) The term “authorized investigative agency”
7 means an agency authorized by law, regulation or di-
8 rection of the Director to conduct a counterintel-
9 ligence investigation or investigation of persons who
10 are proposed for access to classified information to
11 ascertain whether such persons satisfy the criteria
12 for obtaining and retaining access to such informa-
13 tion.

14 (4) The term “authorized adjudicative agency”
15 means an agency authorized by law, regulation or di-
16 rection of the Director to determine eligibility for ac-
17 cess to classified information in accordance with Ex-
18 ecutive Order 12968.

19 (5) The term “highly sensitive program”
20 means—

21 (A) a government program designated as a
22 Special Access Program (as defined by section
23 4.1(h) of Executive Order 12958); and

24 (B) a government program that applies re-
25 strictions required for—

1 (i) Restricted Data (as defined by sec-
2 tion 11 y. of the Atomic Energy Act of
3 1954 (42 U.S.C. 2014(y)); or

4 (ii) other information commonly re-
5 ferred to as “Sensitive Compartmented In-
6 formation”.

7 (6) The term “current investigation file”
8 means, with respect to a security clearance, a file on
9 an investigation or adjudication that has been con-
10 ducted during—

11 (A) the 5-year period beginning on the
12 date the security clearance was granted, in the
13 case of a Top Secret Clearance, or the date ac-
14 cess was granted to a highly sensitive program;

15 (B) the 10-year period beginning on the
16 date the security clearance was granted in the
17 case of a Secret Clearance; and

18 (C) the 15-year period beginning on the
19 date the security clearance was granted in the
20 case of a Confidential Clearance.

21 (7) The term “personnel security investigation”
22 means any investigation required for the purpose of
23 determining the eligibility of any military, civilian, or
24 government contractor personnel to access classified
25 information.

1 (8) The term “periodic reinvestigations”
2 means—

3 (A) investigations conducted for the pur-
4 pose of updating a previously completed back-
5 ground investigation—

6 (i) every five years in the case of a
7 Top Secret Clearance or access to a highly
8 sensitive program;

9 (ii) every 10 years in the case of a Se-
10 cret Clearance; and

11 (iii) every 15 years in the case of a
12 Confidential Clearance;

13 (B) on-going investigations to identify per-
14 sonnel security risks as they develop, pursuant
15 to section 105(c).

16 (9) The term “appropriate committees of Con-
17 gress” means—

18 (A) the Permanent Select Committee on
19 Intelligence and the Committees on Armed
20 Services, Judiciary, and Government Reform of
21 the House of Representatives; and

22 (B) the Select Committee on Intelligence
23 and the Committees on Armed Services, Judici-
24 ary, and Governmental Affairs of the Senate.

1 **SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE**
2 **PROGRAMS OVERSIGHT AND ADMINISTRA-**
3 **TION.**

4 The Deputy National Intelligence Director for Com-
5 munity Management and Resources shall have responsi-
6 bility for the following:

7 (1) Directing day-to-day oversight of investiga-
8 tions and adjudications for personnel security clear-
9 ances to highly sensitive programs throughout the
10 Federal Government.

11 (2) Developing and implementing uniform and
12 consistent policies and procedures to ensure the ef-
13 fective, efficient, and timely completion of security
14 clearances and determinations for access to highly
15 sensitive programs, including the standardization of
16 security questionnaires, financial disclosure require-
17 ments for security clearance applicants, and poly-
18 graph policies and procedures.

19 (3) Serving as the final authority to designate
20 an authorized investigative agency or authorized ad-
21 judicative agency pursuant to section 5074(d).

22 (4) Ensuring reciprocal recognition of access to
23 classified information among agencies, including act-
24 ing as the final authority to arbitrate and resolve
25 disputes involving the reciprocity of security clear-
26 ances and access to highly sensitive programs.

1 (5) Ensuring, to the maximum extent prac-
2 ticable, that sufficient resources are available in each
3 agency to achieve clearance and investigative pro-
4 gram goals.

5 (6) Reviewing and coordinating the development
6 of tools and techniques for enhancing the conduct of
7 investigations and granting of clearances.

8 **SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND**
9 **ACCESS DETERMINATIONS.**

10 (a) **REQUIREMENT FOR RECIPROCITY.**—(1) All secu-
11 rity clearance background investigations and determina-
12 tions completed by an authorized investigative agency or
13 authorized adjudicative agency shall be accepted by all
14 agencies.

15 (2) All security clearance background investigations
16 initiated by an authorized investigative agency shall be
17 transferable to any other authorized investigative agency.

18 (b) **PROHIBITION ON ESTABLISHING ADDITIONAL**
19 **REQUIREMENTS.**—(1) An authorized investigative agency
20 or authorized adjudicative agency may not establish addi-
21 tional investigative or adjudicative requirements (other
22 than requirements for the conduct of a polygraph exam-
23 ination) that exceed requirements specified in Executive
24 Orders establishing security requirements for access to
25 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.

1 (f) COMPLIANCE.—The Director shall establish a re-
2 view procedure by which agencies can seek review of ac-
3 tions required under section 5073.

4 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated such sums as may be nec-
6 essary for fiscal year 2005 and each subsequent fiscal year
7 for the implementation, maintenance and operation of the
8 database established in subsection (a).

9 **SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEAR-**
10 **ANCE INVESTIGATIONS.**

11 (a) INVESTIGATIONS.—Not later than 12 months
12 after the date of the enactment of this Act, each author-
13 ized investigative agency that conducts personnel security
14 clearance investigations shall use, to the maximum extent
15 practicable, available information technology and data-
16 bases to expedite investigative processes and to verify
17 standard information submitted as part of an application
18 for a security clearance.

19 (b) INTERIM CLEARANCE.—If the application of an
20 applicant for an interim clearance has been processed
21 using the technology under subsection (a), the interim
22 clearances for the applicant at the secret, top secret, and
23 special access program levels may be granted before the
24 completion of the appropriate investigation. Any request
25 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
22 verification under this section may replace periodic re-
23 investigations.

1 **SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECU-**
2 **RITY CLEARANCE PROCESS.**

3 (a) 60-Day PERIOD FOR DETERMINATION ON
4 CLEARANCES.—Each authorized adjudicative agency shall
5 make a determination on an application for a personnel
6 security clearance within 60 days after the date of receipt
7 of the completed application for a security clearance by
8 an authorized investigative agency. The 60-day period
9 shall include—

10 (1) a period of not longer than 40 days to com-
11 plete the investigative phase of the clearance review;
12 and

13 (2) a period of not longer than 20 days to com-
14 plete the adjudicative phase of the clearance review.

15 (b) EFFECTIVE DATE AND PHASE-IN.—

16 (1) EFFECTIVE DATE.—Subsection (a) shall
17 take effect 5 years after the date of the enactment
18 of this Act.

19 (2) PHASE-IN.—During the period beginning on
20 a date not later than 2 years after the date after the
21 enactment of this Act and ending on the date on
22 which subsection (a) takes effect as specified in
23 paragraph (1), each authorized adjudicative agency
24 shall make a determination on an application for a
25 personnel security clearance pursuant to this title
26 within 120 days after the date of receipt of the ap-

1 plication for a security clearance by an authorized
2 investigative agency. The 120-day period shall in-
3 clude—

4 (A) a period of not longer than 90 days to
5 complete the investigative phase of the clear-
6 ance review; and

7 (B) a period of not longer than 30 days to
8 complete the adjudicative phase of the clearance
9 review.

10 **SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL**
11 **TRANSITION.**

12 (a) CANDIDATES FOR NATIONAL SECURITY POSI-
13 TIONS.—(1) The President-elect shall submit to the Direc-
14 tor the names of candidates for high-level national security
15 positions, for positions at the level of under secretary of
16 executive departments and above, as soon as possible after
17 the date of the general elections held to determine the elec-
18 tors of President and Vice President under section 1 or
19 2 of title 3, United States Code.

20 (2) The Director shall be responsible for the expedi-
21 tious completion of the background investigations nec-
22 essary to provide appropriate security clearances to the in-
23 dividuals who are candidates described under paragraph
24 (1) before the date of the inauguration of the President-

1 elect as President and the inauguration of the Vice-Presi-
2 dent-elect as Vice President.

3 (b) SECURITY CLEARANCES FOR TRANSITION TEAM
4 MEMBERS.—(1) In this section, the term “major party”
5 has the meaning provided under section 9002(6) of the
6 Internal Revenue Code of 1986.

7 (2) Each major party candidate for President, except
8 a candidate who is the incumbent President, shall submit,
9 before the date of the general presidential election, re-
10 quests for security clearances for prospective transition
11 team members who will have a need for access to classified
12 information to carry out their responsibilities as members
13 of the President-elect’s transition team.

14 (3) Necessary background investigations and eligi-
15 bility determinations to permit appropriate prospective
16 transition team members to have access to classified infor-
17 mation shall be completed, to the fullest extent practicable,
18 by the day after the date of the general presidential elec-
19 tion.

20 **SEC. 5078. REPORTS.**

21 Not later than February 15, 2006, and annually
22 thereafter through 2016, the Director shall submit to the
23 appropriate committees of Congress a report on the
24 progress made during the preceding year toward meeting

1 the requirements specified in this Act. The report shall
2 include—

3 (1) the periods of time required by the author-
4 ized investigative agencies and authorized adjudica-
5 tive agencies during the year covered by the report
6 for conducting investigations, adjudicating cases,
7 and granting clearances, from date of submission to
8 ultimate disposition and notification to the subject
9 and the subject’s employer;

10 (2) a discussion of any impediments to the
11 smooth and timely functioning of the implementation
12 of this title; and

13 (3) such other information or recommendations
14 as the Deputy Director deems appropriate.

15 **Subtitle G—Emergency Financial**
16 **Preparedness**

17 **SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY**
18 **OF THE TREASURY.**

19 Subsection (d) of section 306 of title 31, United
20 States Code, is amended by inserting “or employee” after
21 “another officer”.

1 **SEC. 5082. EXTENSION OF EMERGENCY ORDER AUTHORITY**
2 **OF THE SECURITIES AND EXCHANGE COM-**
3 **MISSION.**

4 (a) **EXTENSION OF AUTHORITY.**—Paragraph (2) of
5 section 12(k) of the Securities Exchange Act of 1934 (15
6 U.S.C. 78l(k)(2)) is amended to read as follows:

7 “(2) **EMERGENCY ORDERS.**—(A) The Commis-
8 sion, in an emergency, may by order summarily take
9 such action to alter, supplement, suspend, or impose
10 requirements or restrictions with respect to any mat-
11 ter or action subject to regulation by the Commis-
12 sion or a self-regulatory organization under the secu-
13 rities laws, as the Commission determines is nec-
14 essary in the public interest and for the protection
15 of investors—

16 “(i) to maintain or restore fair and orderly
17 securities markets (other than markets in ex-
18 empted securities);

19 “(ii) to ensure prompt, accurate, and safe
20 clearance and settlement of transactions in se-
21 curities (other than exempted securities); or

22 “(iii) to reduce, eliminate, or prevent the
23 substantial disruption by the emergency of (I)
24 securities markets (other than markets in ex-
25 empted securities), investment companies, or
26 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 exempted
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. 78l(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 flue-
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-

1 clude the Public Utility Holding Company Act
2 of 1935 (15 U.S.C. 79a et seq.).”.

3 **SEC. 5083. PARALLEL AUTHORITY OF THE SECRETARY OF**
4 **THE TREASURY WITH RESPECT TO GOVERN-**
5 **MENT SECURITIES.**

6 Section 15C of the Securities Exchange Act of 1934
7 (15 U.S.C. 78o–5) is amended by adding at the end the
8 following new subsection:

9 “(h) **EMERGENCY AUTHORITY.**—The Secretary may
10 by order take any action with respect to a matter or action
11 subject to regulation by the Secretary under this section,
12 or the rules of the Secretary thereunder, involving a gov-
13 ernment security or a market therein (or significant por-
14 tion or segment of that market), that the Commission may
15 take under section 12(k)(2) of this title with respect to
16 transactions in securities (other than exempted securities)
17 or a market therein (or significant portion or segment of
18 that market).”.

19 **Subtitle H—Other Matters**

20 **Chapter 1—Privacy Matters**

21 **SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING**
22 **TAKE INTO CONSIDERATION IMPACTS ON IN-**
23 **DIVIDUAL PRIVACY.**

24 (a) **SHORT TITLE.**—This section may be cited as the
25 “Federal Agency Protection of Privacy Act of 2004”.

1 (b) IN GENERAL.—Title 5, United States Code, is
2 amended by adding after section 553 the following new
3 section:

4 **“§ 553a. Privacy impact assessment in rulemaking**

5 “(a) INITIAL PRIVACY IMPACT ASSESSMENT.—

6 “(1) IN GENERAL.—Whenever an agency is re-
7 quired by section 553 of this title, or any other law,
8 to publish a general notice of proposed rulemaking
9 for a proposed rule, or publishes a notice of pro-
10 posed rulemaking for an interpretative rule involving
11 the internal revenue laws of the United States, and
12 such rule or proposed rulemaking pertains to the
13 collection, maintenance, use, or disclosure of person-
14 ally identifiable information from 10 or more indi-
15 viduals, other than agencies, instrumentalities, or
16 employees of the Federal government, the agency
17 shall prepare and make available for public comment
18 an initial privacy impact assessment that describes
19 the impact of the proposed rule on the privacy of in-
20 dividuals. Such assessment or a summary thereof
21 shall be signed by the senior agency official with pri-
22 mary responsibility for privacy policy and be pub-
23 lished in the Federal Register at the time of the
24 publication of a general notice of proposed rule-
25 making 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

1 which minimize any significant privacy impact
2 of the proposed rule on individuals.

3 “(b) FINAL PRIVACY IMPACT ASSESSMENT.—

4 “(1) IN GENERAL.—Whenever an agency pro-
5 mulgates a final rule under section 553 of this title,
6 after being required by that section or any other law
7 to publish a general notice of proposed rulemaking,
8 or promulgates a final interpretative rule involving
9 the internal revenue laws of the United States, and
10 such rule or proposed rulemaking pertains to the
11 collection, maintenance, use, or disclosure of person-
12 ally identifiable information from 10 or more indi-
13 viduals, other than agencies, instrumentalities, or
14 employees of the Federal government, the agency
15 shall prepare a final privacy impact assessment,
16 signed by the senior agency official with primary re-
17 sponsibility for privacy policy.

18 “(2) CONTENTS.—Each final privacy impact as-
19 sessment required under this subsection shall con-
20 tain the following:

21 “(A) A description and analysis of the ex-
22 tent to which the final rule will impact the pri-
23 vacy interests of individuals, including the ex-
24 tent 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.

1 “(C) The complexity of the rule.

2 “(D) The extent to which the rule over-
3 laps, duplicates, or conflicts with other Federal
4 rules, and, to the extent feasible, with State and
5 local governmental rules.

6 “(E) The length of time since the rule was
7 last reviewed under this subsection.

8 “(F) The degree to which technology, eco-
9 nomic conditions, or other factors have changed
10 in the area affected by the rule since the rule
11 was last reviewed under this subsection.

12 “(2) PLAN REQUIRED.—Each agency shall
13 carry out the periodic review required by paragraph
14 (1) in accordance with a plan published by such
15 agency in the Federal Register. Each such plan shall
16 provide for the review under this subsection of each
17 rule promulgated by the agency not later than 10
18 years after the date on which such rule was pub-
19 lished as the final rule and, thereafter, not later
20 than 10 years after the date on which such rule was
21 last reviewed under this subsection. The agency may
22 amend such plan at any time by publishing the revi-
23 sion in the Federal Register.

24 “(3) ANNUAL PUBLICATION.—Each year, each
25 agency shall publish in the Federal Register a list of

1 the rules to be reviewed by such agency under this
2 subsection during the following year. The list shall
3 include a brief description of each such rule and the
4 need for and legal basis of such rule and shall invite
5 public comment upon the determination to be made
6 under this subsection with respect to such rule.

7 “(f) JUDICIAL REVIEW.—

8 “(1) IN GENERAL.—For any rule subject to this
9 section, an individual who is adversely affected or
10 aggrieved by final agency action is entitled to judi-
11 cial review of agency compliance with the require-
12 ments of subsections (b) and (c) in accordance with
13 chapter 7. Agency compliance with subsection (d)
14 shall be judicially reviewable in connection with judi-
15 cial review of subsection (b).

16 “(2) JURISDICTION.—Each court having juris-
17 diction to review such rule for compliance with sec-
18 tion 553, or under any other provision of law, shall
19 have jurisdiction to review any claims of noncompli-
20 ance with subsections (b) and (c) in accordance with
21 chapter 7. Agency compliance with subsection (d)
22 shall be judicially reviewable in connection with judi-
23 cial review of subsection (b).

24 “(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

1 of the agency, before the expiration of the period,
2 certifies in a statement published in the Federal
3 Register that reviewing such rule before the expira-
4 tion of the period is not feasible. The head of the
5 agency may provide for additional 1-year extensions
6 of the period pursuant to the preceding sentence,
7 but in no event may the period exceed 15 years.

8 (d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B)
9 of title 5, United States Code, is amended—

10 (1) by redesignating clauses (iii) and (iv) as
11 clauses (iv) and (v), respectively; and

12 (2) by inserting after clause (ii) the following
13 new clause:

14 “(iii) the agency’s actions relevant to section
15 553a;”.

16 (e) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 5 of title 5, United States
18 Code, is amended by adding after the item relating to sec-
19 tion 553 the following new item:

553a. Privacy impact assessment in rulemaking.”.

20 **SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH**
21 **LAW ENFORCEMENT OR ANTI-TERRORISM**
22 **FUNCTIONS.**

23 (a) IN GENERAL.—There shall be within each Fed-
24 eral agency with law enforcement or anti-terrorism func-
25 tions 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 pro-
8 vide—

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

1 information security and privacy issues pertaining to
2 Federal Government information systems.

3 **CHAPTER 2—MUTUAL AID AND**
4 **LITIGATION MANAGEMENT**

5 **SEC. 5101. SHORT TITLE.**

6 This chapter may be cited as the “Mutual Aid and
7 Litigation Management Authorization Act of 2004”.

8 **SEC. 5102. MUTUAL AID AUTHORIZED.**

9 (a) AUTHORIZATION TO ENTER INTO AGREE-
10 MENTS.—

11 (1) IN GENERAL.—The authorized representa-
12 tive of a State, locality, or the Federal Government
13 may enter into an interstate mutual aid agreement
14 or a mutual aid agreement with the Federal Govern-
15 ment on behalf of the State, locality, or Federal
16 Government under which, at the request of any
17 party to the agreement, the other party to the agree-
18 ment may—

19 (A) provide law enforcement, fire, rescue,
20 emergency health and medical services, trans-
21 portation, communications, public works and
22 engineering, mass care, and resource support in
23 an emergency or public service event occurring
24 in the jurisdiction of the requesting party;

1 (B) provide other services to prepare for,
2 mitigate, manage, respond to, or recover from
3 an emergency or public service event occurring
4 in the jurisdiction of the requesting party; and

5 (C) participate in training events occurring
6 in the jurisdiction of the requesting party.

7 (b) LIABILITY AND ACTIONS AT LAW.—

8 (1) LIABILITY.—A responding party or its offi-
9 cers or employees shall be liable on account of any
10 act or omission occurring while providing assistance
11 or participating in a training event in the jurisdic-
12 tion of a requesting party under a mutual aid agree-
13 ment (including any act or omission arising from the
14 maintenance or use of any equipment, facilities, or
15 supplies in connection therewith), but only to the ex-
16 tent permitted under and in accordance with the
17 laws and procedures of the State of the responding
18 party and subject to this chapter.

19 (2) JURISDICTION OF COURTS.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (B) and section 3, any action brought
22 against a responding party or its officers or em-
23 ployees on account of an act or omission de-
24 scribed in subsection (b)(1) may be brought
25 only under the laws and procedures of the State

1 of the responding party and only in the State
2 courts or United States District Courts located
3 therein.

4 (B) UNITED STATES AS PARTY.—If the
5 United States is the party against whom an ac-
6 tion described in paragraph (1) is brought, the
7 action may be brought only in a United States
8 District Court.

9 (c) WORKERS' COMPENSATION AND DEATH BENE-
10 FITS.—

11 (1) PAYMENT OF BENEFITS.—A responding
12 party shall provide for the payment of workers' com-
13 pensation and death benefits with respect to officers
14 or employees of the party who sustain injuries or are
15 killed while providing assistance or participating in
16 a training event under a mutual aid agreement in
17 the same manner and on the same terms as if the
18 injury or death were sustained within the jurisdic-
19 tion of the responding party.

20 (2) LIABILITY FOR BENEFITS.—No party shall
21 be liable under the law of any State other than its
22 own (or, in the case of the Federal Government,
23 under any law other than Federal law) for the pay-
24 ment of workers' compensation and death benefits
25 with respect to injured officers or employees of the

1 party who sustain injuries or are killed while pro-
2 viding assistance or participating in a training event
3 under a mutual aid agreement.

4 (d) LICENSES AND PERMITS.—Whenever any person
5 holds a license, certificate, or other permit issued by any
6 responding party evidencing the meeting of qualifications
7 for professional, mechanical, or other skills, such person
8 will be deemed licensed, certified, or permitted by the re-
9 questing party to provide assistance involving such skill
10 under a mutual aid agreement.

11 (e) SCOPE.—Except to the extent provided in this
12 section, the rights and responsibilities of the parties to a
13 mutual aid agreement shall be as described in the mutual
14 aid agreement.

15 (f) EFFECT ON OTHER AGREEMENTS.—Nothing in
16 this section precludes any party from entering into supple-
17 mentary mutual aid agreements with fewer than all the
18 parties, or with another, or affects any other agreements
19 already in force among any parties to such an agreement,
20 including the Emergency Management Assistance Com-
21 pact (EMAC) under Public Law 104–321.

22 (g) FEDERAL GOVERNMENT.—Nothing in this sec-
23 tion may be construed to limit any other expressed or im-
24 plied authority of any entity of the Federal Government
25 to enter into mutual aid agreements.

1 (h) CONSISTENCY WITH STATE LAW.—A party may
2 enter into a mutual aid agreement under this chapter only
3 insofar as the agreement is in accord with State law.

4 **SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

5 (a) AUTHORIZATION TO ENTER INTO LITIGATION
6 MANAGEMENT AGREEMENTS.—The authorized represent-
7 ative of a State or locality may enter into a litigation man-
8 agement agreement on behalf of the State or locality. Such
9 litigation management agreements may provide that all
10 claims against such Emergency Response Providers aris-
11 ing out of, relating to, or resulting from an act of ter-
12 rorism when Emergency Response Providers from more
13 than 1 State have acted in defense against, in response
14 to, or recovery from such act shall be governed by the fol-
15 lowing provisions.

16 (b) FEDERAL CAUSE OF ACTION.—

17 (1) IN GENERAL.—There shall exist a Federal
18 cause of action for claims against Emergency Re-
19 sponse Providers arising out of, relating to, or re-
20 sulting from an act of terrorism when Emergency
21 Response Providers from more than 1 State have
22 acted in defense against, in response to, or recovery
23 from such act. As determined by the parties to a liti-
24 gation management agreement, the substantive law
25 for decision in any such action shall be—

1 (A) derived from the law, including choice
2 of law principles, of the State in which such
3 acts of terrorism occurred, unless such law is
4 inconsistent with or preempted by Federal law;
5 or

6 (B) derived from the choice of law prin-
7 ciples agreed to by the parties to a litigation
8 management agreement as described in the liti-
9 gation management agreement, unless such
10 principles are inconsistent with or preempted by
11 Federal law.

12 (2) JURISDICTION.—Such appropriate district
13 court of the United States shall have original and
14 exclusive jurisdiction over all actions for any claim
15 against Emergency Response Providers for loss of
16 property, personal injury, or death arising out of, re-
17 lating to, or resulting from an act of terrorism when
18 Emergency Response Providers from more than 1
19 State have acted in defense against, in response to,
20 or recovery from an act of terrorism.

21 (3) SPECIAL RULES.—In an action brought for
22 damages that is governed by a litigation manage-
23 ment agreement, the following provisions apply:

24 (A) PUNITIVE DAMAGES.—No punitive
25 damages intended to punish or deter, exemplary

1 damages, or other damages not intended to
2 compensate a plaintiff for actual losses may be
3 awarded, nor shall any party be liable for inter-
4 est prior to the judgment.

5 (B) COLLATERAL SOURCES.—Any recovery
6 by a plaintiff in an action governed by a litiga-
7 tion management agreement shall be reduced by
8 the amount of collateral source compensation, if
9 any, that the plaintiff has received or is entitled
10 to receive as a result of such acts of terrorism.

11 (4) EXCLUSIONS.—Nothing in this section shall
12 in any way limit the ability of any person to seek
13 any form of recovery from any person, government,
14 or other entity that—

15 (A) attempts to commit, knowingly partici-
16 pates in, aids and abets, or commits any act of
17 terrorism, or any criminal act related to or re-
18 sulting from such act of terrorism; or

19 (B) participates in a conspiracy to commit
20 any such act of terrorism or any such criminal
21 act.

22 **SEC. 5104. ADDITIONAL PROVISIONS.**

23 (a) NO ABROGATION OF OTHER IMMUNITIES.—
24 Nothing in this chapter shall abrogate any other immuni-

1 ties from liability that any party may have under any
2 other State or Federal law.

3 (b) EXCEPTION FOR CERTAIN FEDERAL LAW EN-
4 FORCEMENT ACTIVITIES.—A mutual aid agreement or a
5 litigation management agreement may not apply to law
6 enforcement security operations at special events of na-
7 tional significance under section 3056(e) of title 18,
8 United States Code, or to other law enforcement functions
9 of the United States Secret Service.

10 (c) SECRET SERVICE.—Section 3056 of title 18,
11 United States Code, is amended by adding at the end the
12 following new subsection:

13 “(g) The Secret Service shall be maintained as a dis-
14 tinct entity within the Department of Homeland Security
15 and shall not be merged with any other department func-
16 tion. All personnel and operational elements of the United
17 States Secret Service shall report to the Director of the
18 Secret Service, who shall report directly to the Secretary
19 of Homeland Security without being required to report
20 through any other official of the Department.”.

21 **SEC. 5105. DEFINITIONS.**

22 For purposes of this chapter, the following definitions
23 apply:

24 (1) AUTHORIZED REPRESENTATIVE.—The term
25 “authorized representative” means—

1 (A) in the case of the Federal Government,
2 any individual designated by the President with
3 respect to the executive branch, the Chief Jus-
4 tice of the United States with respect to the ju-
5 dicial branch, or the President pro Tempore of
6 the Senate and Speaker of the House of Rep-
7 resentatives with respect to the Congress, or
8 their designees, to enter into a mutual aid
9 agreement;

10 (B) in the case of a locality, the official
11 designated by law to declare an emergency in
12 and for the locality, or the official's designee;

13 (C) in the case of a State, the Governor or
14 the Governor's designee.

15 (2) EMERGENCY.—The term “emergency”
16 means a major disaster or emergency declared by
17 the President, or a State of Emergency declared by
18 an authorized representative of a State or locality, in
19 response to which assistance may be provided under
20 a mutual aid agreement.

21 (3) EMERGENCY RESPONSE PROVIDER.—The
22 term “Emergency Response Provider” means State
23 or local emergency public safety, law enforcement,
24 emergency response, emergency medical (including
25 hospital emergency facilities), and related personnel,

1 agencies, and authorities that are a party to a litigation
2 management agreement.

3 (4) EMPLOYEE.—The term “employee” means,
4 with respect to a party to a mutual aid agreement,
5 the employees of the party, including its agents or
6 authorized volunteers, who are committed to provide
7 assistance under the agreement.

8 (5) LITIGATION MANAGEMENT AGREEMENT.—
9 The term “litigation management agreement” means
10 an agreement entered into pursuant to the authority
11 granted under section 5103.

12 (6) LOCALITY.—The term “locality” means a
13 county, city, or town.

14 (7) MUTUAL AID AGREEMENT.—The term “mutual
15 aid agreement” means an agreement entered
16 into pursuant to the authority granted under section
17 5102.

18 (8) PUBLIC SERVICE EVENT.—The term “public
19 service event” means any undeclared emergency,
20 incident, or situation in preparation for or response
21 to which assistance may be provided under a mutual
22 aid agreement.

23 (9) REQUESTING PARTY.—The term “requesting
24 party” means, with respect to a mutual aid
25 agreement, the party in whose jurisdiction assistance

1 is provided, or a training event is held, under the
2 agreement.

3 (10) RESPONDING PARTY.—The term “respond-
4 ing party” means, with respect to a mutual aid
5 agreement, the party providing assistance, or partici-
6 pating in a training event, under the agreement, but
7 does not include the requesting party.

8 (11) STATE.—The term “State” includes each
9 of the several States of the United States, the Dis-
10 trict of Columbia, the Commonwealth of Puerto
11 Rico, the Virgin Islands, Guam, American Samoa,
12 and the Commonwealth of the Northern Mariana Is-
13 lands, and any other territory or possession of the
14 United States, and any political subdivision of any
15 such place.

16 (12) TRAINING EVENT.—The term “training
17 event” means an emergency and public service
18 event-related exercise, test, or other activity using
19 equipment and personnel to prepare for or simulate
20 performance of any aspect of the giving or receiving
21 of assistance during emergencies or public service
22 events, but does not include an actual emergency or
23 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-

1 organizations as appropriate, the development of
2 national voluntary consensus standards for pub-
3 lic safety interoperable communications;

4 (E) encourage the development and imple-
5 mentation of flexible and open architectures,
6 with appropriate levels of security, for short-
7 term and long-term solutions to public safety
8 communications interoperability;

9 (F) assist other Federal agencies in identi-
10 fying priorities for research, development, and
11 testing and evaluation with regard to public
12 safety interoperable communications;

13 (G) identify priorities within the Depart-
14 ment of Homeland Security for research, devel-
15 opment, and testing and evaluation with regard
16 to public safety interoperable communications;

17 (H) establish coordinated guidance for
18 Federal grant programs for public safety inter-
19 operable communications;

20 (I) provide technical assistance to State
21 and local public safety agencies regarding plan-
22 ning, acquisition strategies, interoperability ar-
23 chitectures, training, and other functions nec-
24 essary to achieve public safety communications
25 interoperability;

1 (J) develop and disseminate best practices
2 to improve public safety communications inter-
3 operability; and

4 (K) develop appropriate performance meas-
5 ures and milestones to systematically measure
6 the Nation's progress towards achieving public
7 safety communications interoperability, includ-
8 ing the development of national voluntary con-
9 sensus standards.

10 (2) OFFICE FOR INTEROPERABILITY AND COM-
11 PATIBILITY.—

12 (A) ESTABLISHMENT OF OFFICE.—The
13 Secretary may establish an Office for Interoper-
14 ability and Compatibility to carry out this sub-
15 section.

16 (B) FUNCTIONS.—If the Secretary estab-
17 lishes such office, the Secretary shall, through
18 such office—

19 (i) carry out Department of Home-
20 land Security responsibilities and authori-
21 ties relating to the SAFECOM Program;
22 and

23 (ii) carry out subsection (c) (relating
24 to rapid interoperable communications ca-
25 pabilities for high risk jurisdictions).

1 (3) APPLICABILITY OF FEDERAL ADVISORY
2 COMMITTEE ACT.—The Federal Advisory Committee
3 Act (5 U.S.C. App.) shall not apply to advisory
4 groups established and maintained by the Secretary
5 for purposes of carrying out this subsection.

6 (b) REPORT.—Not later than 120 days after the date
7 of the enactment of this Act, the Secretary shall report
8 to the Congress on Department of Homeland Security
9 plans for accelerating the development of national vol-
10 untary consensus standards for public safety interoperable
11 communications, a schedule of milestones for such devel-
12 opment, and achievements of such development.

13 (c) RAPID INTEROPERABLE COMMUNICATIONS CAPA-
14 BILITIES FOR HIGH RISK JURISDICTIONS.—The Sec-
15 retary, in consultation with other relevant Federal, State,
16 and local government agencies, shall provide technical,
17 training, and other assistance as appropriate to support
18 the rapid establishment of consistent, secure, and effective
19 interoperable communications capabilities for emergency
20 response providers in jurisdictions determined by the Sec-
21 retary to be at consistently high levels of risk of terrorist
22 attack.

23 (d) DEFINITIONS.—In this section:

24 (1) INTEROPERABLE COMMUNICATIONS.—The
25 term “interoperable communications” means the

1 ability of emergency response providers and relevant
2 Federal, State, and local government agencies to
3 communicate with each other as necessary, through
4 a dedicated public safety network utilizing informa-
5 tion technology systems and radio communications
6 systems, and to exchange voice, data, or video with
7 one another on demand, in real time, as necessary.

8 (2) EMERGENCY RESPONSE PROVIDERS.—The
9 term “emergency response providers” has the mean-
10 ing that term has under section 2 of the Homeland
11 Security Act of 2002 (6 U.S.C. 101)

12 (e) CLARIFICATION OF RESPONSIBILITY FOR INTER-
13 OPERABLE COMMUNICATIONS.—

14 (1) UNDER SECRETARY FOR EMERGENCY PRE-
15 PAREDNESS AND RESPONSE.—Section 502(7) of the
16 Homeland Security Act of 2002 (6 U.S.C. 312(7))
17 is amended—

18 (A) by striking “developing comprehensive
19 programs for developing interoperative commu-
20 nications technology, and”; and

21 (B) by striking “such” and inserting
22 “interoperable communications”.

23 (2) OFFICE FOR DOMESTIC PREPAREDNESS.—
24 Section 430(e) of such Act (6 U.S.C. 238(e)) is
25 amended—

1 (A) in paragraph (7) by striking “and”
2 after the semicolon;

3 (B) in paragraph (8) by striking the period
4 and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(9) helping to ensure the acquisition of inter-
7 operable communication technology by State and
8 local governments and emergency response pro-
9 viders.”.

10 **SEC. 5132. SENSE OF CONGRESS REGARDING THE INCI-**
11 **DENT COMMAND SYSTEM.**

12 (a) FINDINGS.—The Congress finds that—

13 (1) in Homeland Security Presidential Direc-
14 tive–5, the President directed the Secretary of
15 Homeland Security to develop an incident command
16 system to be known as the National Incident Man-
17 agement System (NIMS), and directed all Federal
18 agencies to make the adoption of NIMS a condition
19 for the receipt of Federal emergency preparedness
20 assistance by States, territories, tribes, and local
21 governments beginning in fiscal year 2005;

22 (2) in March 2004, the Secretary of Homeland
23 Security established NIMS, which provides a unified
24 structural framework for Federal, State, territorial,
25 tribal, and local governments to ensure coordination

1 of command, operations, planning, logistics, finance,
2 and administration during emergencies involving
3 multiple jurisdictions or agencies; and

4 (3) the National Commission on Terrorist At-
5 tacks Upon the United States strongly supports the
6 adoption of NIMS by emergency response agencies
7 nationwide, and the decision by the President to con-
8 dition Federal emergency preparedness assistance
9 upon the adoption of NIMS.

10 (b) SENSE OF CONGRESS.—It is the sense of the
11 Congress that all levels of government should adopt
12 NIMS, and that the regular use of and training in NIMS
13 by States, territories, tribes, and local governments should
14 be a condition for receiving Federal preparedness assist-
15 ance.

16 **SEC. 5133. SENSE OF CONGRESS REGARDING UNITED**
17 **STATES NORTHERN COMMAND PLANS AND**
18 **STRATEGIES.**

19 It is the sense of Congress that the Secretary of De-
20 fense should regularly assess the adequacy of United
21 States Northern Command's plans and strategies with a
22 view to ensuring that the United States Northern Com-
23 mand is prepared to respond effectively to all military and
24 paramilitary threats within the United States.

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