

[COMMITTEE PRINT]
COMMITTEE ON RULES

October 4, 2004

**[Amendment in the Nature of a Substitute to H.R. 10, As
Reported]**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

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Sec. 1012. Revised definition of national intelligence.

Sec. 1013. Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency.

Sec. 1014. Role of National Intelligence Director in appointment of certain officials responsible for intelligence-related activities.

Sec. 1015. Initial appointment of the National Intelligence Director.

Sec. 1016. Executive schedule matters.

Sec. 1017. Information sharing.

Subtitle B—National Counterterrorism Center and Civil Liberties Protections

Sec. 1021. National Counterterrorism Center.

Sec. 1022. Civil Liberties Protection Officer.

Subtitle C—Joint Intelligence Community Council

Sec. 1031. Joint Intelligence Community Council.

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Sec. 1041. Human intelligence as an increasingly critical component of the intelligence community.

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Sec. 1051. Modification of obligated service requirements under National Security Education Program.

Sec. 1052. Improvements to the National Flagship Language Initiative.

Sec. 1053. Establishment of scholarship program for English language studies for heritage community citizens of the United States within the National Security Education Program.

Sec. 1054. Sense of Congress with respect to language and education for the intelligence community; reports.

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Sec. 1056. Pilot project for Civilian Linguist Reserve Corps.

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- Sec. 1093. Termination of positions of Assistant Directors of Central Intelligence.
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- Sec. 1101. Study of promotion and professional military education school selection rates for military intelligence officers.

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- Sec. 2001. Individual terrorists as agents of foreign powers.

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- Sec. 2023. Obstruction of justice and false statements in terrorism cases.
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1 **TITLE I—REFORM OF THE**
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-
12 ing sections 102 through 104 and inserting the following
13 new sections:

1 “NATIONAL INTELLIGENCE DIRECTOR

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

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

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

11 “(1) serve as head of the intelligence commu-
12 nity;

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

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

22 “(c) PROHIBITION ON DUAL SERVICE.—The indi-
23 vidual serving in the position of National Intelligence Di-
24 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—

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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 “(7) Nothing in this title shall be construed as affect-
9 ing the role of the Department of Justice or the Attorney
10 General with respect to applications under the Foreign In-
11 telligence 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 Associate National Intelligence Direc-
12 tor for Science and Technology.

13 “(I) The National Intelligence Council.

14 “(J) The General Counsel to the National Intel-
15 ligence Director.

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

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

1 “(c) DEPUTY NATIONAL INTELLIGENCE DIREC-
2 TOR.—(1) There is a Deputy National Intelligence Direc-
3 tor who shall be appointed by the President, by and with
4 the advice and consent of the Senate.

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

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

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

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

20 “(2) The Deputy National Intelligence Director for
21 Operations shall—

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

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

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

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

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

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

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

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

24 “(2) The Associate National Intelligence Director for
25 Military Support shall—

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

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

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

12 “(2) The Associate National Intelligence Director for
13 Domestic Security shall—

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

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

1 “(h) ASSOCIATE NATIONAL INTELLIGENCE DIREC-
2 TOR FOR DIPLOMATIC AFFAIRS.—(1) There is an Asso-
3 ciate National Intelligence Director for Diplomatic Affairs
4 who shall be appointed by the National Intelligence Direc-
5 tor in consultation with the Secretary of State.

6 “(2) The Associate National Intelligence Director for
7 Diplomatic Affairs shall—

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

10 “(B) perform such other duties and exercise
11 such powers as the National Intelligence Director
12 may prescribe.

13 “(i) ASSOCIATE NATIONAL INTELLIGENCE DIREC-
14 TOR FOR SCIENCE AND TECHNOLOGY.—(1) There is an
15 Associate National Intelligence Director for Science and
16 Technology who shall be appointed by the National Intel-
17 ligence Director.

18 “(2) The Associate National Intelligence Director for
19 Science and Technology shall—

20 “(A) advise the National Intelligence Director
21 regarding research and development efforts and pri-
22 orities in support of the intelligence mission, to en-
23 sure that the science and technology needs of the
24 National Intelligence Program will be met;

1 “(B) develop in consultation with appropriate
2 agencies and the Associate National Intelligence Di-
3 rectors for Military Support, Domestic Security, and
4 Diplomatic Affairs a strategic plan to support
5 United States leadership in science and technology
6 to facilitate intelligence missions; and

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

10 “(j) 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 “(k) NATIONAL INTELLIGENCE COUNCIL.—(1)
10 There is a National Intelligence Council.

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

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

24 “(3) The National Intelligence Council shall—

1 “(A) produce national intelligence estimates for
2 the United States Government, including alternative
3 views held by elements of the intelligence commu-
4 nity;

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

9 “(C) otherwise assist the National Intelligence
10 Director in carrying out the responsibilities of the
11 Director.

12 “(4) Within their respective areas of expertise and
13 under the direction of the National Intelligence Director,
14 the members of the National Intelligence Council shall
15 constitute the senior intelligence advisers of the intel-
16 ligence community for purposes of representing the views
17 of the intelligence community within the United States
18 Government.

19 “(5) Subject to the direction and control of the Na-
20 tional Intelligence Director, the National Intelligence
21 Council may carry out its responsibilities under this sub-
22 section by contract, including contracts for substantive ex-
23 perts necessary to assist the Council with particular as-
24 sessments under this subsection.

1 “(6) The National Intelligence Director shall make
2 available to the National Intelligence Council such per-
3 sonnel as may be necessary to permit the Council to carry
4 out its responsibilities under this subsection.

5 “(7)(A) The National Intelligence Director shall take
6 appropriate measures to ensure that the National Intel-
7 ligence Council and its staff satisfy the needs of policy-
8 making officials and other consumers of intelligence.

9 “(B) The Council shall be readily accessible to policy-
10 making officials and other appropriate individuals not oth-
11 erwise associated with the intelligence community.

12 “(8) The heads of the elements of the intelligence
13 community shall, as appropriate, furnish such support to
14 the National Intelligence Council, including the prepara-
15 tion of intelligence analyses, as may be required by the
16 National Intelligence Director.

17 “(1) GENERAL COUNSEL TO THE NATIONAL INTEL-
18 LIGENCE DIRECTOR.—(1) There is a General Counsel to
19 the National Intelligence Director.

20 “(2) The individual serving in the position of General
21 Counsel to the National Intelligence Director may not,
22 while so serving, also serve as the General Counsel of any
23 other agency or department of the United States.

1 “(3) The General Counsel to the National Intel-
2 ligence Director is the chief legal officer for the National
3 Intelligence Director.

4 “(4) The General Counsel to the National Intel-
5 ligence Director shall perform such functions as the Na-
6 tional Intelligence Director may prescribe.

7 “(m) INTELLIGENCE COMMUNITY INFORMATION
8 TECHNOLOGY OFFICER.—(1) There is an Intelligence
9 Community Information Technology Officer who shall be
10 appointed by the National Intelligence Director.

11 “(2) The mission of the Intelligence Community In-
12 formation Technology Officer is to assist the National In-
13 telligence Director in ensuring the sharing of information
14 in the fullest and most prompt manner between and
15 among elements of the intelligence community consistent
16 with section 102A(g).

17 “(3) The Intelligence Community Information Tech-
18 nology Officer shall—

19 “(A) consult with the National Intelligence Di-
20 rector who shall provide guidance to the heads of the
21 department containing elements of the intelligence
22 community and heads of the elements of the intel-
23 ligence community as appropriate;

24 “(B) assist the Deputy National Intelligence
25 Director for Community Management and Resources

1 in developing and implementing the Information
2 Sharing Environment (ISE) established under sec-
3 tion 1017 of the 9/11 Recommendations Implemen-
4 tation Act;

5 “(C) develop an enterprise architecture for the
6 intelligence community and assist the National Intel-
7 ligence Director through the Deputy National Intel-
8 ligence Director for Community Management and
9 Resources in ensuring that elements of the intel-
10 ligence community comply with such architecture;

11 “(D) have procurement approval authority over
12 all enterprise architecture-related information tech-
13 nology items funded in the National Intelligence
14 Program;

15 “(E) ensure that all such elements have the
16 most direct and continuous electronic access to all
17 information (including unevaluated intelligence con-
18 sistent with existing laws and the guidelines referred
19 to in section 102A(b)) necessary for appropriately
20 cleared analysts to conduct comprehensive all-source
21 analysis and for appropriately cleared policymakers
22 to perform their duties—

23 “(i) directly, in the case of the elements of
24 the intelligence community within the National
25 Intelligence Program, and

1 “(ii) in conjunction with the Secretary of
2 Defense and other applicable heads of depart-
3 ments with intelligence elements outside the
4 National Intelligence Program;

5 “(F) review and provide recommendations to
6 the Deputy National Intelligence Director for Com-
7 munity Management and Resources on National In-
8 telligence Program budget requests for information
9 technology and national security systems;

10 “(G) assist the Deputy National Intelligence
11 Director for Community Management and Resources
12 in promulgating and enforcing standards on infor-
13 mation technology and national security systems
14 that apply throughout the elements of the intel-
15 ligence community;

16 “(H) ensure that within and between the ele-
17 ments of the National Intelligence Program, duplica-
18 tive and unnecessary information technology and na-
19 tional security systems are eliminated; and

20 “(I) pursuant to the direction of the National
21 Intelligence Director, consult with the Director of
22 the Office of Management and Budget to ensure
23 that the Office of the National Intelligence Director
24 coordinates and complies with national security re-

1 requirements consistent with applicable law, Executive
2 orders, and guidance; and

3 “(J) perform such other duties with respect to
4 the information systems and information technology
5 of the Office of the National Intelligence Director as
6 may be prescribed by the Deputy National Intel-
7 ligence Director for Community Management and
8 Resources or specified by law.

9 “(n) COUNTERINTELLIGENCE OFFICER TO THE NA-
10 TIONAL INTELLIGENCE DIRECTOR.—(1) There is a Coun-
11 terintelligence Officer to the National Intelligence Director
12 who shall be appointed by the National Intelligence Direc-
13 tor.

14 “(2) The mission of the Counterintelligence Officer
15 to the National Intelligence Director is to assist the Na-
16 tional Intelligence Director in reducing the threats of dis-
17 closure or loss of classified or sensitive information or pen-
18 etration of national intelligence functions that may be
19 potentiated by increased information sharing, enterprise
20 architectures, or other activities under this Act.

21 “(3) The Counterintelligence Officer to the National
22 Intelligence Director shall—

23 “(A) assist the Deputy National Intelligence
24 Director for Community Management and Resources
25 in developing and implementing counterintelligence

1 policies for the functions of the Office of the Na-
2 tional Intelligence Director, in consultation with the
3 Associate National Intelligence Directors;

4 “(B) ensure that policies under subparagraph
5 (A) and the implementation of those policies are co-
6 ordinated with counterintelligence activities of ap-
7 propriate agencies and elements of the National In-
8 telligence Program, and with the activities of the In-
9 telligence Community Information Officer;

10 “(C) review resource requirements to support
11 the mission of the Counterintelligence Officer under
12 this subsection and make recommendations to the
13 Deputy National Intelligence Director for Commu-
14 nity Management and Resources with respect to
15 those requirements; and

16 “(D) perform such other duties as the National
17 Intelligence Director shall prescribe.

18 “CENTRAL INTELLIGENCE AGENCY

19 “SEC. 104. (a) CENTRAL INTELLIGENCE AGENCY.—
20 There is a Central Intelligence Agency.

21 “(b) FUNCTION.—The function of the Central Intel-
22 ligence Agency is to assist the Director of the Central In-
23 telligence Agency in carrying out the responsibilities speci-
24 fied in section 104A(c).

1 “DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

2 “SEC. 104A. (a) DIRECTOR OF CENTRAL INTEL-

3 LIGENCE AGENCY.—There is a Director of the Central In-

4 telligence Agency who shall be appointed by the President,

5 by and with the advice and consent of the Senate. The

6 Director shall be under the authority, direction, and con-

7 trol of the National Intelligence Director, except as other-

8 wise determined by the President.

9 “(b) DUTIES.—In the capacity as Director of the

10 Central Intelligence Agency, the Director of the Central

11 Intelligence Agency shall—

12 “(1) carry out the responsibilities specified in

13 subsection (c); and

14 “(2) serve as the head of the Central Intel-

15 ligence Agency.

16 “(c) RESPONSIBILITIES.—The Director of the Cen-

17 tral Intelligence Agency shall—

18 “(1) collect intelligence through human sources

19 and by other appropriate means, except that the Di-

20 rector of the Central Intelligence Agency shall have

21 no police, subpoena, or law enforcement powers or

22 internal security functions;

23 “(2) provide overall direction for the collection

24 of national intelligence overseas or outside the

25 United States through human sources by elements

1 of the intelligence community authorized to under-
2 take such collection and, in coordination with other
3 agencies of the Government which are authorized to
4 undertake such collection, ensure that the most ef-
5 fective use is made of resources and that the risks
6 to the United States and those involved in such col-
7 lection 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). In the case in which the
7 National Intelligence Director does not concur in such a
8 recommendation, the Director and the head of the depart-
9 ment or agency concerned may advise the President di-
10 rectly of the intention to withhold concurrence or to make
11 a recommendation, as the case may be.

12 “(2) Paragraph (1) applies to the following positions:

13 “(A) The Director of the National Security
14 Agency.

15 “(B) The Director of the National Reconnaissance Office.

17 “(C) The Director of the National Geospatial-
18 Intelligence Agency.

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

1 vacancy or recommending to the President an individual
2 to be nominated to fill the vacancy.

3 “(2) Paragraph (1) applies to the following positions:

4 “(A) The Director of the Defense Intelligence
5 Agency.

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

8 “(C) The Director of the Office of Intelligence
9 of the Department of Energy.

10 “(D) The Director of the Office of Counter-
11 intelligence of the Department of Energy.

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

14 “(F) The Executive Assistant Director for In-
15 telligence of the Federal Bureau of Investigation or
16 successor.

17 “(G) The Under Secretary of Homeland Secu-
18 rity for Information Analysis and Infrastructure
19 Protection.

20 “(H) The Deputy Assistant Commandant of the
21 Coast Guard for Intelligence.

22 **SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL IN-**
23 **TELLIGENCE DIRECTOR.**

24 (a) INITIAL APPOINTMENT OF THE NATIONAL IN-
25 TELLIGENCE DIRECTOR.—Notwithstanding section

1 102(a)(1) of the National Security Act of 1947, as added
2 by section 1011(a), the individual serving as the Director
3 of Central Intelligence on the date immediately preceding
4 the date of the enactment of this Act may, at the discre-
5 tion of the President, become the initial National Intel-
6 ligence Director.

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

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

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

1 (4) Any reference to the Deputy Director of Central
2 Intelligence for Community Management in any law, regu-
3 lation, document, paper, or other record of the United
4 States shall be deemed to be a reference to the Deputy
5 National Intelligence Director for Community Manage-
6 ment and Resources.

7 **SEC. 1016. EXECUTIVE SCHEDULE MATTERS.**

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

11 “National Intelligence Director.”.

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

15 “Deputy National Intelligence Director.

16 “Director of the National Counterterrorism
17 Center.”.

18 (c) EXECUTIVE SCHEDULE LEVEL IV.—Section
19 5315 of title 5, United States Code, is amended by strik-
20 ing the item relating to the Assistant Directors of Central
21 Intelligence.

22 **SEC. 1017. INFORMATION SHARING.**

23 (a) FINDINGS.—Congress makes the following find-
24 ings:

1 (1) The effective use of information, from all
2 available sources, is essential to the fight against
3 terror and the protection of our homeland.

4 (2) The United States Government has access
5 to a vast amount of information, including not only
6 traditional intelligence but also other government
7 databases, such as those containing customs or im-
8 migration information.

9 (3) In the period preceding September 11,
10 2001, there were instances of potentially helpful in-
11 formation that was available but that no person
12 knew to ask for; information that was distributed
13 only in compartmented channels, and information
14 that was requested but could not be shared.

15 (4) The current system, in which each intel-
16 ligence agency has its own security practices, re-
17 quires a demonstrated “need to know” before shar-
18 ing.

19 (5) The National Intelligence Director should
20 pursue setting an executable government-wide secu-
21 rity mode policy of “right-to-share,” one based on a
22 proven blend of both integrity and access control
23 models and supported by applicable law. No single
24 agency can create a meaningful government-wide in-
25 formation sharing system on its own.

1 (b) ESTABLISHMENT OF INFORMATION SHARING EN-
2 VIRONMENT.—The President shall establish a secure in-
3 formation sharing environment (ISE) for the sharing of
4 intelligence and related information in a manner con-
5 sistent with national security and the protection of privacy
6 and civil liberties. The information sharing environment
7 (ISE) shall be based on clearly defined and consistently
8 applied policies and procedures, and valid investigative,
9 analytical, and operational requirements.

10 **Subtitle B—National**
11 **Counterterrorism Center and**
12 **Civil Liberties Protections**

13 **SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.**

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

17 “NATIONAL COUNTERTERRORISM CENTER

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

21 “(b) DIRECTOR OF NATIONAL COUNTERTERRORISM
22 CENTER.—There is a Director of the National
23 Counterterrorism Center, who shall be the head of the Na-
24 tional Counterterrorism Center, who shall be appointed by
25 National Intelligence Director.

1 “(c) SUPERVISION.—The Director of the National
2 Counterterrorism Center shall report to the National In-
3 telligence Director on—

4 “(1) the budget and programs of the National
5 Counterterrorism Center;

6 “(2) the activities of the Directorate of Intel-
7 ligence of the National Counterterrorism Center
8 under subsection (h);

9 “(3) the conduct of intelligence operations im-
10 plemented by other elements of the intelligence com-
11 munity; and

12 “(4) the planning and progress of joint
13 counterterrorism operations (other than intelligence
14 operations).

15 The National Intelligence Director shall carry out this sec-
16 tion through the Deputy National Intelligence Director for
17 Operations.

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

20 “(1) To serve as the primary organization in
21 the United States Government for analyzing and in-
22 tegrating all intelligence possessed or acquired by
23 the United States Government pertaining to ter-
24 rorism and counterterrorism, excepting intelligence

1 pertaining exclusively to domestic terrorists and do-
2 mestic counterterrorism.

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

9 “(3) To assign roles and missions responsibil-
10 ities as part of the its strategic operational planning
11 duties to lead Departments or agencies, as appro-
12 priate, for counterterrorism activities that are con-
13 sistent with applicable law and that support
14 counterterrorism strategic plans, but shall not direct
15 the execution of any resulting operations.

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

20 “(5) To ensure that such agencies have access
21 to and receive intelligence needed to accomplish their
22 assigned activities.

23 “(6) To serve as the central and shared knowl-
24 edge bank on known and suspected terrorists and
25 international terror groups, as well as their goals,

1 strategies, capabilities, and networks of contacts and
2 support.

3 “(e) DOMESTIC COUNTERTERRORISM INTEL-
4 LIGENCE.—(1) The Center may, consistent with applicable
5 law, the direction of the President, and the guidelines re-
6 ferred to in section 102A(b), receive intelligence pertaining
7 exclusively to domestic counterterrorism from any Fed-
8 eral, State, or local government or other source necessary
9 to fulfill its responsibilities and retain and disseminate
10 such intelligence.

11 “(2) Any agency authorized to conduct
12 counterterrorism activities may request information from
13 the Center to assist it in its responsibilities, consistent
14 with applicable law and the guidelines referred to in sec-
15 tion 102A(b).

16 “(f) DUTIES AND RESPONSIBILITIES OF DIREC-
17 TOR.—The Director of the National Counterterrorism
18 Center shall—

19 “(1) serve as the principal adviser to the Na-
20 tional Intelligence Director on intelligence operations
21 relating to counterterrorism;

22 “(2) provide strategic guidance and plans for
23 the civilian and military counterterrorism efforts of
24 the United States Government and for the effective
25 integration of counterterrorism intelligence and op-

1 erations across agency boundaries, both inside and
2 outside the United States;

3 “(3) advise the National Intelligence Director
4 on the extent to which the counterterrorism program
5 recommendations and budget proposals of the de-
6 partments, agencies, and elements of the United
7 States Government conform to the priorities estab-
8 lished by the President;

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

17 “(5) support the Department of Justice and the
18 Department of Homeland Security, and other appro-
19 priate agencies, in fulfillment of their responsibilities
20 to disseminate terrorism information, consistent with
21 applicable law, guidelines referred to in section
22 102A(b), Executive Orders and other Presidential
23 guidance, to State and local government officials,
24 and other entities, and coordinate dissemination of

1 terrorism information to foreign governments as ap-
2 proved by the National Intelligence Director;

3 “(6) consistent with priorities approved by the
4 President, assist the National Intelligence Director
5 in establishing requirements for the intelligence com-
6 munity for the collection of terrorism information;
7 and

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

11 “(g) LIMITATION.—The Director of the National
12 Counterterrorism Center may not direct the execution of
13 counterterrorism operations.

14 “(h) RESOLUTION OF DISPUTES.—The National In-
15 telligence Director shall resolve disagreements between the
16 National Counterterrorism Center and the head of a de-
17 partment, agency, or element of the United States Govern-
18 ment on designations, assignments, plans, or responsibil-
19 ities. The head of such a department, agency, or element
20 may appeal the resolution of the disagreement by the Na-
21 tional Intelligence Director to the President.

22 “(i) DIRECTORATE OF INTELLIGENCE.—The Direc-
23 tor of the National Counterterrorism Center shall estab-
24 lish and maintain within the National Counterterrorism
25 Center a Directorate of Intelligence which shall have pri-

1 mary responsibility within the United States Government
2 for analysis of terrorism and terrorist organizations (ex-
3 cept for purely domestic terrorism and domestic terrorist
4 organizations) from all sources of intelligence, whether col-
5 lected inside or outside the United States.

6 “(j) DIRECTORATE OF STRATEGIC PLANNING.—The
7 Director of the National Counterterrorism Center shall es-
8 tablish and maintain within the National
9 Counterterrorism Center a Directorate of Strategic Plan-
10 ning which shall provide strategic guidance and plans for
11 counterterrorism operations conducted by the United
12 States Government.”.

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

“Sec. 119. National Counterterrorism Center.”.

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

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

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

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

1 (1) ensure that the protection of civil liberties
2 and privacy is appropriately incorporated in the poli-
3 cies and procedures developed for and implemented
4 by the Office of the National Intelligence Director
5 and the elements of the intelligence community with-
6 in the National Intelligence Program;

7 (2) oversee compliance by the Office and the
8 National Intelligence Director with requirements
9 under the Constitution and all laws, regulations, Ex-
10 ecutive orders, and implementing guidelines relating
11 to civil liberties and privacy;

12 (3) review and assess complaints and other in-
13 formation indicating possible abuses of civil liberties
14 and privacy in the administration of the programs
15 and operations of the Office and the National Intel-
16 ligence Director and, as appropriate, investigate any
17 such complaint or information;

18 (4) ensure that the use of technologies sustain,
19 and do not erode, privacy protections relating to the
20 use, collection, and disclosure of personal informa-
21 tion;

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

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

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

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

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

14 **Subtitle C—Joint Intelligence**
15 **Community Council**

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

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

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

22 (2) The National Intelligence Director shall consult
23 with the Joint Intelligence Community Council in devel-
24 oping guidance for the development of the annual National
25 Intelligence Program budget.

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

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

5 (2) The Secretary of State.

6 (3) The Secretary of the Treasury.

7 (4) The Secretary of Defense.

8 (5) The Attorney General.

9 (6) The Secretary of Energy.

10 (7) The Secretary of Homeland Security.

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

13 **Subtitle D—Improvement of**
14 **Human Intelligence (HUMINT)**

15 **SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY**
16 **CRITICAL COMPONENT OF THE INTEL-**
17 **LIGENCE COMMUNITY.**

18 It is a sense of Congress that—

19 (1) the human intelligence officers of the intel-
20 ligence community have performed admirably and
21 honorably in the face of great personal dangers;

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

1 United States have not received the necessary and
2 commensurate priorities;

3 (3) human intelligence is becoming an increas-
4 ingly important capability to provide information on
5 the asymmetric threats to the national security of
6 the United States;

7 (4) the continued development and improve-
8 ment of a robust and empowered and flexible human
9 intelligence work force is critical to identifying, un-
10 derstanding, and countering the plans and intentions
11 of the adversaries of the United States; and

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

17 **SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CA-**
18 **PACITY.**

19 Not later than 6 months after the date of the enact-
20 ment of this Act, the National Intelligence Director shall
21 submit to Congress a report on existing human intel-
22 ligence (HUMINT) capacity which shall include a plan to
23 implement changes, as necessary, to accelerate improve-
24 ments to, and increase the capacity of, HUMINT across
25 the intelligence community.

1 **Subtitle E—Improvement of Edu-**
2 **cation for the Intelligence Com-**
3 **munity**

4 **SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-**
5 **QUIREMENTS UNDER NATIONAL SECURITY**
6 **EDUCATION PROGRAM.**

7 (a) IN GENERAL.—(1) Subsection (b)(2) of section
8 802 of the David L. Boren National Security Education
9 Act of 1991 (50 U.S.C. 1902) is amended to read as fol-
10 lows:

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

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

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

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

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

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

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

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

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

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

1 available in the Department of Defense or in any
2 element of the intelligence community.

3 “(C) In any other Federal department or agen-
4 cy not referred to in subparagraphs (A) and (B), if
5 the recipient demonstrates to the Secretary that no
6 position is available in a Federal department or
7 agency specified in such paragraphs.”.

8 (b) REGULATIONS.—The Secretary of Defense shall
9 prescribe regulations to carry out subsection (j) of section
10 802 of the David L. Boren National Security Education
11 Act of 1991, as added by subsection (a). In prescribing
12 such regulations, the Secretary shall establish standards
13 that recipients of scholarship and fellowship assistance
14 under the program under section 802 of the David L.
15 Boren National Security Education Act of 1991 are re-
16 quired to demonstrate in order to satisfy the requirement
17 of a good faith effort to gain employment as required
18 under such subsection.

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

24 (2) The amendments made by subsection (a) shall not
25 affect the force, validity, or terms of any service agreement

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

4 **SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP**
5 **LANGUAGE INITIATIVE.**

6 (a) INCREASE IN ANNUAL AUTHORIZATION OF AP-
7 PROPRIATIONS.—(1) Title VIII of the Intelligence Author-
8 ization Act for Fiscal Year 1992 (Public Law 102–183;
9 105 Stat. 1271), as amended by section 311(c) of the In-
10 telligence Authorization Act for Fiscal Year 1994 (Public
11 Law 103–178; 107 Stat. 2037) and by section 333(b) of
12 the Intelligence Authorization Act for Fiscal Year 2003
13 (Public Law 107–306; 116 Stat. 2397), is amended in
14 subsection (a) of section 811 by striking “there is author-
15 ized to be appropriated to the Secretary for each fiscal
16 year, beginning with fiscal year 2003, \$10,000,000,” and
17 inserting “there is authorized to be appropriated to the
18 Secretary for each of fiscal years 2003 and 2004,
19 \$10,000,000, and for fiscal year 2005 and each subse-
20 quent fiscal year, \$12,000,000,”.

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

24 (b) REQUIREMENT FOR EMPLOYMENT AGREE-
25 MENTS.—(1) Section 802(i) of the David L. Boren Na-

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

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

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

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

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

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

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

3 “(iv) to reimburse the United States if, after
4 completing such training, the employment of the em-
5 ployee by the agency or department is terminated ei-
6 ther by the agency or department due to misconduct
7 by the employee or by the employee voluntarily, be-
8 fore the completion by the employee of the period of
9 service required in clause (ii), in an amount that
10 bears the same ratio to the total cost of the training
11 (excluding the employee’s pay and allowances) pro-
12 vided to the employee as the unserved portion of
13 such period of service bears to the total period of
14 service under clause (ii).

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

19 “(D) The head of an element of the intelligence com-
20 munity may release an employee, in whole or in part, from
21 the obligation to reimburse the United States under an
22 agreement under subparagraph (A) when, in the discretion
23 of the head of the element, the head of the element deter-
24 mines that equity or the interests of the United States
25 so require.”.

1 (2) The amendment made by paragraph (1) shall
2 apply to training that begins on or after the date that is
3 90 days after the date of the enactment of this Act.

4 (c) INCREASE IN THE NUMBER OF PARTICIPATING
5 EDUCATIONAL INSTITUTIONS.—The Secretary of Defense
6 shall take such steps as the Secretary determines will in-
7 crease the number of qualified educational institutions
8 that receive grants under the National Flagship Language
9 Initiative to establish, operate, or improve activities de-
10 signed to train students in programs in a range of dis-
11 ciplines to achieve advanced levels of proficiency in those
12 foreign languages that the Secretary identifies as being
13 the most critical in the interests of the national security
14 of the United States.

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

1 **SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM**
2 **FOR ENGLISH LANGUAGE STUDIES FOR HER-**
3 **ITAGE COMMUNITY CITIZENS OF THE UNITED**
4 **STATES WITHIN THE NATIONAL SECURITY**
5 **EDUCATION PROGRAM.**

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

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

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

15 (C) by adding at the end the following new sub-
16 paragraph:

17 “(E) awarding scholarships to students
18 who—

19 “(i) are United States citizens who—

20 “(I) are native speakers (com-
21 monly referred to as heritage commu-
22 nity residents) of a foreign language
23 that is identified as critical to the na-
24 tional security interests of the United
25 States who should be actively re-
26 cruited for employment by Federal se-

1 curity agencies with a need for lin-
2 guists; and

3 “(II) are not proficient at a pro-
4 fessional level in the English language
5 with respect to reading, writing, and
6 interpersonal skills required to carry
7 out the national security interests of
8 the United States, as determined by
9 the Secretary,

10 to enable such students to pursue English
11 language studies at an institution of higher
12 education of the United States to attain
13 proficiency in those skills; and

14 “(ii) enter into an agreement to work
15 in a national security position or work in
16 the field of education in the area of study
17 for which the scholarship was awarded in
18 a similar manner (as determined by the
19 Secretary) as agreements entered into pur-
20 suant to subsection (b)(2)(A).”.

21 (2) The matter following subsection (a)(2) of such
22 section is amended—

23 (A) in the first sentence, by inserting “or for
24 the scholarship program under paragraph (1)(E)”
25 after “under paragraph (1)(D) for the National

1 **SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LAN-**
2 **GUAGE AND EDUCATION FOR THE INTEL-**
3 **LIGENCE COMMUNITY; REPORTS.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that there should be within the Office of the Na-
6 tional Intelligence Director a senior official responsible to
7 assist the National Intelligence Director in carrying out
8 the Director’s responsibilities for establishing policies and
9 procedure for foreign language education and training of
10 the intelligence community. The duties of such official
11 should include the following:

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

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

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

20 (4) Monitoring the allocation of resources for
21 foreign language education and training in order to
22 ensure the requirements of the intelligence commu-
23 nity with respect to foreign language proficiency are
24 met.

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

4 (1) A report that identifies—

5 (A) skills and processes involved in learn-
6 ing a foreign language; and

7 (B) characteristics and teaching techniques
8 that are most effective in teaching foreign lan-
9 guages.

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

14 (B) For purposes of subparagraph (A), the
15 term “foreign language heritage community” means
16 a community of residents or citizens of the United
17 States—

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

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

23 (3) A report on—

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

1 the intelligence community agree to repay em-
2 ployees of the intelligence community for any
3 student loan taken out by that employee for the
4 study of foreign languages critical for the na-
5 tional security of the United States; and

6 (B) the effectiveness of such a program in
7 recruiting and retaining highly qualified per-
8 sonnel in the intelligence community.

9 **SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRIT-**
10 **ICAL TO THE INTELLIGENCE COMMUNITY.**

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

13 (1) by inserting before section 1001 (50 U.S.C.
14 441g) the following:

15 **“Subtitle A—Science and**
16 **Technology”;**

17 and

18 (2) by adding at the end the following new sub-
19 titles:

20 **“Subtitle B—Foreign Languages**
21 **Program**

22 “PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES
23 CRITICAL TO THE INTELLIGENCE COMMUNITY

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

25 The Secretary of Defense and the National Intelligence

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

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

16 “EDUCATION PARTNERSHIPS

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

1 “(b) ASSISTANCE PROVIDED UNDER EDUCATIONAL
2 PARTNERSHIP AGREEMENTS.—Under an educational
3 partnership agreement entered into with an educational
4 institution pursuant to this section, the head of an element
5 of an intelligence community entity may provide the fol-
6 lowing assistance to the educational institution:

7 “(1) The loan of equipment and instructional
8 materials of the element of the intelligence commu-
9 nity entity to the educational institution for any pur-
10 pose and duration that the head determines to be
11 appropriate.

12 “(2) Notwithstanding any other provision of
13 law relating to transfers of surplus property, the
14 transfer to the educational institution of any com-
15 puter equipment, or other equipment, that is—

16 “(A) commonly used by educational insti-
17 tutions;

18 “(B) surplus to the needs of the entity;

19 and

20 “(C) determined by the head of the ele-
21 ment to be appropriate for support of such
22 agreement.

23 “(3) The provision of dedicated personnel to the
24 educational institution—

1 “(A) to teach courses in foreign languages
2 that are critical to the capability of the intel-
3 ligence community to carry out national secu-
4 rity activities of the United States; or

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

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

10 “(5) Cooperation with the educational institu-
11 tion in developing a program under which students
12 receive academic credit at the educational institution
13 for work on research projects of the element of the
14 intelligence community entity.

15 “(6) The provision of academic and career ad-
16 vice and assistance to students of the educational in-
17 stitution.

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

21 “VOLUNTARY SERVICES

22 “SEC. 1013. (a) AUTHORITY TO ACCEPT SERV-
23 ICES.—Notwithstanding section 1342 of title 31, United
24 States Code, and subject to subsection (b), the Foreign
25 Languages Program under section 1011 shall include au-
26 thority for the head of an element of an intelligence com-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 appropriated funds of the element in carrying out this sub-
2 section.

3 “REGULATIONS

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

8 “(b) ELEMENTS OF THE INTELLIGENCE COMMU-
9 NITY.—Each head of an element of an intelligence commu-
10 nity entity shall prescribe regulations to carry out sections
11 1012 and 1013 with respect to that element including the
12 following:

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

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

17 “DEFINITIONS

18 “SEC. 1015. In this subtitle:

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

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

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

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

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

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

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

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

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

1 who is an analyst is in addition to any benefits, allow-
2 ances, travels, or other compensation the employee is enti-
3 tled to by reason of serving in such an analyst position.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 for the National Security Act of 1947 is amended by strik-
6 ing the item relating to section 1001 and inserting the
7 following new items:

“Subtitle A—Science and Technology

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

“Subtitle B—Foreign Languages Program

“Sec. 1011. Program on advancement of foreign languages critical to the 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 stu-
dents.”.

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

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

1 (b) CONDUCT OF PROJECT.—Taking into account the
2 findings and recommendations contained in the report re-
3 quired under section 325 of the Intelligence Authorization
4 Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat.
5 2393), in conducting the pilot project under subsection (a)
6 the National Intelligence Director shall—

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

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

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

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

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

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

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

7 (3) The final report shall be submitted not later than
8 6 months after the completion of the project.

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

14 **SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NA-**
15 **TIONAL VIRTUAL TRANSLATION CENTER.**

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

20 “NATIONAL VIRTUAL TRANSLATION CENTER

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

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

1 of foreign intelligence for all other elements of the intel-
2 ligence community.

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

6 “(1) use state-of-the-art communications tech-
7 nology;

8 “(2) integrate existing translation capabilities
9 in the intelligence community; and

10 “(3) use remote-connection capacities.

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

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

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

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for that Act, as amended by section 1021(b), is further
20 amended by inserting after the item relating to section
21 119 the following new item:

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

1 **SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF**
2 **QUALIFIED INSTRUCTORS OF THE DEFENSE**
3 **LANGUAGE INSTITUTE.**

4 (a) STUDY.—The Secretary of Defense shall conduct
5 a study on methods to improve the recruitment and reten-
6 tion of qualified foreign language instructors at the For-
7 eign Language Center of the Defense Language Institute.
8 In conducting the study, the Secretary shall consider, in
9 the case of a foreign language instructor who is an alien,
10 to expeditiously adjust the status of the alien from a tem-
11 porary status to that of an alien lawfully admitted for per-
12 manent residence.

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

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

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

24 (B) The Permanent Select Committee on Intel-
25 ligence and the Committee on Armed Services of the
26 House of Representatives.

1 **Subtitle F—Additional Improve-**
2 **ments of Intelligence Activities**

3 **SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTEL-**
4 **LIGENCE AGENCY VOLUNTARY SEPARATION**
5 **INCENTIVE PROGRAM.**

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

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

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

12 (b) TERMINATION OF FUNDS REMITTANCE RE-
13 QUIREMENT.—(1) Section 2 of such Act (50 U.S.C. 403–
14 4 note) is further amended by striking subsection (i).

15 (2) Section 4(a)(2)(B)(ii) of the Federal Workforce
16 Restructuring Act of 1994 (5 U.S.C. 8331 note) is amend-
17 ed by striking “, or section 2 of the Central Intelligence
18 Agency Voluntary Separation Pay Act (Public Law 103–
19 36; 107 Stat. 104)”.

20 **SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECH-**
21 **NOLOGIES PANEL.**

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

1 “SEC. 19. (a) There is established the National Secu-
2 rity Agency Emerging Technologies Panel. The panel is
3 a standing panel of the National Security Agency. The
4 panel shall be appointed by, and shall report directly to,
5 the Director.

6 “(b) The National Security Agency Emerging Tech-
7 nologies Panel shall study and assess, and periodically ad-
8 vise the Director on, the research, development, and appli-
9 cation of existing and emerging science and technology ad-
10 vances, advances on encryption, and other topics.

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

14 **SEC. 1063. SERVICE AND NATIONAL LABORATORIES AND**
15 **THE INTELLIGENCE COMMUNITY.**

16 The National Intelligence Director, in cooperation
17 with the Secretary of Defense and the Secretary of En-
18 ergy, should seek to ensure that each service laboratory
19 of the Department of Defense and each national labora-
20 tory of the Department of Energy may, acting through
21 the relevant Secretary and in a manner consistent with
22 the missions and commitments of the laboratory—

23 (1) assist the National Intelligence Director in
24 all aspects of technical intelligence, including re-
25 search, applied sciences, analysis, technology evalua-

1 tion and assessment, and any other aspect that the
2 relevant Secretary considers appropriate; and

3 (2) make available to the intelligence commu-
4 nity, on a community-wide basis—

5 (A) the analysis and production services of
6 the service and national laboratories, in a man-
7 ner that maximizes the capacity and services of
8 such laboratories; and

9 (B) the facilities and human resources of
10 the service and national laboratories, in a man-
11 ner that improves the technological capabilities
12 of the intelligence community.

13 **SEC. 1064. IMPROVEMENT IN TRANSLATION AND DELIVERY**
14 **OF SUSPECTED TERRORIST COMMUNICA-**
15 **TIONS.**

16 (a) **REQUIREMENT FOR PROMPT TRANSLATION AND**
17 **TRANSMISSION.**—The National Intelligence Director shall
18 develop and transmit to the appropriate agencies guide-
19 lines to ensure that all suspected terrorist communi-
20 cations, including transmissions, are translated and deliv-
21 ered in a manner consistent with timelines contained in
22 regulations of the Federal Bureau of Investigations to the
23 extent practicable.

24 (b) **PREVENTION OF DELETION OF TERRORIST COM-**
25 **MUNICATIONS.**—The National Intelligence Director shall

1 take such steps as are necessary to ensure that terrorist
2 communications are not deleted or discarded before those
3 communications are translated.

4 **Subtitle G—Conforming and Other**
5 **Amendments**

6 **SEC. 1071. CONFORMING AMENDMENTS RELATING TO**
7 **ROLES OF NATIONAL INTELLIGENCE DIREC-**
8 **TOR AND DIRECTOR OF THE CENTRAL INTEL-**
9 **LIGENCE AGENCY.**

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

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

16 (B) Section 101(h)(2)(A) (50 U.S.C.
17 402(h)(2)(A)).

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

19 (D) Section 101(i)(2)(A) (50 U.S.C.
20 402(i)(2)(A)).

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

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

23 (G) Section 105(b)(6)(A) (50 U.S.C. 403–
24 5(b)(6)(A)).

1 (H) Section 105B(a)(1) (50 U.S.C. 403–
2 5b(a)(1)).

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

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

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

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

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

9 (N) Section 113(b)(2)(A) (50 U.S.C.
10 404h(b)(2)(A)).

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

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

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

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

15 (T) Section 115(c)(1)(B) (50 U.S.C.
16 404j(c)(1)(B)).

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

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

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

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

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

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

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

1 (BB) Section 504(a)(3)(C) (50 U.S.C.
2 414(a)(3)(C)).

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

4 (DD) Section 506A(a)(1) (50 U.S.C. 415a–
5 1(a)(1)).

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

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

8 (GG) Section 702(a)(6)(B)(viii) (50 U.S.C.
9 432(a)(6)(B)(viii)).

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

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

13 (JJ) Section 703(a)(6)(B)(viii) (50 U.S.C.
14 432a(a)(6)(B)(viii)).

15 (KK) Section 703(b)(1) (50 U.S.C.
16 432a(b)(1)), both places it appears.

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

18 (MM) Section 704(f)(2)(H) (50 U.S.C.
19 432b(f)(2)(H)).

20 (NN) Section 704(g)(1) (50 U.S.C.
21 432b(g)(1)), both places it appears.

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

23 (PP) Section 1102(a)(1) (50 U.S.C.
24 442a(a)(1)).

1 (QQ) Section 1102(b)(1) (50 U.S.C.
2 442a(b)(1)).

3 (RR) Section 1102(c)(1) (50 U.S.C.
4 442a(c)(1)).

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

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

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

10 (B) Section 105B(a)(2) (50 U.S.C. 403–
11 5b(a)(2)).

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

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

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

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

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

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

22 (D) Section 1001(d)(1)(B) (50 U.S.C.
23 441g(d)(1)(B)).

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

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

5 (5) Section 504(a)(2) of that Act (50 U.S.C.
6 414(a)(2)) is amended by striking “Director of Central In-
7 telligence” and inserting “Director of the Central Intel-
8 ligence Agency”.

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

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

18 (B) in subsection (g)(1), by striking “Director
19 of Central Intelligence” and inserting “Director of
20 the Central Intelligence Agency and the National In-
21 telligence Director”.

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

1 “ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL
2 INTELLIGENCE DIRECTOR”.

3 (b) CENTRAL INTELLIGENCE AGENCY ACT OF
4 1949.—(1) The Central Intelligence Agency Act of 1949
5 (50 U.S.C. 403a et seq.) is amended by striking “Director
6 of Central Intelligence” each place it appears in the fol-
7 lowing provisions and inserting “National Intelligence Di-
8 rector”:

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

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

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

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

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

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

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

19 (3) That Act is further amended by striking “Direc-
20 tor of Central Intelligence” each place it appears in the
21 following provisions and inserting “Director of the Central
22 Intelligence Agency”:

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

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

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

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

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

5 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
6 ACT.—Section 101 of the Central Intelligence Agency Re-
7 tirement Act (50 U.S.C. 2001) is amended by striking
8 paragraph (2) and inserting the following new paragraph
9 (2):

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

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

16 “(1) the term ‘Director’ means the Director of
17 the Central Intelligence Agency;”

18 (e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF
19 1978.—(1) The Foreign Intelligence Surveillance Act of
20 1978 (50 U.S.C. 1801 et seq.) is amended by striking “Di-
21 rector of Central Intelligence” each place it appears and
22 inserting “National Intelligence Director”.

23 (f) CLASSIFIED INFORMATION PROCEDURES ACT.—
24 Section 9(a) of the Classified Information Procedures Act
25 (5 U.S.C. App.) is amended by striking “Director of Cen-

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

3 (g) INTELLIGENCE AUTHORIZATION ACTS.—

4 (1) PUBLIC LAW 103–359.—Section 811(c)(6)(C)
5 of the Counterintelligence and Security Enhance-
6 ments Act of 1994 (title VIII of Public Law 103–
7 359) is amended by striking “Director of Central In-
8 telligence” and inserting “National Intelligence Di-
9 rector”.

10 (2) PUBLIC LAW 107–306.—(A) The Intelligence
11 Authorization Act for Fiscal Year 2003 (Public Law
12 107–306) is amended by striking “Director of Cen-
13 tral Intelligence, acting as the head of the intel-
14 ligence community,” each place it appears in the fol-
15 lowing provisions and inserting “National Intel-
16 ligence Director”:

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

18 (ii) Section 343(a)(1) (50 U.S.C. 404n–
19 2(a)(1))

20 (B) That Act is further amended by striking
21 “Director of Central Intelligence” each place it ap-
22 pears in the following provisions and inserting “Na-
23 tional Intelligence Director”:

24 (i) Section 902(a)(2) (50 U.S.C.
25 402b(a)(2)).

1 (ii) Section 904(e)(4) (50 U.S.C.
2 402c(e)(4)).

3 (iii) Section 904(e)(5) (50 U.S.C.
4 402c(e)(5)).

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

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

8 (C) Section 341 of that Act (50 U.S.C. 404n–
9 1) is amended by striking “Director of Central Intel-
10 ligence, acting as the head of the intelligence com-
11 munity, shall establish in the Central Intelligence
12 Agency” and inserting “National Intelligence Direc-
13 tor shall establish within the Central Intelligence
14 Agency”.

15 (D) Section 352(b) of that Act (50 U.S.C. 404–
16 3 note) is amended by striking “Director” and in-
17 serting “National Intelligence Director”.

18 (3) PUBLIC LAW 108–177.—(A) The Intelligence
19 Authorization Act for Fiscal Year 2004 (Public Law
20 108–177) is amended by striking “Director of Cen-
21 tral Intelligence” each place it appears in the fol-
22 lowing provisions and inserting “National Intel-
23 ligence Director”:

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

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

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

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

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

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

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

7 (B) Section 319(f)(2) of that Act (50 U.S.C.
8 403 note) is amended by striking “Director” the
9 first place it appears and inserting “National Intel-
10 ligence Director”.

11 (C) Section 404 of that Act (18 U.S.C. 4124
12 note) is amended by striking “Director of Central
13 Intelligence” and inserting “Director of the Central
14 Intelligence Agency”.

15 **SEC. 1072. OTHER CONFORMING AMENDMENTS**

16 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section
17 101(j) of the National Security Act of 1947 (50 U.S.C.
18 402(j)) is amended by striking “Deputy Director of Cen-
19 tral Intelligence” and inserting “Deputy National Intel-
20 ligence Director”.

21 (2) Section 112(d)(1) of that Act (50 U.S.C.
22 404g(d)(1)) is amended by striking “section 103(c)(6) of
23 this Act” and inserting “section 102A(g) of this Act”.

24 (3) Section 116(b) of that Act (50 U.S.C. 404k(b))
25 is amended by striking “to the Deputy Director of Central

1 Intelligence, or with respect to employees of the Central
2 Intelligence Agency, the Director may delegate such au-
3 thority to the Deputy Director for Operations” and insert-
4 ing “to the Deputy National Intelligence Director, or with
5 respect to employees of the Central Intelligence Agency,
6 to the Director of the Central Intelligence Agency”.

7 (4) Section 506A(b)(1) of that Act (50 U.S.C. 415a-
8 1(b)(1)) is amended by striking “Office of the Deputy Di-
9 rector of Central Intelligence” and inserting “Office of the
10 National Intelligence Director”.

11 (5) Section 701(c)(3) of that Act (50 U.S.C.
12 431(c)(3)) is amended by striking “Office of the Director
13 of Central Intelligence” and inserting “Office of the Na-
14 tional Intelligence Director”.

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

19 (b) CENTRAL INTELLIGENCE ACT OF 1949.—Section
20 6 of the Central Intelligence Agency Act of 1949 (50
21 U.S.C. 403g) is amended by striking “section 103(c)(7)
22 of the National Security Act of 1947 (50 U.S.C. 403-
23 3(c)(7))” and inserting “section 102A(g) of the National
24 Security Act of 1947”.

1 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
2 ACT.—Section 201(e) of the Central Intelligence Agency
3 Retirement Act (50 U.S.C. 2011(e)) is amended by strik-
4 ing “paragraph (6) of section 103(c) of the National Secu-
5 rity Act of 1947 (50 U.S.C. 403–3(c)) that the Director
6 of Central Intelligence” and inserting “section 102A(g) of
7 the National Security Act of 1947 (50 U.S.C. 403–
8 3(c)(1)) that the National Intelligence Director”.

9 (d) INTELLIGENCE AUTHORIZATION ACTS.—

10 (1) PUBLIC LAW 107–306.—(A) Section 343(c)
11 of the Intelligence Authorization Act for Fiscal Year
12 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is
13 amended by striking “section 103(c)(6) of the Na-
14 tional Security Act of 1947 (50 U.S.C. 403–
15 3((c)(6))” and inserting “section 102A(g) of the Na-
16 tional Security Act of 1947 (50 U.S.C. 403–
17 3(c)(1))”.

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

20 (i) in subsection (c), by striking “Office of
21 the Director of Central Intelligence” and insert-
22 ing “Office of the National Intelligence Direc-
23 tor”; and

24 (ii) in subsection (l), by striking “Office of
25 the Director of Central Intelligence” and insert-

1 “(E) The National Geospatial-Intelligence
2 Agency.

3 “(F) The National Reconnaissance Office.

4 “(G) Other offices within the Department
5 of Defense for the collection of specialized na-
6 tional intelligence through reconnaissance pro-
7 grams.

8 “(H) The intelligence elements of the
9 Army, the Navy, the Air Force, the Marine
10 Corps, the Federal Bureau of Investigation, and
11 the Department of Energy.

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

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

16 “(K) The elements of the Department of
17 Homeland Security concerned with the analysis
18 of intelligence information, including the Office
19 of Intelligence of the Coast Guard.

20 “(L) Such other elements of any other de-
21 partment or agency as may be designated by
22 the President, or designated jointly by the Na-
23 tional Intelligence Director and the head of the
24 department or agency concerned, as an element
25 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
12 amended—

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 **Subtitle I—Other Matters**

2 **SEC. 1101. STUDY OF PROMOTION AND PROFESSIONAL**
3 **MILITARY EDUCATION SCHOOL SELECTION**
4 **RATES FOR MILITARY INTELLIGENCE OFFI-**
5 **CERS.**

6 (a) **STUDY.**—The Secretary of Defense shall conduct
7 a study of the promotion selection rates, and the selection
8 rates for attendance at professional military education
9 schools, of intelligence officers of the Armed Forces, par-
10 ticularly in comparison to the rates for other officers of
11 the same Armed Force who are in the same grade and
12 competitive category.

13 (b) **REPORT.**—The Secretary shall submit to the
14 Committees on Armed Services of the Senate and House
15 of Representatives a report providing the Secretary’s find-
16 ings resulting from the study under subsection (a) and the
17 Secretary’s recommendations (if any) for such changes in
18 law as the Secretary considers needed to ensure that intel-
19 ligence officers, as a group, are selected for promotion,
20 and for attendance at professional military education
21 schools, at rates not less than the rates for all line (or
22 the equivalent) officers of the same Armed Force (both
23 in the zone and below the zone) in the same grade. The
24 report shall be submitted not later than April 1, 2005.

1 **TITLE II—TERRORISM PREVEN-**
2 **TION AND PROSECUTION**
3 **Subtitle A—Individual Terrorists**
4 **as Agents of Foreign Powers**

5 **SEC. 2001. INDIVIDUAL TERRORISTS AS AGENTS OF FOR-**
6 **EIGN POWERS.**

7 (a) IN GENERAL.—Section 101(b)(1) of the Foreign
8 Intelligence Surveillance Act of 1978 (50 U.S.C.
9 1801(b)(1)) is amended by adding at the end the following
10 new subparagraph:

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

13 (b) SUNSET.—The amendment made by subsection
14 (a) shall be subject to the sunset provision in section 224
15 of Public Law 107–56 (115 Stat. 295), including the ex-
16 ception provided in subsection (b) of such section 224.

17 **Subtitle B—Stop Terrorist and**
18 **Military Hoaxes Act of 2004**

19 **SEC. 2021. SHORT TITLE.**

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

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

23 (a) PROHIBITION ON HOAXES.—Chapter 47 of title
24 18, United States Code, is amended by inserting after sec-
25 tion 1037 the following:

1 **“§ 1038. False information and hoaxes**

2 “(a) CRIMINAL VIOLATION.—

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

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

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

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

24 “(2) ARMED FORCES.—Whoever, without lawful
25 authority, makes a false statement, with intent to
26 convey false or misleading information, about the

1 death, injury, capture, or disappearance of a mem-
2 ber of the Armed Forces of the United States during
3 a war or armed conflict in which the United States
4 is engaged, shall—

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

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

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

13 “(b) CIVIL ACTION.—Whoever knowingly engages in
14 any conduct with intent to convey false or misleading in-
15 formation under circumstances where such information
16 may reasonably be believed and where such information
17 indicates that an activity has taken, is taking, or will take
18 place that would constitute a violation of chapter 2, 10,
19 11B, 39, 40, 44, 111, or 113B of this title, section 236
20 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or
21 section 46502, the second sentence of section 46504, sec-
22 tion 46505 (b)(3) or (c), section 46506 if homicide or at-
23 tempted homicide is involved, or section 60123(b) of title
24 49 is liable in a civil action to any party incurring expenses

1 incident to any emergency or investigative response to that
2 conduct, for those expenses.

3 “(c) REIMBURSEMENT.—

4 “(1) IN GENERAL.—The court, in imposing a
5 sentence on a defendant who has been convicted of
6 an offense under subsection (a), shall order the de-
7 fendant to reimburse any state or local government,
8 or private not-for-profit organization that provides
9 fire or rescue service incurring expenses incident to
10 any emergency or investigative response to that con-
11 duct, for those expenses.

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

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

21 “(d) ACTIVITIES OF LAW ENFORCEMENT.—This sec-
22 tion does not prohibit any lawfully authorized investiga-
23 tive, protective, or intelligence activity of a law enforce-
24 ment agency of the United States, a State, or political sub-

1 division of a State, or of an intelligence agency of the
2 United States.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 as the beginning of chapter 47 of title 18, United States
5 Code, is amended by adding after the item for section
6 1037 the following:

“1038. False information and hoaxes.”.

7 **SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATE-**
8 **MENTS IN TERRORISM CASES.**

9 (a) ENHANCED PENALTY.—Section 1001(a) and the
10 third undesignated paragraph of section 1505 of title 18,
11 United States Code, are amended by striking “be fined
12 under this title or imprisoned not more than 5 years, or
13 both” and inserting “be fined under this title, imprisoned
14 not more than 5 years or, if the matter relates to inter-
15 national or domestic terrorism (as defined in section
16 2331), imprisoned not more than 10 years, or both”.

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

1 **SEC. 2024. CLARIFICATION OF DEFINITION.**

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

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

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

8 **Subtitle C—Material Support to**
9 **Terrorism Prohibition Enhance-**
10 **ment Act of 2004**

11 **SEC. 2041. SHORT TITLE.**

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

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

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

19 **“§ 2339D. Receiving military-type training from a for-**
20 **eign terrorist organization**

21 “(a) OFFENSE.—Whoever knowingly receives mili-
22 tary-type training from or on behalf of any organization
23 designated at the time of the training by the Secretary
24 of State under section 219(a)(1) of the Immigration and
25 Nationality Act as a foreign terrorist organization shall
26 be fined under this title or imprisoned for ten years, or

1 both. To violate this subsection, a person must have
2 knowledge that the organization is a designated terrorist
3 organization (as defined in subsection (c)(4)), that the or-
4 ganization has engaged or engages in terrorist activity (as
5 defined in section 212 of the Immigration and Nationality
6 Act), or that the organization has engaged or engages in
7 terrorism (as defined in section 140(d)(2) of the Foreign
8 Relations Authorization Act, Fiscal Years 1988 and
9 1989).

10 “(b) EXTRATERRITORIAL JURISDICTION.—There is
11 extraterritorial Federal jurisdiction over an offense under
12 this section. There is jurisdiction over an offense under
13 subsection (a) if—

14 “(1) an offender is a national of the United
15 States (as defined in 101(a)(22) of the Immigration
16 and Nationality Act) or an alien lawfully admitted
17 for permanent residence in the United States (as de-
18 fined in section 101(a)(20) of the Immigration and
19 Nationality Act);

20 “(2) an offender is a stateless person whose ha-
21 bitual residence is in the United States;

22 “(3) after the conduct required for the offense
23 occurs an offender is brought into or found in the
24 United States, even if the conduct required for the
25 offense occurs outside the United States;

1 “(4) the offense occurs in whole or in part with-
2 in the United States;

3 “(5) the offense occurs in or affects interstate
4 or foreign commerce;

5 “(6) an offender aids or abets any person over
6 whom jurisdiction exists under this paragraph in
7 committing an offense under subsection (a) or con-
8 spires with any person over whom jurisdiction exists
9 under this paragraph to commit an offense under
10 subsection (a).

11 “(c) DEFINITIONS.—As used in this section—

12 “(1) the term ‘military-type training’ includes
13 training in means or methods that can cause death
14 or serious bodily injury, destroy or damage property,
15 or disrupt services to critical infrastructure, or train-
16 ing on the use, storage, production, or assembly of
17 any explosive, firearm or other weapon, including
18 any weapon of mass destruction (as defined in sec-
19 tion 2232a(c)(2));

20 “(2) the term ‘serious bodily injury’ has the
21 meaning given that term in section 1365(h)(3);

22 “(3) the term ‘critical infrastructure’ means
23 systems and assets vital to national defense, national
24 security, economic security, public health or safety
25 including both regional and national infrastructure.

1 Critical infrastructure may be publicly or privately
2 owned; examples of critical infrastructure include
3 gas and oil production, storage, or delivery systems,
4 water supply systems, telecommunications networks,
5 electrical power generation or delivery systems, fi-
6 nancing and banking systems, emergency services
7 (including medical, police, fire, and rescue services),
8 and transportation systems and services (including
9 highways, mass transit, airlines, and airports); and
10 “(4) the term ‘foreign terrorist organization’
11 means an organization designated as a terrorist or-
12 ganization under section 219(a)(1) of the Immigra-
13 tion and Nationality Act.”.

14 **SEC. 2043. PROVIDING MATERIAL SUPPORT TO TER-**
15 **RORISM.**

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

19 (1) by designating the first sentence as para-
20 graph (1);

21 (2) by designating the second sentence as para-
22 graph (3);

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

1 “(2) (A) Whoever in a circumstance described
2 in subparagraph (B) provides material support or
3 resources or conceals or disguises the nature, loca-
4 tion, source, or ownership of material support or re-
5 sources, knowing or intending that they are to be
6 used in preparation for, or in carrying out, an act
7 of international or domestic terrorism (as defined in
8 section 2331), or in preparation for, or in carrying
9 out, the concealment or escape from the commission
10 of any such act, or attempts or conspires to do so,
11 shall be punished as provided under paragraph (1)
12 for an offense under that paragraph.

13 “(B) The circumstances referred to in subpara-
14 graph (A) are any of the following:

15 “(i) The offense occurs in or affects inter-
16 state or foreign commerce.

17 “(ii) The act of terrorism is an act of
18 international or domestic terrorism that violates
19 the criminal law of the United States.

20 “(iii) The act of terrorism is an act of do-
21 mestic terrorism that appears to be intended to
22 influence the policy, or affect the conduct, of
23 the Government of the United States or a for-
24 eign government.

1 “(iv) An offender, acting within the United
2 States or outside the territorial jurisdiction of
3 the United States, is a national of the United
4 States (as defined in section 101(a)(22) of the
5 Immigration and Nationality Act, an alien law-
6 fully admitted for permanent residence in the
7 United States (as defined in section 101(a)(20)
8 of the Immigration and Nationality Act , or a
9 stateless person whose habitual residence is in
10 the United States, and the act of terrorism is
11 an act of international terrorism that appears
12 to be intended to influence the policy, or affect
13 the conduct, of the Government of the United
14 States or a foreign government.

15 “(v) An offender, acting within the United
16 States, is an alien, and the act of terrorism is
17 an act of international terrorism that appears
18 to be intended to influence the policy, or affect
19 the conduct, of the Government of the United
20 States or a foreign government.

21 “(vi) An offender, acting outside the terri-
22 torial jurisdiction of the United States, is an
23 alien and the act of terrorism is an act of inter-
24 national terrorism that appears to be intended

1 to influence the policy of, or affect the conduct
2 of, the Government of the United States.

3 “(vii) An offender aids or abets any person
4 over whom jurisdiction exists under this para-
5 graph in committing an offense under this
6 paragraph or conspires with any person over
7 whom jurisdiction exists under this paragraph
8 to commit an offense under this paragraph.”;
9 and

10 (4) by inserting “act or” after “underlying”.

11 (b) DEFINITIONS.—Section 2339A(b) of title 18,
12 United States Code, is amended—

13 (1) by striking “In this” and inserting “(1) In
14 this”;

15 (2) by inserting “any property, tangible or in-
16 tangible, or service, including” after “means”;

17 (3) by inserting “(one or more individuals who
18 may be or include oneself)” after “personnel”;

19 (4) by inserting “and” before “transportation”;

20 (5) by striking “and other physical assets”; and

21 (6) by adding at the end the following:

22 “(2) As used in this subsection, the term ‘training’
23 means instruction or teaching designed to impart a spe-
24 cific skill, as opposed to general knowledge, and the term
25 ‘expert advice or assistance’ means advice or assistance

1 derived from scientific, technical or other specialized
2 knowledge.”.

3 (c) ADDITION TO OFFENSE OF PROVIDING MATE-
4 RIAL SUPPORT TO TERRORIST ORGANIZATIONS.—Section
5 2339B(a)(1) of title 18, United States Code, is
6 amended—

7 (1) by striking “, within the United States or
8 subject to the jurisdiction of the United States,” and
9 inserting “in a circumstance described in paragraph
10 (2)” ; and

11 (2) by adding at the end the following: “To vio-
12 late this paragraph, a person must have knowledge
13 that the organization is a designated terrorist orga-
14 nization (as defined in subsection (g)(6)), that the
15 organization has engaged or engages in terrorist ac-
16 tivity (as defined in section 212(a)(3)(B) of the Im-
17 migration and Nationality Act, or that the organiza-
18 tion has engaged or engages in terrorism (as defined
19 in section 140(d)(2) of the Foreign Relations Au-
20 thorization Act, Fiscal Years 1988 and 1989.”.

21 (d) FEDERAL AUTHORITY.—Section 2339B(d) of
22 title 18 is amended—

23 (1) by inserting “(1)” before “There”; and

24 (2) by adding at the end the following:

1 “(2) The circumstances referred to in paragraph (1)
2 are any of the following:

3 “(A) An offender is a national of the United
4 States (as defined in section 101(a)(22) of the Im-
5 migration and Nationality Act (8 U.S.C.
6 1101(a)(22)) or an alien lawfully admitted for per-
7 manent residence in the United States (as defined in
8 section 101(a)(20) of the Immigration and Nation-
9 ality Act.

10 “(B) An offender is a stateless person whose
11 habitual residence is in the United States.

12 “(C) After the conduct required for the offense
13 occurs an offender is brought into or found in the
14 United States, even if the conduct required for the
15 offense occurs outside the United States.

16 “(D) The offense occurs in whole or in part
17 within the United States.

18 “(E) The offense occurs in or affects interstate
19 or foreign commerce.

20 “(F) An offender aids or abets any person over
21 whom jurisdiction exists under this paragraph in
22 committing an offense under subsection (a) or con-
23 spires with any person over whom jurisdiction exists
24 under this paragraph to commit an offense under
25 subsection (a).”.

1 (e) DEFINITION.—Paragraph (4) of section
2 2339B(g) of title 18, United States Code, is amended to
3 read as follows:

4 “(4) the term ‘material support or resources’
5 has the same meaning given that term in section
6 2339A;”.

7 (f) ADDITIONAL PROVISIONS.—Section 2339B of
8 title 18, United States Code, is amended by adding at the
9 end the following:

10 “(h) PROVISION OF PERSONNEL.—No person may be
11 prosecuted under this section in connection with the term
12 ‘personnel’ unless that person has knowingly provided, at-
13 tempted to provide, or conspired to provide a foreign ter-
14 rorist organization with one or more individuals (who may
15 be or include himself) to work under that terrorist organi-
16 zation’s direction or control or to organize, manage, super-
17 vise, or otherwise direct the operation of that organization.
18 Individuals who act entirely independently of the foreign
19 terrorist organization to advance its goals or objectives
20 shall not be considered to be working under the foreign
21 terrorist organization’s direction and control.

22 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed or applied so as to abridge the ex-
24 ercise of rights guaranteed under the First Amendment
25 to the Constitution of the United States.”.

1 **SEC. 2044. FINANCING OF TERRORISM.**

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

4 (1) by striking “, resources, or funds” and in-
5 serting “or resources, or any funds or proceeds of
6 such funds”;

7 (2) in subparagraph (A), by striking “were pro-
8 vided” and inserting “are to be provided, or knowing
9 that the support or resources were provided,”; and

10 (3) in subparagraph (B)—

11 (A) by striking “or any proceeds of such
12 funds”; and

13 (B) by striking “were provided or col-
14 lected” and inserting “are to be provided or col-
15 lected, or knowing that the funds were provided
16 or collected,”.

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

19 (1) by striking “and” at the end of paragraph
20 (12);

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

23 (3) by inserting after paragraph (12) the fol-
24 lowing:

1 “(C) any perpetrator travels in or causes
2 another to travel in interstate or foreign com-
3 merce in furtherance of the offense; or

4 “(D) the offense, or the results of the of-
5 fense, affect interstate or foreign commerce, or,
6 in the case of a threat, attempt, or conspiracy,
7 would have affected interstate or foreign com-
8 merce;”;

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

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

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

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

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

20 (6) in subsection (c), by adding at the end the
21 following:

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

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

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

6 (2) in subsection (a), by striking “(other than
7 a chemical weapon as that term is defined in section
8 229F)”; and

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

12 (c) EXPANSION OF CATEGORIES OF RESTRICTED
13 PERSONS SUBJECT TO PROHIBITIONS RELATING TO SE-
14 LECT AGENTS.—Section 175b(d)(2) of title 18, United
15 States Code, is amended—

16 (1) in subparagraph (G) by—

17 (A) inserting “(i)” after “(G)”;

18 (B) inserting “, or (ii) acts for or on behalf
19 of, or operates subject to the direction or con-
20 trol of, a government or official of a country de-
21 scribed in this subparagraph” after “ter-
22 rorism”; and

23 (C) striking “or” after the semicolon.

24 (2) in subparagraph (H) by striking the period
25 and inserting “; or”; and

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

3 “(I) is a member of, acts for or on behalf
4 of, or operates subject to the direction or con-
5 trol of, a terrorist organization as defined in
6 section 212(a)(3)(B)(vi) of the Immigration and
7 Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

8 (d) CONFORMING AMENDMENT TO REGULATIONS.—

9 (1) Section 175b(a)(1) of title 18, United
10 States Code, is amended by striking “as a select
11 agent in Appendix A” and all that follows and in-
12 sserting the following: “as a non-overlap or overlap
13 select biological agent or toxin in sections 73.4 and
14 73.5 of title 42, Code of Federal Regulations, pursu-
15 ant to section 351A of the Public Health Service
16 Act, and is not excluded under sections 73.4 and
17 73.5 or exempted under section 73.6 of title 42,
18 Code of Federal Regulations.”.

19 (2) The amendment made by paragraph (1)
20 shall take effect at the same time that sections 73.4,
21 73.5, and 73.6 of title 42, Code of Federal Regula-
22 tions, become effective.

23 (e) ENHANCING PROSECUTION OF WEAPONS OF
24 MASS DESTRUCTION OFFENSES.—Section 1961(1)(B) of
25 title 18, United States Code, is amended by adding at the

1 end the following: “sections 175–178 (relating to biologi-
2 cal weapons), sections 229–229F (relating to chemical
3 weapons), section 831 (relating to nuclear materials),”.

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

7 (a) Section 57(b) of the Atomic Energy Act of 1954
8 (42 U.S.C. 2077(b)) is amended by striking “in the pro-
9 duction of any special nuclear material” and inserting “or
10 participate in the development or production of any special
11 nuclear material or atomic weapon”.

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

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

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

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

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

19 “(a) Whoever, within the United States or subject to
20 the jurisdiction of the United States, willfully participates
21 in or provides material support or resources (as defined
22 in section 2339A) to a nuclear weapons program or other
23 weapons of mass destruction program of a foreign ter-

1 rorist power, or attempts or conspires to do so, shall be
2 imprisoned for not more than 20 years.

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

5 “(c) Whoever without lawful authority develops, pos-
6 sesses, or attempts or conspires to develop or possess a
7 radiological weapon, or threatens to use or uses a radio-
8 logical weapon against any person within the United
9 States, or a national of the United States while such na-
10 tional is outside the United States or against any property
11 that is owned, leased, funded or used by the United States,
12 whether that property is within or outside the United
13 States, shall be imprisoned for any term of years or for
14 life, and if death results, shall be punished by death or
15 imprisoned for any term of years or for life.

16 “(d) As used in this section—

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

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

24 “(3) ‘foreign terrorist power’ means a terrorist
25 organization designated under section 219 of the

1 Immigration and Nationality Act, or a state sponsor
2 of terrorism designated under section 6(j) of the Ex-
3 port Administration Act of 1979 or section 620A of
4 the Foreign Assistance Act of 1961; and

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

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

12 **Subtitle E—Money Laundering and**
13 **Terrorist Financing**

14 **CHAPTER 1—FUNDING TO COMBAT FI-**
15 **NANCIAL CRIMES INCLUDING TER-**
16 **RORIST FINANCING**

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

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

20 (1) by striking “APPROPRIATIONS.—There are
21 authorized” and inserting “APPROPRIATIONS.—

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

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

1 “(2) AUTHORIZATION FOR FUNDING KEY TECH-
2 NOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL
3 FINCEN SYSTEMS.—There are authorized to be ap-
4 propriated for fiscal year 2005 the following
5 amounts, which are authorized to remain available
6 until expended:

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

1 “(B) ADVANCED ANALYTICAL TECH-
2 NOLOGIES.—To provide advanced analytical
3 tools needed to ensure that the data collected
4 by FinCEN under chapter 53 and related provi-
5 sions of law are utilized fully and appropriately
6 in safeguarding financial institutions and sup-
7 porting the war on terrorism, \$5,000,000.

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

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

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

21 **SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES**

22 **STRATEGY REAUTHORIZATION.**

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

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

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

4 **CHAPTER 2—ENFORCEMENT TOOLS TO**
5 **COMBAT FINANCIAL CRIMES INCLUD-**
6 **ING TERRORIST FINANCING**

7 **Subchapter A—Money laundering abatement**
8 **and financial antiterrorism technical cor-**
9 **rections**

10 **SEC. 2111. SHORT TITLE.**

11 This subchapter may be cited as the “Money Laun-
12 dering Abatement and Financial Antiterrorism Technical
13 Corrections Act of 2004”.

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

15 **56.**

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

1 **“TITLE III—INTERNATIONAL**
2 **MONEY LAUNDERING ABATE-**
3 **MENT AND FINANCIAL**
4 **ANTITERRORISM ACT OF**
5 **2001”.**

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

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

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

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

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

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

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

20 (e) The heading for section 311 of Public Law 107–
21 56 is amended by striking “**OR INTERNATIONAL**
22 **TRANSACTIONS**” and inserting “**INTERNATIONAL**
23 **TRANSACTIONS, OR TYPES OF ACCOUNTS**”.

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

1 (1) in paragraph (1)—

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

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

6 (2) in paragraph (2)(A)—

7 (A) by striking “and” after “nongovern-
8 mental organizations,”; and

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

11 (3) in paragraph (3)(A)—

12 (A) by striking “to monitor accounts of”
13 and inserting “monitor accounts of,”; and

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

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

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

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

23 (i) Subsections (a)(2) and (b)(2) of section 327 of
24 Public Law 107–56 are each amended by inserting a pe-
25 riod after “December 31, 2001” and striking all that fol-

1 lows through the period at the end of each such sub-
2 section.

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

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

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

10 (2) by striking “is amended to read” and in-
11 sserting “that precedes paragraph (1) of such section
12 is amended to read”; and

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

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

16 (1) in subsection (a), by inserting “the” after
17 “utilization of the funds of”; and

18 (2) in subsection (b), by striking “at such insti-
19 tutions” and inserting “at such institution”.

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

23 (n) Section 365 of Public Law 107—56 is amended
24 —

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

4 (2) by redesignating subsection (f) as sub-
5 section (e).

6 (o) Section 365(d) of Public Law 107–56 (as so re-
7 designated by subsection (n) of this section) is amended
8 by striking “section 5332 (as added by section 112 of this
9 title)” and inserting “section 5330”.

10 **SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVI-**
11 **SIONS OF LAW.**

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

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

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

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

23 (2) in the heading of paragraph (4), by striking
24 “DEFINITION” and inserting “DEFINITIONS”.

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

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

6 **“§ 5318A. Special measures for jurisdictions, financial**
7 **institutions, international transactions,**
8 **or types of accounts of primary money**
9 **laundering concern”.**

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

12 (1) in subsection (a)(4)(A), by striking “, as de-
13 fined in section 3 of the Federal Deposit Insurance
14 Act,” and inserting “ (as defined in section 3 of the
15 Federal Deposit Insurance Act)”;

16 (2) in subsection (a)(4)(B)(iii), by striking “or
17 class of transactions” and inserting “class of trans-
18 actions, or type of account”;

19 (3) in subsection (b)(1)(A), by striking “or
20 class of transactions to be” and inserting “class of
21 transactions, or type of account to be”; and

22 (4) in subsection (e)(3), by inserting “or sub-
23 section (i) or (j) of section 5318” after “identifica-
24 tion of individuals under this section”.

1 (g) Section 5324(b) of title 31, United States Code,
2 is amended by striking “5333” each place such term ap-
3 pears and inserting “5331”.

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

6 (1) in subsection (b)(2), by striking “, subject
7 to subsection (d) of this section”; and

8 (2) in subsection (c)(1), by striking “, subject
9 to subsection (d) of this section,”.

10 (i) The table of sections for subchapter II of chapter
11 53 of title 31, United States Code, is amended by striking
12 the item relating to section 5318A and inserting the fol-
13 lowing new item:

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

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

17 (k) Section 21(a)(2) of the Federal Deposit Insur-
18 ance Act (12 U.S.C. 1829b(a)(2)) is amended by striking
19 “recognizes that” and inserting “recognizing that”.

20 (l) Section 626(e) of the Fair Credit Reporting Act
21 (15 U.S.C. 1681v(e)) is amended by striking “govern-
22 mental agency” and inserting “government agency”.

1 **SEC. 2114. REPEAL OF REVIEW.**

2 Title III of Public Law 107–56 is amended by strik-
3 ing section 303 (31 U.S.C. 5311 note).

4 **SEC. 2115. EFFECTIVE DATE.**

5 The amendments made by this subchapter to Public
6 Law 107–56, the United States Code, the Federal Deposit
7 Insurance Act, and any other provision of law shall take
8 effect as if such amendments had been included in Public
9 Law 107–56, as of the date of the enactment of such Pub-
10 lic Law, and no amendment made by such Public Law that
11 is inconsistent with an amendment made by this sub-
12 chapter shall be deemed to have taken effect.

13 **Subchapter B—Additional enforcement tools**

14 **SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECU-
15 RITY PRINTING.**

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

19 (1) by striking “(a) The Secretary of the Treas-
20 ury” and inserting:

21 “(a) AUTHORITY TO ENGRAVE AND PRINT.—

22 “(1) IN GENERAL.—The Secretary of the
23 Treasury”; and

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

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

5 “(A) the Secretary of the Treasury deter-
6 mines that such production will not interfere
7 with engraving and printing needs of the
8 United States; and

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

12 “(3) PROCUREMENT GUIDELINES.—Articles,
13 material, and supplies procured for use in the pro-
14 duction of currency, postage stamps, and other secu-
15 rity documents for foreign governments pursuant to
16 paragraph (2) shall be treated in the same manner
17 as articles, material, and supplies procured for pub-
18 lic use within the United States for purposes of title
19 III of the Act of March 3, 1933 (41 U.S.C. 10a et
20 seq.; commonly referred to as the Buy American
21 Act).”.

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

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

4 (2) in the second sentence, by inserting “and
5 other” after “including administrative”; and

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

13 **SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.**

14 (a) IN GENERAL.—Section 474(a) of title 18, United
15 States Code, is amended by inserting after the paragraph
16 beginning “Whoever has in his control, custody, or posses-
17 sion any plate” the following:

18 “Whoever, with intent to defraud, has in his custody,
19 control, or possession any material that can be used to
20 make, alter, forge or counterfeit any obligations and other
21 securities of the United States or any part of such securi-
22 ties and obligations, except under the authority of the Sec-
23 retary of the Treasury; or”.

24 (b) FOREIGN OBLIGATIONS AND SECURITIES.—Sec-
25 tion 481 of title 18, United States Code, is amended by

1 inserting after the paragraph beginning “Whoever, with
2 intent to defraud” the following:

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

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

11 (d) MATERIALS USED IN COUNTERFEITING.—Sec-
12 tion 474A(b) of title 18, United States Code, is amended
13 by striking “any essentially identical” and inserting “any
14 thing or material made after or in the similitude of any”.

15 **SEC. 2123. REPORTING OF CROSS-BORDER TRANSMITTAL**
16 **OF FUNDS.**

17 Section 5318 of title 31, United States Code, is
18 amended by adding at the end the following new sub-
19 section:

20 “(n) REPORTING OF CROSS-BORDER TRANSMITTAL
21 OF FUNDS.—

22 “(1) IN GENERAL.—Subject to paragraph (3),
23 the Secretary shall prescribe regulations requiring
24 such financial institutions as the Secretary deter-
25 mines to be appropriate to report to the Financial

1 Crimes Enforcement Network certain cross-border
2 electronic transmittals of funds relevant to efforts of
3 the Secretary against money laundering and ter-
4 rorist financing.

5 “(2) FORM AND MANNER OF REPORTS.—In
6 prescribing the regulations required under para-
7 graph (1), the Secretary shall determine the appro-
8 priate form, manner, content and frequency of filing
9 of the required reports.

10 “(3) FEASIBILITY REPORT.—Before prescribing
11 the regulations required under paragraph (1), and
12 as soon as is practicable after the date of enactment
13 of the 9/11 Recommendations Implementation Act,
14 the Secretary shall delegate to the Bank Secrecy Act
15 Advisory Group established by the Secretary the
16 task of producing a report for the Secretary and the
17 Congress that—

18 “(A) identifies the information in cross-
19 border electronic transmittals of funds that is
20 relevant to efforts against money laundering
21 and terrorist financing;

22 “(B) makes recommendations regarding
23 the appropriate form, manner, content and fre-
24 quency of filing of the required reports; and

1 “(C) identifies the technology necessary for
2 the Financial Crimes Enforcement Network to
3 receive, keep, exploit and disseminate informa-
4 tion from reports of cross-border electronic
5 transmittals of funds to law enforcement and
6 other entities engaged in efforts against money
7 laundering and terrorist financing.

8 The report shall be submitted to the Secretary and
9 the Congress no later than the end of the 1-year pe-
10 riod beginning on the date of enactment of such Act.

11 “(4) REGULATIONS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the regulations required by para-
14 graph (1) shall be prescribed in final form by
15 the Secretary, in consultation with the Board of
16 Governors of the Federal Reserve System, be-
17 fore the end of the 3-year period beginning on
18 the date of the enactment of the 9/11 Rec-
19 ommendations Implementation Act.

20 “(B) TECHNOLOGICAL FEASIBILITY.—No
21 regulations shall be prescribed under this sub-
22 section before the Secretary certifies to the
23 Congress that the Financial Crimes Enforce-
24 ment Network has the technological systems in
25 place to effectively and efficiently receive, keep,

1 exploit, and disseminate information from re-
2 ports of cross-border electronic transmittals of
3 funds to law enforcement and other entities en-
4 gaged in efforts against money laundering and
5 terrorist financing.

6 “(5) RECORDKEEPING.—No financial institu-
7 tion required to submit reports on certain cross-bor-
8 der electronic transmittals of funds to the Financial
9 Crimes Enforcement Network under this subsection
10 shall be subject to the recordkeeping requirement
11 under section 21(b)(3) of the Federal Deposit Insur-
12 ance Act with respect to such transmittals of
13 funds.”.

14 **SEC. 2124. ENHANCED EFFECTIVENESS OF EXAMINATIONS,**
15 **INCLUDING ANTI-MONEY LAUNDERING PRO-**
16 **GRAMS.**

17 (a) DEPOSITORY INSTITUTIONS AND DEPOSITORY
18 INSTITUTION HOLDING COMPANIES.—Section 10 of the
19 Federal Deposit Insurance Act (12 U.S.C. 1820) is
20 amended by adding at the end the following new sub-
21 section:

22 “(k) POST-EMPLOYMENT LIMITATIONS ON LEADING
23 BANK EXAMINERS.—

24 “(1) IN GENERAL.—In the case of any person
25 who—

1 “(A) was an officer or employee (including
2 any special Government employee) of a Federal
3 banking agency or a Federal reserve bank; and
4 “(B) served 2 or more months during the
5 final 18 months of such person’s employment
6 with such agency or entity as the examiner-in-
7 charge (or a functionally equivalent position) of
8 a depository institution or depository institution
9 holding company with dedicated, overall, contin-
10 uous, and ongoing responsibility for the exam-
11 ination (or inspection) and supervision of that
12 depository institution or depository institution
13 holding company,
14 such person may not hold any office, position, or
15 employment at any such depository institution or de-
16 pository institution holding company, become a con-
17 trolling shareholder in, a consultant for, a joint-ven-
18 ture partner with, or an independent contractor for
19 (including as attorney, appraiser, or accountant) any
20 such depository institution or holding company, or
21 any other company that controls such depository in-
22 stitution, or otherwise participate in the conduct of
23 the affairs of any such depository institution or
24 holding company, during the 1-year period beginning
25 on the date such person ceases to be an officer or

1 employee (including any special Government em-
2 ployee) of the Federal banking agency or Federal re-
3 serve bank.

4 “(2) VIOLATORS SUBJECT TO INDUSTRY-WIDE
5 PROHIBITION ORDERS.—

6 “(A) IN GENERAL.—In addition to any
7 other penalty which may apply, whenever a
8 Federal banking agency determines that a per-
9 son subject to paragraph (1) has violated the
10 prohibition in such paragraph by becoming as-
11 sociated with any insured depository institution,
12 depository institution holding company, or other
13 company for which such agency serves as the
14 appropriate Federal banking agency, the agency
15 shall serve a written notice or order, in accord-
16 ance with and subject to the provisions of sec-
17 tion 8(e)(4) for written notices or orders under
18 paragraphs (1) or (2) of section 8(e), upon such
19 person of the agency’s intention to—

20 “(i) remove such person from office in
21 any capacity described in paragraph (1)
22 for a period of 5 years; and

23 “(ii) prohibit any further participation
24 by such person, in any manner, in the con-
25 duct of the affairs of any insured depository

1 among such institutions or companies by
2 such agency, including the number of ex-
3 aminers and other persons assigned to
4 each institution or holding company, the
5 depth and structure of any group so as-
6 signed within such distribution, and the
7 factors giving rise to that distribution;

8 “(ii) the number of institutions or
9 companies each such examiner or other
10 person is so involved with in any given pe-
11 riod of assignment;

12 “(iii) the period of time for which
13 each such examiner or other person is as-
14 signed to an institution or company, or a
15 group of institutions or companies, before
16 reassignment;

17 “(iv) the size of the institutions or
18 holding companies for which each such
19 person is responsible and the amount of
20 time devoted to each such institution or
21 holding company during each examination
22 period; and

23 “(v) such other factors as the agency
24 determines to be appropriate.

1 “(B) DETERMINATION OF APPLICA-
2 BILITY.—The regulations prescribed or orders
3 issued under this subparagraph by an appro-
4 priate Federal banking agency shall include a
5 process, initiated by application or otherwise,
6 for determining whether any person who ceases
7 to be, or intends to cease to be, an examiner of
8 insured depository institutions or depository in-
9 stitution holding companies for or on behalf of
10 such agency is subject to the limitations of this
11 subsection with respect to any particular in-
12 sured depository institution or depository insti-
13 tution holding company.

14 “(C) CONSULTATION.—The Federal bank-
15 ing agencies shall consult with each other for
16 the purpose of assuring that the rules and regu-
17 lations issued by the agencies under subpara-
18 graph (A) are, to the extent possible, consistent,
19 comparable, and practicable, taking into ac-
20 count any differences in the supervisory pro-
21 grams utilized by the agencies for the super-
22 vision of depository institutions and depository
23 institution holding companies.

1 “(4) WAIVER.—A Federal banking agency may
2 waive, on a case-by-case basis, the restrictions im-
3 posed by this subsection if—

4 “(A) the head of the agency certifies in
5 writing that the grant of such waiver would not
6 be inconsistent with the public interest; and

7 “(B) the waiver is provided in advance be-
8 fore the person becomes affiliated in any way
9 with the depository institution, depository insti-
10 tution holding company, or other company.

11 “(5) DEFINITIONS AND RULES OF CONSTRUC-
12 TION.—For purposes of this subsection, the fol-
13 lowing definitions and rules shall apply:

14 “(A) DEPOSITORY INSTITUTION.—The
15 term ‘depository institution’ includes an unin-
16 sured branch or agency of a foreign bank if
17 such branch or agency is located in any State.

18 “(B) DEPOSITORY INSTITUTION HOLDING
19 COMPANY.—The term ‘depository institution
20 holding company’ includes any foreign bank or
21 company described in section 8(a) of the Inter-
22 national Banking Act of 1978.

23 “(C) HEAD OF THE AGENCY.—The term
24 ‘the head of the agency’ means—

1 “(i) the Comptroller of the Currency,
2 in the case of the Office of the Comptroller
3 of the Currency;

4 “(ii) the Chairman of the Board of
5 Governors of the Federal Reserve System,
6 in the case of the Board of Governors of
7 the Federal Reserve System;

8 “(iii) the Chairperson of the Board of
9 Directors, in the case of the Federal De-
10 posit Insurance Corporation; and

11 “(iv) the Director, in the case of the
12 Office of Thrift Supervision.

13 “(D) RULE OF CONSTRUCTION FOR CON-
14 SULTANTS AND INDEPENDENT CONTRAC-
15 TORS.—A person shall be deemed to act as a
16 consultant or independent contractor (including
17 as an attorney, appraiser, or accountant) for a
18 depository institution, depository holding com-
19 pany, or other company only if such person di-
20 rectly works on matters for, or on behalf of,
21 such depository institution, depository holding
22 company, or other company.

23 “(E) APPROPRIATE AGENCY FOR CERTAIN
24 OTHER COMPANIES.—The term ‘appropriate
25 Federal banking agency’ means, with respect to

1 a company that is not a depository institution
2 or depository institution holding company, the
3 Federal banking agency on whose behalf the
4 person described in paragraph (1) performed
5 the functions described in paragraph (1)(B), as
6 implemented by regulations prescribed under
7 paragraph (3).”.

8 (b) CREDIT UNIONS.—Section 206 of the Federal
9 Credit Union Act (12 U.S.C. 1786) is amended by adding
10 at the end the following new subsection:

11 “(w) POST-EMPLOYMENT LIMITATIONS ON EXAM-
12 INERS.—

13 “(1) REGULATIONS REQUIRED.—The Board
14 shall consult with the Federal banking agencies and
15 prescribe regulations imposing the same limitations
16 on persons employed by or on behalf of the Board
17 as leading examiners of, or functionally equivalent
18 positions with respect to, credit unions as are appli-
19 cable under section 10(k) of the Federal Deposit In-
20 surance Act, taking into account all the require-
21 ments and factors described in paragraphs (3) and
22 (4) of such section.

23 “(2) ENFORCEMENT.—The Board shall issue
24 orders under subsection (g) with respect to any per-

1 son who violates any regulation prescribed pursuant
2 to paragraph (1) to—

3 “(A) remove such person from office in
4 any capacity with respect to a credit union; and

5 “(B) prohibit any further participation by
6 such person, in any manner, in the conduct of
7 the affairs of any credit union for a period of
8 5 years.

9 “(3) SCOPE OF PROHIBITION ORDER.—Any per-
10 son subject to an order issued under this subsection
11 shall be subject to paragraphs (5) and (7) of sub-
12 section (g) in the same manner and to the same ex-
13 tent as a person subject to an order issued under
14 such subsection and subsection (l) and any other
15 provision of this Act applicable to orders issued
16 under subsection (g) shall apply with respect to such
17 order.”.

18 (c) STUDY OF EXAMINER HIRING AND RETEN-
19 TION.—

20 (1) STUDY REQUIRED.—The Board of Directors
21 of the Federal Deposit Insurance Corporation, the
22 Comptroller of the Currency, the Director of the Of-
23 fice of Thrift Supervision, the Board of Governors of
24 the Federal Reserve System, and the National Cred-
25 it Union Administration Board, acting through the

1 Financial Institutions Examination Council, shall
2 conduct a study of efforts and proposals for—

3 (A) retaining the services of experienced
4 and highly qualified examiners and supervisors
5 already employed by such agencies; and

6 (B) continuing to attract such examiners
7 and supervisors on an-ongoing basis to the ex-
8 tent necessary to fulfill the agencies' obligations
9 to maintain the safety and soundness of the
10 Nation's depository institutions.

11 (2) REPORT.—Before the end of the 1-year pe-
12 riod beginning on the date of the enactment of this
13 Act, the agencies conducting the study under para-
14 graph (1) shall submit a report containing the find-
15 ings and conclusions of such agencies with respect to
16 such study, together with such recommendations for
17 administrative or legislative changes as the agencies
18 determine to be appropriate.

19 **Subtitle F—Criminal History**
20 **Background Checks**

21 **SEC. 2141. SHORT TITLE.**

22 This subtitle may be cited as the “Criminal History
23 Access Means Protection of Infrastructures and Our Na-
24 tion Act”.

1 **SEC. 2142. CRIMINAL HISTORY BACKGROUND CHECKS.**

2 (a) IN GENERAL.—Section 534 of title 28, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “(f)(1) Under rules prescribed by the Attorney Gen-
6 eral, the Attorney General shall, within 60 days after the
7 date of enactment, initiate a 180-day pilot program to es-
8 tablish and maintain a system for providing to an em-
9 ployer criminal history information that—

10 “(A) is in the possession of the Attorney Gen-
11 eral; and

12 “(B) is requested by an employer as part of an
13 employee criminal history investigation that has been
14 authorized by the State where the employee works or
15 where the employer has their principal place of busi-
16 ness;

17 in order to ensure that a prospective employee is suitable
18 for certain employment positions.

19 “(2) The Attorney General shall require that an em-
20 ployer seeking criminal history information of an employee
21 request such information and submit fingerprints or other
22 biometric identifiers as approved by the Attorney General
23 to provide a positive and reliable identification of such pro-
24 spective employee.

1 “(3) The Director of the Federal Bureau of Inves-
2 tigation may require an employer to pay a reasonable fee
3 for such information.

4 “(4) Upon receipt of fingerprints or other biometric
5 identifiers, the Attorney General shall conduct an Inte-
6 grated Fingerprint Identification System of the Federal
7 Bureau of Investigation (IAFIS) check and provide the
8 results of such check to the requester.

9 “(5) As used in this subsection,

10 “(A) the term ‘criminal history information’
11 and ‘criminal history records’ includes——

12 “(i) an identifying description of the indi-
13 vidual to whom it pertains;

14 “(ii) notations of arrests, detentions, in-
15 dictments, or other formal criminal charges per-
16 taining to such individual; and

17 “(iii) any disposition to a notation revealed
18 in subparagraph (B), including acquittal, sen-
19 tencing, correctional supervision, or release.

20 “(B) the term ‘Integrated Automated Finger-
21 print Identification System of the Federal Bureau of
22 Investigation (IAFIS)’ means the national deposi-
23 tory for fingerprint, biometric, and criminal history
24 information, through which fingerprints are proc-
25 essed electronically.

1 “(6) Nothing in this subsection shall preclude the At-
2 torney General from authorizing or requiring criminal his-
3 tory record checks on individuals employed or seeking em-
4 ployment in positions vital to the Nation’s critical infra-
5 structure or key resources as those terms are defined in
6 section 1016(e) of Public Law 107–56 (42 U.S.C.
7 5195c(e)) and section 2(9) of the Homeland Security Act
8 of 2002 (6 U.S.C. 101(9)), if pursuant to a law or execu-
9 tive order.”.

10 (b) REPORT TO CONGRESS.—

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

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

1 (3) RECOMMENDATIONS.—The Attorney Gen-
2 eral shall make recommendations for consolidating
3 the existing procedures into a unified procedure con-
4 sistent with that provided in section 534(f) of title
5 28, United States Code, as amended by this subtitle.
6 In making the recommendations to Congress, the
7 Attorney General shall consider—

8 (A) the effectiveness of utilizing commer-
9 cially available databases as a supplement to
10 IAFIS criminal history information checks;

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

14 (C) any feasibility studies by the Depart-
15 ment of Justice of the FBI's resources and
16 structure to establish a system to provide crimi-
17 nal history information; and

18 (D) privacy rights and other employee pro-
19 tections to include employee consent, access to
20 the records used if employment was denied, an
21 appeal mechanism, and penalties for misuse of
22 the information.

23 **SEC. 2143. PROTECT ACT.**

24 Public law 108–21 is amended—

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

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

5 **SEC. 2144. REVIEWS OF CRIMINAL RECORDS OF APPLI-**
6 **CANTS FOR PRIVATE SECURITY OFFICER EM-**
7 **PLOYMENT.**

8 (a) **SHORT TITLE.**—This section may be cited as the
9 “Private Security Officer Employment Authorization Act
10 of 2004”.

11 (b) **FINDINGS.**—Congress finds that—

12 (1) employment of private security officers in
13 the United States is growing rapidly;

14 (2) private security officers function as an ad-
15 junct to, but not a replacement for, public law en-
16 forcement by helping to reduce and prevent crime;

17 (3) such private security officers protect indi-
18 viduals, property, and proprietary information, and
19 provide protection to such diverse operations as
20 banks, hospitals, research and development centers,
21 manufacturing facilities, defense and aerospace con-
22 tractors, high technology businesses, nuclear power
23 plants, chemical companies, oil and gas refineries,
24 airports, communication facilities and operations, of-

1 fice complexes, schools, residential properties, apart-
2 ment complexes, gated communities, and others;

3 (4) sworn law enforcement officers provide sig-
4 nificant services to the citizens of the United States
5 in its public areas, and are supplemented by private
6 security officers;

7 (5) the threat of additional terrorist attacks re-
8 quires cooperation between public and private sec-
9 tors and demands professional, reliable, and respon-
10 sible security officers for the protection of people, fa-
11 cilities, and institutions;

12 (6) the trend in the Nation toward growth in
13 such security services has accelerated rapidly;

14 (7) such growth makes available more public
15 sector law enforcement officers to combat serious
16 and violent crimes, including terrorism;

17 (8) the American public deserves the employ-
18 ment of qualified, well-trained private security per-
19 sonnel as an adjunct to sworn law enforcement offi-
20 cers; and

21 (9) private security officers and applicants for
22 private security officer positions should be thor-
23 oughly screen and trained.

24 (c) DEFINITIONS.—In this Act:

1 (1) EMPLOYEE.—The term “employee” includes
2 both a current employee and an applicant for em-
3 ployment as a private security officer.

4 (2) AUTHORIZED EMPLOYER.—The term “au-
5 thorized employer” means any person that—

6 (A) employs private security officers; and

7 (B) is authorized by regulations promul-
8 gated by the Attorney General to request a
9 criminal history record information search of an
10 employee through a State identification bureau
11 pursuant to this section.

12 (3) PRIVATE SECURITY OFFICER.—The term
13 “private security officer”—

14 (A) means an individual other than an em-
15 ployee of a Federal, State, or local government,
16 whose primary duty is to perform security serv-
17 ices, full- or part-time, for consideration, wheth-
18 er armed or unarmed and in uniform or plain
19 clothes (except for services excluded from cov-
20 erage under this Act if the Attorney General
21 determines by regulation that such exclusion
22 would serve the public interest); but

23 (B) does not include—

24 (i) employees whose duties are pri-
25 marily internal audit or credit functions;

1 (ii) employees of electronic security
2 system companies acting as technicians or
3 monitors; or

4 (iii) employees whose duties primarily
5 involve the secure movement of prisoners.

6 (4) SECURITY SERVICES.—The term “security
7 services” means acts to protect people or property as
8 defined by regulations promulgated by the Attorney
9 General.

10 (5) STATE IDENTIFICATION BUREAU.—The
11 term “State identification bureau” means the State
12 entity designated by the Attorney General for the
13 submission and receipt of criminal history record in-
14 formation.

15 (d) CRIMINAL HISTORY RECORD INFORMATION
16 SEARCH.—

17 (1) IN GENERAL.—

18 (A) SUBMISSION OF FINGERPRINTS.—An
19 authorized employer may submit to the State
20 identification bureau of a participating State,
21 fingerprints or other means of positive identi-
22 fication, as determined by the Attorney Gen-
23 eral, of an employee of such employer for pur-
24 poses of a criminal history record information
25 search pursuant to this Act.

1 (B) EMPLOYEE RIGHTS.—

2 (i) PERMISSION.—An authorized em-
3 ployer shall obtain written consent from an
4 employee to submit to the State identifica-
5 tion bureau of a participating State the re-
6 quest to search the criminal history record
7 information of the employee under this
8 Act.

9 (ii) ACCESS.—An authorized employer
10 shall provide to the employee confidential
11 access to any information relating to the
12 employee received by the authorized em-
13 ployer pursuant to this Act.

14 (C) PROVIDING INFORMATION TO THE
15 STATE IDENTIFICATION BUREAU.—Upon re-
16 ceipt of a request for a criminal history record
17 information search from an authorized employer
18 pursuant to this Act, submitted through the
19 State identification bureau of a participating
20 State, the Attorney General shall—

21 (i) search the appropriate records of
22 the Criminal Justice Information Services
23 Division of the Federal Bureau of Inves-
24 tigation; and

1 (ii) promptly provide any resulting
2 identification and criminal history record
3 information to the submitting State identi-
4 fication bureau requesting the information.

5 (D) USE OF INFORMATION.—

6 (i) IN GENERAL.—Upon receipt of the
7 criminal history record information from
8 the Attorney General by the State identi-
9 fication bureau, the information shall be
10 used only as provided in clause (ii).

11 (ii) TERMS.—In the case of—

12 (I) a participating State that has
13 no State standards for qualification to
14 be a private security officer, the State
15 shall notify an authorized employer as
16 to the fact of whether an employee
17 has been—

18 (aa) convicted of a felony,
19 an offense involving dishonesty or
20 a false statement if the convic-
21 tion occurred during the previous
22 10 years, or an offense involving
23 the use or attempted use of phys-
24 ical force against the person of

1 another if the conviction occurred
2 during the previous 10 years; or

3 (bb) charged with a criminal
4 felony for which there has been
5 no resolution during the pre-
6 ceding 365 days; or

7 (II) a participating State that
8 has State standards for qualification
9 to be a private security officer, the
10 State shall use the information re-
11 ceived pursuant to this Act in apply-
12 ing the State standards and shall only
13 notify the employer of the results of
14 the application of the State standards.

15 (E) FREQUENCY OF REQUESTS.—An au-
16 thorized employer may request a criminal his-
17 tory record information search for an employee
18 only once every 12 months of continuous em-
19 ployment by that employee unless the author-
20 ized employer has good cause to submit addi-
21 tional requests.

22 (2) REGULATIONS.—Not later than 180 days
23 after the date of enactment of this Act, the Attorney
24 General shall issue such final or interim final regula-

1 tions as may be necessary to carry out this Act,
2 including—

3 (A) measures relating to the security, con-
4 fidentiality, accuracy, use, submission, dissemi-
5 nation, destruction of information and audits,
6 and record keeping;

7 (B) standards for qualification as an au-
8 thorized employer; and

9 (C) the imposition of reasonable fees nec-
10 essary for conducting the background checks.

11 (3) CRIMINAL PENALTIES FOR USE OF INFOR-
12 MATION.—Whoever knowingly and intentionally uses
13 any information obtained pursuant to this Act other
14 than for the purpose of determining the suitability
15 of an individual for employment as a private security
16 officer shall be fined under title 18, United States
17 Code, or imprisoned for not more than 2 years, or
18 both.

19 (4) USER FEES.—

20 (A) IN GENERAL.—The Director of the
21 Federal Bureau of Investigation may—

22 (i) collect fees to process background
23 checks provided for by this Act; and

24 (ii) establish such fees at a level to in-
25 clude an additional amount to defray ex-

1 penses for the automation of fingerprint
2 identification and criminal justice informa-
3 tion services and associated costs.

4 (B) LIMITATIONS.—Any fee collected
5 under this subsection—

6 (i) shall, consistent with Public Law
7 101–515 and Public Law 104–99, be cred-
8 ited to the appropriation to be used for sal-
9 aries and other expenses incurred through
10 providing the services described in such
11 Public Laws and in subparagraph (A);

12 (ii) shall be available for expenditure
13 only to pay the costs of such activities and
14 services; and

15 (iii) shall remain available until ex-
16 pended.

17 (C) STATE COSTS.—Nothing in this Act
18 shall be construed as restricting the right of a
19 State to assess a reasonable fee on an author-
20 ized employer for the costs to the State of ad-
21 ministering this Act.

22 (5) STATE OPT OUT.—A State may decline to
23 participate in the background check system author-
24 ized by this Act by enacting a law or issuing an
25 order by the Governor (if consistent with State law)

1 providing that the State is declining to participate
2 pursuant to this subsection.

3 **SEC. 2145. TASK FORCE ON CLEARINGHOUSE FOR IAFIS**
4 **CRIMINAL HISTORY RECORDS.**

5 Not later than 60 days after the date of enactment
6 of this Act, the Attorney General shall establish a task
7 force to examine the establishment of a national clearing-
8 house to process IAFIS criminal history record requests
9 received directly from employers providing private security
10 guard services with respect to critical infrastructure (as
11 defined in section 1016(e) of Public Law 107–56 (42
12 U.S.C. 5195c(e))) and other private security guard serv-
13 ices. Members of this task force shall include representa-
14 tives of the Department of Justice and the Federal Bu-
15 reau of Investigation, in consultation with representatives
16 of the security guard industry. Not later than 90 days
17 after the establishment of the task force, the Attorney
18 General shall submit to Congress a report outlining how
19 the national clearinghouse shall be established, and speci-
20 fying a date certain (within one year of the enactment of
21 this Act) by which the national clearinghouse will begin
22 operations.

23 **SEC. 2146. CLARIFICATION OF PURPOSE.**

24 The clearinghouse described in section 2145 shall
25 only process criminal history record requests pertaining to

1 employees or prospective employees of the private security
2 guard service making the request pursuant to that section.

3 **Subtitle G—Protection of United**
4 **States Aviation System From**
5 **Terrorist Attacks**

6 **SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR**
7 **OTHER TECHNOLOGY.**

8 (a) USE OF BIOMETRIC TECHNOLOGY.—Section
9 44903(h) of title 49, United States Code, is amended—

10 (1) in paragraph (4)(E) by striking “may pro-
11 vide for” and inserting “shall issue, not later than
12 120 days after the date of enactment of paragraph
13 (5), guidance for”; and

14 (2) by adding at the end the following:

15 “(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-
16 PORT ACCESS CONTROL SYSTEMS.—In issuing guid-
17 ance under paragraph (4)(E), the Assistant Sec-
18 retary of Homeland Security (Transportation Secu-
19 rity Administration), in consultation with the Attor-
20 ney General, representatives of the aviation industry,
21 the biometrics industry, and the National Institute
22 of Standards and Technology, shall establish, at a
23 minimum—

24 “(A) comprehensive technical and oper-
25 ational system requirements and performance

1 standards for the use of biometrics in airport
2 access control systems (including airport perim-
3 eter access control systems) to ensure that the
4 biometric systems are effective, reliable, and se-
5 cure;

6 “(B) a list of products and vendors that
7 meet such requirements and standards;

8 “(C) procedures for implementing biomet-
9 ric systems—

10 “(i) to ensure that individuals do not
11 use an assumed identity to enroll in a bio-
12 metric system; and

13 “(ii) to resolve failures to enroll, false
14 matches, and false non-matches; and

15 “(D) best practices for incorporating bio-
16 metric technology into airport access control
17 systems in the most effective manner, including
18 a process to best utilize existing airport access
19 control systems, facilities, and equipment and
20 existing data networks connecting airports.

21 “(6) USE OF BIOMETRIC TECHNOLOGY FOR
22 LAW ENFORCEMENT OFFICER TRAVEL.—

23 “(A) IN GENERAL.—Not later than 120
24 days after the date of enactment of this para-

1 graph, the Assistant Secretary in consultation
2 with the Attorney General shall—

3 “(i) establish a law enforcement offi-
4 cer travel credential that incorporates bio-
5 metrics and is uniform across all Federal,
6 State, and local government law enforce-
7 ment agencies;

8 “(ii) establish a process by which the
9 travel credential will be used to verify the
10 identity of a Federal, State, or local gov-
11 ernment law enforcement officer seeking to
12 carry a weapon on board an aircraft, with-
13 out unnecessarily disclosing to the public
14 that the individual is a law enforcement of-
15 ficer;

16 “(iii) establish procedures—

17 “(I) to ensure that only Federal,
18 State, and local government law en-
19 forcement officers are issued the trav-
20 el credential;

21 “(II) to resolve failures to enroll,
22 false matches, and false non-matches
23 relating to use of the travel credential;
24 and

1 “(III) to invalidate any travel
2 credential that is lost, stolen, or no
3 longer authorized for use;

4 “(iv) begin issuance of the travel cre-
5 dential to each Federal, State, and local
6 government law enforcement officer au-
7 thorized by the Assistant Secretary to
8 carry a weapon on board an aircraft; and

9 “(v) take such other actions with re-
10 spect to the travel credential as the Sec-
11 retary considers appropriate.

12 “(B) FUNDING.—There are authorized to
13 be appropriated such sums as may be necessary
14 to carry out this paragraph.

15 “(7) DEFINITIONS.—In this subsection, the fol-
16 lowing definitions apply:

17 “(A) BIOMETRIC INFORMATION.—The
18 term ‘biometric information’ means the distinct
19 physical or behavioral characteristics that are
20 used for identification, or verification of the
21 identity, of an individual.

22 “(B) BIOMETRICS.—The term ‘biometrics’
23 means a technology that enables the automated
24 identification, or verification of the identity, of
25 an individual based on biometric information.

1 “(C) FAILURE TO ENROLL.—The term
2 ‘failure to enroll’ means the inability of an indi-
3 vidual to enroll in a biometric system due to an
4 insufficiently distinctive biometric sample, the
5 lack of a body part necessary to provide the bio-
6 metric sample, a system design that makes it
7 difficult to provide consistent biometric infor-
8 mation, or other factors.

9 “(D) FALSE MATCH.—The term ‘false
10 match’ means the incorrect matching of one in-
11 dividual’s biometric information to another indi-
12 vidual’s biometric information by a biometric
13 system.

14 “(E) FALSE NON-MATCH.—The term ‘false
15 non-match’ means the rejection of a valid iden-
16 tity by a biometric system.

17 “(F) SECURE AREA OF AN AIRPORT.—The
18 term ‘secure area of an airport’ means the ster-
19 ile area and the Secure Identification Display
20 Area of an airport (as such terms are defined
21 in section 1540.5 of title 49, Code of Federal
22 Regulations, or any successor regulation to such
23 section).”.

24 (b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY
25 IN AIRPORT ACCESS CONTROL SYSTEMS.—

1 (1) GRANT AUTHORITY.—Section 44923(a) of
2 title 49, United States Code, is amended—

3 (A) by striking “and” at the end of para-
4 graph (3);

5 (B) by redesignating paragraph (4) as
6 paragraph (5); and

7 (C) by inserting after paragraph (3) the
8 following:

9 “(4) for projects to implement biometric tech-
10 nologies in accordance with guidance issued under
11 section 44903(h)(4)(E); and”.

12 (2) AUTHORIZATION OF APPROPRIATIONS.—
13 Section 44923(i)(1) of such title is amended by
14 striking “\$250,000,000 for each of fiscal years 2004
15 through 2007” and inserting “\$250,000,000 for fis-
16 cal year 2004, \$345,000,000 for fiscal year 2005,
17 and \$250,000,000 for each of fiscal years 2006 and
18 2007”.

19 **SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLAN-**
20 **NING.**

21 Section 44904 of title 49, United States Code, is
22 amended—

23 (1) by redesignating subsection (c) as sub-
24 section (e); and

1 (2) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) TRANSPORTATION SECURITY STRATEGIC PLAN-
4 NING.—

5 “(1) IN GENERAL.—The Secretary of Homeland
6 Security shall prepare and update, as needed, a
7 transportation sector specific plan and transpor-
8 tation modal security plans in accordance with this
9 section.

10 “(2) CONTENTS.—At a minimum, the modal se-
11 curity plan for aviation prepared under paragraph
12 (1) shall—

13 “(A) set risk-based priorities for defending
14 aviation assets;

15 “(B) select the most practical and cost-ef-
16 fective methods for defending aviation assets;

17 “(C) assign roles and missions to Federal,
18 State, regional, and local authorities and to
19 stakeholders;

20 “(D) establish a damage mitigation and re-
21 covery plan for the aviation system in the event
22 of a terrorist attack; and

23 “(E) include a threat matrix document
24 that outlines each threat to the United States

1 civil aviation system and the corresponding lay-
2 ers of security in place to address such threat.

3 “(3) REPORTS.—Not later than 180 days after
4 the date of enactment of the subsection and annually
5 thereafter, the Secretary shall submit to the Com-
6 mittee on Transportation and Infrastructure of the
7 House of Representatives and the Committee on
8 Commerce, Science, and Transportation of the Sen-
9 ate a report containing the plans prepared under
10 paragraph (1), including any updates to the plans.

11 The report may be submitted in a classified format.

12 “(d) OPERATIONAL CRITERIA.—Not later than 90
13 days after the date of submission of the report under sub-
14 section (c)(3), the Assistant Secretary of Homeland Secu-
15 rity (Transportation Security Administration) shall issue
16 operational criteria to protect airport infrastructure and
17 operations against the threats identified in the plans pre-
18 pared under subsection (c)(1) and shall approve best prac-
19 tices guidelines for airport assets.”.

20 **SEC. 2173. NEXT GENERATION AIRLINE PASSENGER**
21 **PRESCREENING.**

22 (a) IN GENERAL.—Section 44903(j)(2) of title 49,
23 United States Code, is amended by adding at the end the
24 following:

1 “(C) NEXT GENERATION AIRLINE PAS-
2 SENGER PRESCREENING.—

3 “(i) COMMENCEMENT OF TESTING.—

4 Not later than November 1, 2004, the As-
5 sistant Secretary of Homeland Security
6 (Transportation Security Administration),
7 or the designee of the Assistant Secretary,
8 shall commence testing of a next genera-
9 tion passenger prescreening system that
10 will allow the Department of Homeland Se-
11 curity to assume the performance of com-
12 paring passenger name records to the
13 automatic selectee and no fly lists, utilizing
14 all appropriate records in the consolidated
15 and integrated terrorist watchlist main-
16 tained by the Federal Government.

17 “(ii) ASSUMPTION OF FUNCTION.—

18 Not later than 180 days after completion
19 of testing under clause (i), the Assistant
20 Secretary, or the designee of the Assistant
21 Secretary, shall assume the performance of
22 the passenger prescreening function of
23 comparing passenger name records to the
24 automatic selectee and no fly lists and uti-
25 lize all appropriate records in the consoli-

1 dated and integrated terrorist watchlist
2 maintained by the Federal Government in
3 performing that function.

4 “(iii) REQUIREMENTS.—In assuming
5 performance of the function under clause
6 (i), the Assistant Secretary shall—

7 “(I) establish a procedure to en-
8 able airline passengers, who are de-
9 layed or prohibited from boarding a
10 flight because the next generation
11 passenger prescreening system deter-
12 mined that they might pose a security
13 threat, to appeal such determination
14 and correct information contained in
15 the system;

16 “(II) ensure that Federal Gov-
17 ernment databases that will be used
18 to establish the identity of a pas-
19 senger under the system will not
20 produce a large number of false
21 positives;

22 “(III) establish an internal over-
23 sight board to oversee and monitor
24 the manner in which the system is
25 being implemented;

1 “(IV) establish sufficient oper-
2 ational safeguards to reduce the op-
3 portunities for abuse;

4 “(V) implement substantial secu-
5 rity measures to protect the system
6 from unauthorized access;

7 “(VI) adopt policies establishing
8 effective oversight of the use and op-
9 eration of the system; and

10 “(VII) ensure that there are no
11 specific privacy concerns with the
12 technological architecture of the sys-
13 tem.

14 “(iv) PASSENGER NAME RECORDS.—
15 Not later than 60 days after the comple-
16 tion of the testing of the next generation
17 passenger prescreening system, the Assist-
18 ant Secretary shall require air carriers to
19 supply to the Assistant Secretary the pas-
20 senger name records needed to begin im-
21 plementing the next generation passenger
22 prescreening system.

23 “(D) SCREENING OF EMPLOYEES AGAINST
24 WATCHLIST.—The Assistant Secretary of
25 Homeland Security (Transportation Security

1 Administration), in coordination with the Sec-
2 retary of Transportation and the Administrator
3 of the Federal Aviation Administration, shall
4 ensure that individuals are screened against all
5 appropriate records in the consolidated and in-
6 tegrated terrorist watchlist maintained by the
7 Federal Government before—

8 “(i) being certificated by the Federal
9 Aviation Administration;

10 “(ii) being issued a credential for ac-
11 cess to the secure area of an airport; or

12 “(iii) being issued a credential for ac-
13 cess to the air operations area (as defined
14 in section 1540.5 of title 49, Code of Fed-
15 eral Regulations, or any successor regula-
16 tion to such section) of an airport.

17 “(E) APPEAL PROCEDURES.—The Assist-
18 ant Secretary shall establish a timely and fair
19 process for individuals identified as a threat
20 under subparagraph (D) to appeal the deter-
21 mination and correct any erroneous informa-
22 tion.

23 “(F) DEFINITION.—In this paragraph, the
24 term ‘secure area of an airport’ means the ster-
25 ile area and the Secure Identification Display

1 Area of an airport (as such terms are defined
2 in section 1540.5 of title 49, Code of Federal
3 Regulations, or any successor regulation to such
4 section).”.

5 (b) GAO REPORT.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date on which the Assistant Secretary of Home-
8 land Security (Transportation Security Administra-
9 tion) assumes performance of the passenger
10 prescreening function under section
11 44903(j)(2)(C)(ii) of title 49, United States Code,
12 the Comptroller General shall submit to the appro-
13 priate congressional committees a report on the as-
14 sumption of such function. The report may be sub-
15 mitted in a classified format.

16 (2) CONTENTS.—The report under paragraph
17 (1) shall address—

18 (A) whether a system exists in the next
19 generation passenger prescreening system
20 whereby aviation passengers, determined to
21 pose a threat and either delayed or prohibited
22 from boarding their scheduled flights by the
23 Transportation Security Administration, may
24 appeal such a decision and correct erroneous in-
25 formation;

1 (B) the sufficiency of identifying informa-
2 tion contained in passenger name records and
3 any government databases for ensuring that a
4 large number of false positives will not result
5 under the next generation passenger
6 prescreening system in a significant number of
7 passengers being treated as a threat mistakenly
8 or in security resources being diverted;

9 (C) whether the Transportation Security
10 Administration stress tested the next generation
11 passenger prescreening system;

12 (D) whether an internal oversight board
13 has been established in the Department of
14 Homeland Security to monitor the next genera-
15 tion passenger prescreening system;

16 (E) whether sufficient operational safe-
17 guards have been established to prevent the op-
18 portunities for abuse of the system;

19 (F) whether substantial security measures
20 are in place to protect the passenger
21 prescreening database from unauthorized ac-
22 cess;

23 (G) whether policies have been adopted for
24 the effective oversight of the use and operation
25 of the system;

1 (H) whether specific privacy concerns still
2 exist with the system; and

3 (I) whether appropriate life cycle cost esti-
4 mates have been developed, and a benefit and
5 cost analysis has been performed, for the sys-
6 tem.

7 **SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETEC-**
8 **TION EQUIPMENT AT AIRPORT SCREENING**
9 **CHECKPOINTS.**

10 (a) **NONMETALLIC WEAPONS AND EXPLOSIVES.**—In
11 order to improve security, the Assistant Secretary of
12 Homeland Security (Transportation Security Administra-
13 tion) shall give priority to developing, testing, improving,
14 and deploying technology at screening checkpoints at air-
15 ports that will detect nonmetallic weapons and explosives
16 on the person of individuals, in their clothing, or in their
17 carry-on baggage or personal property and shall ensure
18 that the equipment alone, or as part of an integrated sys-
19 tem, can detect under realistic operating conditions the
20 types of nonmetallic weapons and explosives that terrorists
21 would likely try to smuggle aboard an air carrier aircraft.

22 (b) **STRATEGIC PLAN FOR DEPLOYMENT AND USE**
23 **OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT**
24 **SCREENING CHECKPOINTS.**—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Assistant Sec-
3 retary shall transmit to the appropriate congress-
4 sional committees a strategic plan to promote the
5 optimal utilization and deployment of explosive de-
6 tection systems at airports to screen individuals and
7 their carry-on baggage or personal property, includ-
8 ing walk-through explosive detection portals, docu-
9 ment scanners, shoe scanners, and any other explo-
10 sive detection equipment for use at a screening
11 checkpoint. The plan may be transmitted in a classi-
12 fied format.

13 (2) CONTENTS.—The strategic plan shall in-
14 clude descriptions of the operational applications of
15 explosive detection equipment at airport screening
16 checkpoints, a deployment schedule and quantities of
17 equipment needed to implement the plan, and fund-
18 ing needs for implementation of the plan, including
19 a financing plan that provides for leveraging non-
20 Federal funding.

21 **SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-**
22 **RESISTANT CARGO AND BAGGAGE CON-**
23 **TAINERS.**

24 (a) IN GENERAL.—Beginning not later than 180
25 days after the date of enactment of this Act, the Assistant

1 Secretary of Homeland Security (Transportation Security
2 Administration) shall carry out a pilot program to evalu-
3 ate the use of blast-resistant containers for cargo and bag-
4 gage on passenger aircraft to minimize the potential ef-
5 fects of detonation of an explosive device.

6 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-
7 GRAM.—

8 (1) IN GENERAL.—As part of the pilot pro-
9 gram, the Assistant Secretary shall provide incen-
10 tives to air carriers to volunteer to test the use of
11 blast-resistant containers for cargo and baggage on
12 passenger aircraft.

13 (2) APPLICATIONS.—To volunteer to participate
14 in the incentive program, an air carrier shall submit
15 to the Assistant Secretary an application that is in
16 such form and contains such information as the As-
17 sistant Secretary requires.

18 (3) TYPES OF ASSISTANCE.—Assistance pro-
19 vided by the Assistant Secretary to air carriers that
20 volunteer to participate in the pilot program shall in-
21 clude the use of blast-resistant containers and finan-
22 cial assistance to cover increased costs to the car-
23 riers associated with the use and maintenance of the
24 containers, including increased fuel costs.

1 (c) REPORT.—Not later than one year after the date
2 of enactment of this Act, the Assistant Secretary shall
3 submit to appropriate congressional committees a report
4 on the results of the pilot program.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this section
7 \$2,000,000. Such sums shall remain available until ex-
8 pended.

9 **SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

10 The Transportation Security Administration shall de-
11 velop technology to better identify, track, and screen air
12 cargo.

13 **SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE**
14 **DETECTION.**

15 Section 44940 of title 49, United States Code, is
16 amended by adding at the end the following:

17 “(i) CHECKPOINT SCREENING SECURITY FUND.—

18 “(1) ESTABLISHMENT.—There is established in
19 the Department of Homeland Security a fund to be
20 known as the ‘Checkpoint Screening Security Fund’.

21 “(2) DEPOSITS.—In each of fiscal years 2005
22 and 2006, after amounts are made available under
23 section 44923(h), the next \$30,000,000 derived from
24 fees received under subsection (a)(1) shall be avail-
25 able to be deposited in the Fund.

1 “(3) FEES.—The Secretary of Homeland Secu-
2 rity shall impose the fee authorized by subsection
3 (a)(1) so as to collect at least \$30,000,000 in each
4 of fiscal years 2005 and 2006 for deposit into the
5 Fund.

6 “(4) AVAILABILITY OF AMOUNTS.—Amounts in
7 the Fund shall be available for the purchase, deploy-
8 ment, and installation of equipment to improve the
9 ability of security screening personnel at screening
10 checkpoints to detect explosives.”.

11 **SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.**

12 (a) PILOT PROGRAM.—The Transportation Security
13 Administration shall develop, not later than 120 days after
14 the date of enactment of this Act, and conduct a pilot pro-
15 gram to test, integrate, and deploy next generation secu-
16 rity checkpoint screening technology at not less than 5 air-
17 ports in the United States.

18 (b) HUMAN FACTOR STUDIES.—The Administration
19 shall conduct human factors studies to improve screener
20 performance as part of the pilot program under subsection
21 (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)(1) of such title is
18 amended by striking “Secretary of Transportation”
19 and inserting “Secretary of Homeland Security and,
20 for a violation relating to section 46504, the Sec-
21 retary of Transportation,”.

22 (2) CARRYING A WEAPON.—Section 46303 of
23 such title is amended—

24 (A) in subsection (b)(1) 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
7 amended—

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),”;

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 or”; 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**
7 **COUNTERTERRORISM TRAINING.**

8 (a) The Assistant Secretary for Immigration and
9 Customs Enforcement and the Director of Federal Air
10 Marshal Service of the Department of Homeland Security,
11 in coordination with the Assistant Secretary of Homeland
12 Security (Transportation Security Administration), shall
13 make available appropriate in-flight counterterrorism and
14 weapons handling procedures and tactics training to Fed-
15 eral law enforcement officers who fly while on duty.

16 (b) The Assistant Secretary for Immigration and
17 Customs Enforcement and the Director of Federal Air
18 Marshal Service of the Department of Homeland Security,
19 in coordination with the Assistant Secretary of Homeland
20 Security (Transportation Security Administration), shall
21 ensure that Transportation Security Administration
22 screeners and Federal Air Marshals receive training in
23 identifying fraudulent identification documents, including
24 fraudulent or expired Visas and Passports. Such training
25 shall also be made available to other Federal law enforce-

1 ment agencies and local law enforcement agencies located
2 in border states.

3 **SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**
4 **RIAGE PILOT PROGRAM.**

5 (a) IN GENERAL.—Not later than 90 days after the
6 date of enactment of this Act, the Assistant Secretary of
7 Homeland Security (Transportation Security Administra-
8 tion) shall implement a pilot program to allow pilots par-
9 ticipating in the Federal flight deck officer program to
10 transport their firearms on their persons. The Assistant
11 Secretary may prescribe any training, equipment, or pro-
12 cedures including procedures for reporting of missing, lost
13 or stolen firearms, that the Assistant Secretary determines
14 necessary to ensure safety and maximize weapon reten-
15 tion.

16 (b) REVIEW.—Not later than 1 year after the date
17 of initiation of the pilot program, the Assistant Secretary
18 shall conduct a review of the safety record of the pilot
19 program and transmit a report on the results of the review
20 to the appropriate congressional committees.

21 (c) OPTION.—If the Assistant Secretary as part of
22 the review under subsection (b) determines that the safety
23 level obtained under the pilot program is comparable to
24 the safety level determined under existing methods of pi-
25 lots carrying firearms on aircraft, the Assistant Secretary

1 shall allow all pilots participating in the Federal flight
2 deck officer program the option of carrying their firearm
3 on their person subject to such requirements as the Assist-
4 ant Secretary determines appropriate.

5 **SEC. 2183. REGISTERED TRAVELER PROGRAM.**

6 The Transportation Security Administration shall ex-
7 peditate implementation of the registered traveler program.

8 **SEC. 2184. WIRELESS COMMUNICATION.**

9 (a) STUDY.—The Transportation Security Adminis-
10 tration, in consultation with the Federal Aviation Admin-
11 istration, shall conduct a study to determine the viability
12 of providing devices or methods, including wireless meth-
13 ods, to enable a flight crew to discreetly notify the pilot
14 in the case of a security breach or safety issue occurring
15 in the cabin.

16 (b) MATTERS TO BE CONSIDERED.—In conducting
17 the study, the Transportation Security Administration
18 and the Federal Aviation Administration shall consider
19 technology that is readily available and can be quickly in-
20 tegrated and customized for use aboard aircraft for flight
21 crew communication.

22 (c) REPORT.—Not later than 180 days after the date
23 of enactment of this Act, the Transportation Security Ad-
24 ministration shall submit to the appropriate congressional
25 committees a report on the results of the study.

1 **SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

2 Not later than 6 months after the date of enactment
3 of this Act, the Assistant Secretary of Homeland Security
4 (Transportation Security Administration) shall transmit
5 to the appropriate congressional committees a report on
6 the costs and benefits associated with the use of secondary
7 flight deck barriers and whether the use of such barriers
8 should be mandated for all air carriers. The Assistant Sec-
9 retary may transmit the report in a classified format.

10 **SEC. 2186. EXTENSION.**

11 Section 48301(a) of title 49, United States Code, is
12 amended by striking “and 2005” and inserting “2005,
13 and 2006”.

14 **SEC. 2187. PERIMETER SECURITY.**

15 (a) REPORT.—Not later than 180 days after the date
16 of enactment of this Act, the Assistant Secretary of Home-
17 land Security (Transportation Security Administration),
18 in consultation with airport operators and law enforce-
19 ment authorities, shall develop and submit to the appro-
20 priate congressional committee a report on airport perim-
21 eter security. The report may be submitted in a classified
22 format.

23 (b) CONTENTS.—The report shall include—

24 (1) an examination of the feasibility of access
25 control technologies and procedures, including the
26 use of biometrics and other methods of positively

1 identifying individuals prior to entry into secure
2 areas of airports, and provide best practices for en-
3 hanced perimeter access control techniques; and

4 (2) an assessment of the feasibility of physically
5 screening all individuals prior to entry into secure
6 areas of an airport and additional methods for
7 strengthening the background vetting process for all
8 individuals credentialed to gain access to secure
9 areas of airports.

10 **SEC. 2188. DEFINITIONS.**

11 In this title, the following definitions apply:

12 (1) **APPROPRIATE CONGRESSIONAL COM-**
13 **MITTEE.**—The term “appropriate congressional com-
14 mittees” means the Committee on Transportation
15 and Infrastructure of the House of Representatives
16 and the Committee on Commerce, Science, and
17 Transportation of the Senate.

18 (2) **AIR CARRIER.**—The term “air carrier” has
19 the meaning such term has under section 40102 of
20 title 49, United States Code.

21 (3) **SECURE AREA OF AN AIRPORT.**—The term
22 “secure area of an airport” means the sterile area
23 and the Secure Identification Display Area of an air-
24 port (as such terms are defined in section 1540.5 of

1 title 49, Code of Federal Regulations, or any suc-
2 cessor regulation to such section).

3 **Subtitle H—Other Matters**

4 **SEC. 2191. GRAND JURY INFORMATION SHARING.**

5 (a) RULE AMENDMENTS.—Rule 6(e) of the Federal
6 Rules of Criminal Procedure is amended—

7 (1) in paragraph (3)—

8 (A) in subparagraph (A)(ii), by striking
9 “or state subdivision or of an Indian tribe” and
10 inserting “, state subdivision, Indian tribe, or
11 foreign government”;

12 (B) in subparagraph (D)—

13 (i) by inserting after the first sentence
14 the following: “An attorney for the govern-
15 ment may also disclose any grand-jury
16 matter involving a threat of actual or po-
17 tential attack or other grave hostile acts of
18 a foreign power or an agent of a foreign
19 power, domestic or international sabotage,
20 domestic or international terrorism, or
21 clandestine intelligence gathering activities
22 by an intelligence service or network of a
23 foreign power or by an agent of a foreign
24 power, within the United States or else-
25 where, to any appropriate Federal, State,

1 state subdivision, Indian tribal, or foreign
2 government official for the purpose of pre-
3 venting or responding to such a threat.”;
4 and

5 (ii) in clause (i)—

6 (I) by striking “federal”; and

7 (II) by adding at the end the fol-
8 lowing: “Any State, state subdivision,
9 Indian tribal, or foreign government
10 official who receives information
11 under Rule 6(e)(3)(D) may use the
12 information only consistent with such
13 guidelines as the Attorney General
14 and the National Intelligence Director
15 shall jointly issue.”; and

16 (C) in subparagraph (E)—

17 (i) by redesignating clauses (iii) and
18 (iv) as clauses (iv) and (v), respectively;

19 (ii) by inserting after clause (ii) the
20 following:

21 “(iii) at the request of the govern-
22 ment, when sought by a foreign court or
23 prosecutor for use in an official criminal
24 investigation;” and

25 (iii) in clause (iv), as redesignated—

1 (I) by striking “state or Indian
2 tribal” and inserting “State, Indian
3 tribal, or foreign”; and

4 (II) by striking “or Indian tribal
5 official” and inserting “Indian tribal,
6 or foreign government official”; and

7 (2) in paragraph (7), by inserting “, or of
8 guidelines jointly issued by the Attorney General and
9 Director of Central Intelligence pursuant to Rule 6,”
10 after “Rule 6”.

11 (b) CONFORMING AMENDMENT.—Section 203(c) of
12 Public Law 107–56 (18 U.S.C. 2517 note) is amended
13 by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting
14 “Rule 6(e)(3)(D)”.

15 **SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND IN-**
16 **TELLIGENCE DATA SYSTEM.**

17 (a) FINDINGS.—The Congress finds as follows:

18 (1) The interoperable electronic data system
19 know as the “Chimera system”, and required to be
20 developed and implemented by section 202(a)(2) of
21 the Enhanced Border Security and Visa Entry Re-
22 form Act of 2002 (8 U.S.C. 1722(a)(2)), has not in
23 any way been implemented.

24 (2) Little progress has been made since the en-
25 actment of such Act with regard to establishing a

1 process to connect existing trusted systems operated
2 independently by the respective intelligence agencies.

3 (3) It is advisable, therefore, to assign such re-
4 sponsibility to the National Intelligence Director.

5 (4) The National Intelligence Director should,
6 pursuant to the amendments made by subsection (c),
7 begin systems planning immediately upon assuming
8 office to deliver an interim system not later than 1
9 year after the date of the enactment of this Act, and
10 to deliver the fully functional Chimera system not
11 later than September 11, 2007.

12 (5) Both the interim system, and the fully func-
13 tional Chimera system, should be designed so that
14 intelligence officers, Federal law enforcement agen-
15 cies (as defined in section 2 of such Act (8 U.S.C.
16 1701)), operational counter-terror support center
17 personnel, consular officers, and Department of
18 Homeland Security enforcement officers have access
19 to them.

20 (b) PURPOSES.—The purposes of this section are as
21 follows:

22 (1) To provide the National Intelligence Direc-
23 tor with the necessary authority and resources to es-
24 tablish both an interim data system and, subse-
25 quently, a fully functional Chimera system, to collect

1 and share intelligence and operational information
2 with the intelligence community (as defined in sec-
3 tion 3(4) of the National Security Act of 1947 (50
4 U.S.C. 401a(4)).

5 (2) To require the National Intelligence Direc-
6 tor to establish a state-of-the-art Chimera system
7 with both biometric identification and linguistic ca-
8 pabilities satisfying the best technology standards.

9 (3) To ensure that the National Intelligence
10 Center will have a fully functional capability, not
11 later than September 11, 2007, for interoperable
12 data and intelligence exchange with the agencies of
13 the intelligence community (as so defined).

14 (c) AMENDMENTS.—

15 (1) IN GENERAL.—Title II of the Enhanced
16 Border Security and Visa Entry Reform Act of 2002
17 (8 U.S.C. 1721 et seq.) is amended—

18 (A) in section 202(a)—

19 (i) by amending paragraphs (1) and
20 (2) to read as follows:

21 “(1) INTERIM INTEROPERABLE INTELLIGENCE
22 DATA EXCHANGE SYSTEM.—Not later than 1 year
23 after assuming office, the National Intelligence Di-
24 rector shall establish an interim interoperable intel-
25 ligence data exchange system that will connect the

1 data systems operated independently by the entities
2 in the intelligence community and by the National
3 Counterterrorism Center, so as to permit automated
4 data exchange among all of these entities. Imme-
5 diately upon assuming office, the National Intel-
6 ligence Director shall begin the plans necessary to
7 establish such interim system.

8 “(2) CHIMERA SYSTEM.—Not later than Sep-
9 tember 11, 2007, the National Intelligence Director
10 shall establish a fully functional interoperable law
11 enforcement and intelligence electronic data system
12 within the National Counterterrorism Center to pro-
13 vide immediate access to information in databases of
14 Federal law enforcement agencies and the intel-
15 ligence community that is necessary to identify ter-
16 rorists, and organizations and individuals that sup-
17 port terrorism. The system established under this
18 paragraph shall referred to as the ‘Chimera system’.
19 ”;

20 (ii) in paragraph (3)—

21 (I) by striking “President” and
22 inserting “National Intelligence Direc-
23 tor”; and

24 (II) by striking “the data sys-
25 tem” and inserting “the interim sys-

1 tem described in paragraph (1) and
2 the Chimera system described in para-
3 graph (2)”;

4 (iii) in paragraph (4)(A), by striking
5 “The data system” and all that follows
6 through “(2),” and inserting “The interim
7 system described in paragraph (1) and the
8 Chimera system described in paragraph
9 (2)”;

10 (iv) in paragraph (5)—

11 (I) in the matter preceding sub-
12 paragraph (A), by striking “data sys-
13 tem under this subsection” and insert-
14 ing “Chimera system described in
15 paragraph (2)”;

16 (II) in subparagraph (B), by
17 striking “and” at the end;

18 (III) in subparagraph (C), by
19 striking the period at the end and in-
20 serting “; and”; and

21 (IV) by adding at the end the fol-
22 lowing:

23 “(D) to any Federal law enforcement or
24 intelligence officer authorized to assist in the
25 investigation, identification, or prosecution of

1 terrorists, alleged terrorists, individuals sup-
2 porting terrorist activities, and individuals al-
3 leged to support terrorist activities. ”; and

4 (v) in paragraph (6)—

5 (I) by striking “President” and
6 inserting “National Intelligence Direc-
7 tor”;

8 (II) by striking “the data sys-
9 tem” and all that follows through
10 “(2),” and inserting “the interim sys-
11 tem described in paragraph (1) and
12 the Chimera system described in para-
13 graph (2)”;

14 (B) in section 202(b)—

15 (i) in paragraph (1), by striking “The
16 interoperable” and all that follows through
17 “subsection (a)” and inserting “the Chi-
18 mera system described in subsection
19 (a)(2)”;

20 (ii) in paragraph (2), by striking
21 “interoperable electronic database” and in-
22 sserting “Chimera system described in sub-
23 section (a)(2)”;

24 (iii) by amending paragraph (4) to
25 read as follows:

1 **SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**
2 **OF THE FEDERAL BUREAU OF INVESTIGA-**
3 **TION.**

4 (a) FINDINGS.—Consistent with the report of the Na-
5 tional Commission on Terrorist Attacks Upon the United
6 States and to meet the intelligence needs of the United
7 States, Congress makes the following findings:

8 (1) The Federal Bureau of Investigation has
9 made significant progress in improving its intel-
10 ligence capabilities.

11 (2) The Federal Bureau of Investigation must
12 further enhance and fully institutionalize its ability
13 to prevent, preempt, and disrupt terrorist threats to
14 our homeland, our people, our allies, and our inter-
15 ests.

16 (3) The Federal Bureau of Investigation must
17 collect, process, share, and disseminate, to the great-
18 est extent permitted by applicable law, to the Presi-
19 dent, the Vice President, and other officials in the
20 Executive Branch, all terrorism information and
21 other information necessary to safeguard our people
22 and advance our national and homeland security in-
23 terests.

24 (4) The Federal Bureau of Investigation must
25 move towards full and seamless coordination and co-
26 operation with all other elements of the Intelligence

1 Community, including full participation in, and sup-
2 port to, the National Counterterrorism Center.

3 (5) The Federal Bureau of Investigation must
4 strengthen its pivotal role in coordination and co-
5 operation with Federal, State, tribal, and local law
6 enforcement agencies to ensure the necessary shar-
7 ing of information for counterterrorism and criminal
8 law enforcement purposes.

9 (6) The Federal Bureau of Investigation must
10 perform its vital intelligence functions in a manner
11 consistent with both with national intelligence prior-
12 ities and respect for privacy and other civil liberties
13 under the Constitution and laws of the United
14 States.

15 (b) IMPROVEMENT OF INTELLIGENCE CAPABILI-
16 TIES.—The Director of the Federal Bureau of Investiga-
17 tion shall establish a comprehensive intelligence program
18 for—

19 (1) intelligence analysis, including recruitment
20 and hiring of analysts, analyst training, priorities
21 and status for analysis, and analysis performance
22 measures;

23 (2) intelligence production, including product
24 standards, production priorities, information sharing

1 and dissemination, and customer satisfaction meas-
2 ures;

3 (3) production of intelligence that is responsive
4 to national intelligence requirements and priorities,
5 including measures of the degree to which each FBI
6 headquarters and field component is collecting and
7 providing such intelligence;

8 (4) intelligence sources, including source valida-
9 tion, new source development, and performance
10 measures;

11 (5) field intelligence operations, including staff-
12 ing and infrastructure, management processes, pri-
13 orities, and performance measures;

14 (6) full and seamless coordination and coopera-
15 tion with the other components of the Intelligence
16 Community, consistent with their responsibilities;
17 and

18 (7) sharing of FBI intelligence and information
19 across Federal, state, and local governments, with
20 the private sector, and with foreign partners as pro-
21 vided by law or by guidelines of the Attorney Gen-
22 eral.

23 (c) INTELLIGENCE DIRECTORATE.—The Director of
24 the Federal Bureau of Investigation shall establish an In-
25 telligence Directorate within the FBI. The Intelligence Di-

1 rectorate shall have the authority to manage and direct
2 the intelligence operations of all FBI headquarters and
3 field components. The Intelligence Directorate shall have
4 responsibility for all components and functions of the FBI
5 necessary for—

6 (1) oversight of FBI field intelligence oper-
7 ations;

8 (2) FBI human source development and man-
9 agement;

10 (3) FBI collection against nationally-determined
11 intelligence requirements;

12 (4) language services;

13 (5) strategic analysis;

14 (6) intelligence program and budget manage-
15 ment; and

16 (7) the intelligence workforce.

17 (d) NATIONAL SECURITY WORKFORCE.—The Direc-
18 tor of the Federal Bureau of Investigation shall establish
19 a specialized, integrated intelligence cadre composed of
20 Special Agents, analysts, linguists, and surveillance spe-
21 cialists in a manner which creates and sustains within the
22 FBI a workforce with substantial expertise in, and com-
23 mitment to, the intelligence mission of the FBI. The Di-
24 rector shall—

1 (1) ensure that these FBI employees may make
2 their career, including promotion to the most senior
3 positions in the FBI, within this career track;

4 (2) establish intelligence cadre requirements
5 for—

6 (A) training;

7 (B) career development and certification;

8 (C) recruitment, hiring, and selection;

9 (D) integrating field intelligence teams;

10 and

11 (E) senior level field management;

12 (3) establish intelligence officer certification re-
13 quirements, including requirements for training
14 courses and assignments to other intelligence, na-
15 tional security, or homeland security components of
16 the Executive branch, in order to advance to senior
17 operational management positions in the FBI;

18 (4) ensure that the FBI's recruitment and
19 training program enhances its ability to attract indi-
20 viduals with educational and professional back-
21 grounds in intelligence, international relations, lan-
22 guage, technology, and other skills relevant to the
23 intelligence mission of the FBI;

24 (5) ensure that all Special Agents and analysts
25 employed by the FBI after the date of the enact-

1 ment of this Act shall receive basic training in both
2 criminal justice matters and intelligence matters;

3 (6) ensure that all Special Agents employed by
4 the FBI after the date of the enactment of this Act,
5 to the maximum extent practicable, be given an op-
6 portunity to undergo, during their early service with
7 the FBI, meaningful assignments in criminal justice
8 matters and in intelligence matters;

9 (7) ensure that, to the maximum extent prac-
10 tical, Special Agents who specialize in intelligence
11 are afforded the opportunity to work on intelligence
12 matters over the remainder of their career with the
13 FBI; and

14 (8) ensure that, to the maximum extent prac-
15 tical, analysts are afforded FBI training and career
16 opportunities commensurate with the training and
17 career opportunities afforded analysts in other ele-
18 ments of the intelligence community.

19 (e) FIELD OFFICE MATTERS.—The Director of the
20 Federal Bureau of Investigation shall take appropriate ac-
21 tions to ensure the integration of analysis, Special Agents,
22 linguists, and surveillance personnel in FBI field intel-
23 ligence components and to provide effective leadership and
24 infrastructure to support FBI field intelligence compo-
25 nents. The Director shall—

1 (1) ensure that each FBI field office has an of-
2 ficial at the level of Assistant Special Agent in
3 Charge or higher with responsibility for the FBI
4 field intelligence component; and

5 (2) to the extent practicable, provide for such
6 expansion of special compartmented information fa-
7 cilities in FBI field offices as is necessary to ensure
8 the discharge by the field intelligence components of
9 the national security and criminal intelligence mis-
10 sion of the FBI.

11 (g) BUDGET MATTERS.—The Director of the Federal
12 Bureau of Investigation shall, in consultation with the Di-
13 rector of the Office of Management and Budget, modify
14 the budget structure of the FBI in order to organize the
15 budget according to its four main programs as follows:

16 (1) Intelligence.

17 (2) Counterterrorism and counterintelligence.

18 (3) Criminal enterprise/Federal crimes.

19 (4) Criminal justice services.

20 (h) REPORTS.—

21 (1)(A) Not later than 180 days after the date
22 of the enactment of this Act, and every twelve
23 months thereafter, the Director of the Federal Bu-
24 reau of Investigation shall submit to Congress a re-

1 report on the progress made as of the date of such re-
2 port in carrying out the requirements of this section.

3 (B) The Director shall include in the first re-
4 port required by subparagraph (A) an estimate of
5 the resources required to complete the expansion of
6 special compartmented information facilities to carry
7 out the intelligence mission of FBI field intelligence
8 components.

9 (2) In each annual report required by para-
10 graph (1)(A) the director shall include—

11 (A) a report on the progress made by each
12 FBI field office during the period covered by
13 such review in addressing FBI and national in-
14 telligence priorities;

15 (B) a report assessing the qualifications,
16 status, and roles of analysts at FBI head-
17 quarters and in FBI field offices; and

18 (C) a report on the progress of the FBI in
19 implementing information-sharing principles.

20 (3) A report required by this subsection shall be
21 submitted—

22 (A) to each committee of Congress that
23 has jurisdiction over the subject matter of such
24 report; and

1 (B) in unclassified form, but may include
2 a classified annex.

3 **SEC. 2194. AUTHORIZATION AND CHANGE OF COPS PRO-**
4 **GRAM TO SINGLE GRANT PROGRAM.**

5 (a) IN GENERAL.—Section 1701 of title I of the Om-
6 nibus Crime Control and Safe Streets Act of 1968 (42
7 U.S.C. 3796dd) is amended—

8 (1) by amending subsection (a) to read as fol-
9 lows:

10 “(a) GRANT AUTHORIZATION.—The Attorney Gen-
11 eral shall carry out a single grant program under which
12 the Attorney General makes grants to States, units of
13 local government, Indian tribal governments, other public
14 and private entities, and multi-jurisdictional or regional
15 consortia for the purposes described in subsection (b).”;

16 (2) by striking subsections (b) and (c);

17 (3) by redesignating subsection (d) as sub-
18 section (b), and in that subsection—

19 (A) by striking “ADDITIONAL GRANT
20 PROJECTS.—Grants made under subsection (a)
21 may include programs, projects, and other ac-
22 tivities to—” and inserting “USES OF GRANT
23 AMOUNTS.—The purposes for which grants
24 made under subsection (a) may be made are—
25 ”;

1 (B) by redesignating paragraphs (1)
2 through (12) as paragraphs (6) through (17),
3 respectively;

4 (C) by inserting before paragraph (5) (as
5 so redesignated) the following new paragraphs:

6 “(1) rehire law enforcement officers who have
7 been laid off as a result of State and local budget
8 reductions for deployment in community-oriented po-
9 licing;

10 “(2) hire and train new, additional career law
11 enforcement officers for deployment in community-
12 oriented policing across the Nation;

13 “(3) procure equipment, technology, or support
14 systems, or pay overtime, to increase the number of
15 officers deployed in community-oriented policing;

16 “(4) improve security at schools and on school
17 grounds in the jurisdiction of the grantee through—

18 “(A) placement and use of metal detectors,
19 locks, lighting, and other deterrent measures;

20 “(B) security assessments;

21 “(C) security training of personnel and
22 students;

23 “(D) coordination with local law enforce-
24 ment; and

1 “(E) any other measure that, in the deter-
2 mination of the Attorney General, may provide
3 a significant improvement in security;

4 “(5) pay for officers hired to perform intel-
5 ligence, anti-terror, or homeland security duties ex-
6 clusively;”; and

7 (D) by amending paragraph (9) (as so re-
8 designated) to read as follows:

9 “(8) develop new technologies, including inter-
10 operable communications technologies, modernized
11 criminal record technology, and forensic technology,
12 to assist State and local law enforcement agencies in
13 reorienting the emphasis of their activities from re-
14 acting to crime to preventing crime and to train law
15 enforcement officers to use such technologies;”;

16 (4) by redesignating subsections (e) through (k)
17 as subsections (c) through (i), respectively;

18 (5) in subsection (c) (as so redesignated) by
19 striking “subsection (i)” and inserting “subsection
20 (g)”; and

21 (6) by adding at the end the following new sub-
22 section:

23 “(j) **MATCHING FUNDS FOR SCHOOL SECURITY**
24 **GRANTS.**—Notwithstanding subsection (i), in the case of

1 a grant under subsection (a) for the purposes described
2 in subsection (b)(4)—

3 “(1) the portion of the costs of a program pro-
4 vided by that grant may not exceed 50 percent;

5 “(2) any funds appropriated by Congress for
6 the activities of any agency of an Indian tribal gov-
7 ernment or the Bureau of Indian Affairs performing
8 law enforcement functions on any Indian lands may
9 be used to provide the non-Federal share of a
10 matching requirement funded under this subsection;
11 and

12 “(3) the Attorney General may provide, in the
13 guidelines implementing this section, for the require-
14 ment of paragraph (1) to be waived or altered in the
15 case of a recipient with a financial need for such a
16 waiver or alteration.”.

17 (b) CONFORMING AMENDMENT.—Section 1702 of
18 title I of such Act (42 U.S.C. 3796dd–1) is amended in
19 subsection (d)(2) by striking “section 1701(d)” and in-
20 serting “section 1701(b)”.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
22 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11))
23 is amended—

1 (1) in subparagraph (A) by striking clause (i)
2 and all that follows through the period at the end
3 and inserting the following:

4 “(i) \$1,007,624,000 for fiscal year 2005;

5 “(ii) \$1,027,176,000 for fiscal year 2006; and

6 “(iii) \$1,047,119,000 for fiscal year 2007.”;

7 and

8 (2) in subparagraph (B)—

9 (A) by striking “section 1701(f)” and in-
10 serting “section 1701(d)”; and

11 (B) by striking the third sentence.

12 **Subtitle I—Police Badges**

13 **SEC. 2201. SHORT TITLE.**

14 This subtitle may be cited as the “Badge Security
15 Enhancement Act of 2004” .

16 **SEC. 2202. POLICE BADGES.**

17 Section 716 of title 18, United States Code, is
18 amended in subsection (b)—

19 (1) by striking paragraphs (2) and (4); and

20 (2) by redesignating paragraph (3) as para-
21 graph (2).

1 **TITLE III—BORDER SECURITY**
2 **AND TERRORIST TRAVEL**
3 **Subtitle A—Immigration Reform in**
4 **the National Interest**
5 **CHAPTER 1—GENERAL PROVISIONS**

6 **SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE” EX-**
7 **CEPTION FOR CITIZENS.**

8 (a) IN GENERAL.—

9 (1) IN GENERAL.—Section 215(b) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1185(b)) is
11 amended to read as follows:

12 “(b)(1) Except as otherwise provided in this sub-
13 section, it shall be unlawful for any citizen of the United
14 States to depart from or enter, or attempt to depart from
15 or enter, the United States unless the citizen bears a valid
16 United States passport.

17 “(2) Subject to such limitations and exceptions as the
18 President may authorize and prescribe, the President may
19 waive the application of paragraph (1) in the case of a
20 citizen departing the United States to, or entering the
21 United States from, foreign contiguous territory.

22 “(3) The President, if waiving the application of
23 paragraph (1) pursuant to paragraph (2), shall require
24 citizens departing the United States to, or entering the
25 United States from, foreign contiguous territory to bear

1 a document (or combination of documents) designated by
2 the Secretary of Homeland Security under paragraph (4).

3 “(4) The Secretary of Homeland Security—

4 “(A) shall designate documents that are suffi-
5 cient to denote identity and citizenship in the United
6 States such that they may be used, either individ-
7 ually or in conjunction with another document, to
8 establish that the bearer is a citizen or national of
9 the United States for purposes of lawfully departing
10 from or entering the United States; and

11 “(B) shall publish a list of those documents in
12 the Federal Register.

13 “(5) A document or documents may not be des-
14 ignated under paragraph (4) unless the Secretary of
15 Homeland Security determines that the document or docu-
16 ments adequately identifies or identify the bearer as a cit-
17 izen of the United States. If a single document is des-
18 ignated, it must be a document that may not be issued
19 to an alien. In no event may a combination of documents
20 be accepted for this purpose unless the Secretary of
21 Homeland Security determines that at least one of those
22 documents could not be issued to an alien.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall take effect on October 1,
25 2006.

1 (b) INTERIM RULE.—

2 (1) IN GENERAL.—Not later than 6 months
3 after the date of the enactment of this Act, the Sec-
4 retary of Homeland Security—

5 (A) shall designate documents that are suf-
6 ficient to denote identity and citizenship in the
7 United States such that they may be used, ei-
8 ther individually or in conjunction with another
9 document, to establish that the bearer is a cit-
10 izen or national of the United States for pur-
11 poses of lawfully departing from or entering the
12 United States; and

13 (B) shall publish a list of those documents
14 in the Federal Register.

15 (2) LIMITATION ON PRESIDENTIAL AUTHOR-
16 ITY.—Beginning on the date that is 90 days after
17 the publication described in paragraph (1)(B), the
18 President, notwithstanding section 215(b) of the Im-
19 migration and Nationality Act (8 U.S.C. 1185(b)),
20 may not exercise the President’s authority under
21 such section so as to permit any citizen of the
22 United States to depart from or enter, or attempt to
23 depart from or enter, the United States from any
24 country other than foreign contiguous territory, un-

1 less the citizen bears a document (or combination of
2 documents) designated under paragraph (1)(A).

3 (3) CRITERIA FOR DESIGNATION.—A document
4 or documents may not be designated under para-
5 graph (1)(A) unless the Secretary of Homeland Se-
6 curity determines that the document or documents
7 adequately identifies or identify the bearer as a cit-
8 izen of the United States. If a single document is
9 designated, it must be a document that may not be
10 issued to an alien (as defined in section 101(a)(3) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1101(a)(3))). In no event may a combination of doc-
13 uments be accepted for this purpose unless the Sec-
14 retary of Homeland Security determines that at
15 least one of those documents could not be issued to
16 an alien (as so defined).

17 (4) EFFECTIVE DATE.—This subsection shall
18 take effect on the date of the enactment of this Act
19 and shall cease to be effective on September 30,
20 2006.

1 **SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH**
2 **RESPECT TO DOCUMENTATION REQUIRE-**
3 **MENTS FOR NATIONALS OF FOREIGN CON-**
4 **TIGUOUS TERRITORIES AND ADJACENT IS-**
5 **LANDS.**

6 (a) **IN GENERAL.**—Section 212(d)(4) of the Immi-
7 gration and Nationality Act (8 U.S.C.1182(d)(4)) is
8 amended—

9 (1) by striking “Attorney General” and insert-
10 ing “Secretary of Homeland Security”;

11 (2) by striking “on the basis of reciprocity” and
12 all that follows through “or (C)”; and

13 (3) by adding at the end the following:

14 “Either or both of the requirements of such para-
15 graph may also be waived by the Secretary of Home-
16 land Security and the Secretary of State, acting
17 jointly and on the basis of reciprocity, with respect
18 to nationals of foreign contiguous territory or of ad-
19 jacent islands, but only if such nationals are re-
20 quired, in order to be admitted into the United
21 States, to be in possession of identification deemed
22 by the Secretary of Homeland Security to be se-
23 cure.”.

24 (b) **EFFECTIVE DATE.**—The amendment made by
25 subsection (a) shall take effect on December 31, 2006.

1 **SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL**
2 **AGENTS.**

3 The Secretary of Homeland Security, in each of fiscal
4 years 2006 through 2010, shall increase by not less than
5 2,000 the number of positions for full-time active-duty
6 border patrol agents within the Department of Homeland
7 Security above the number of such positions for which
8 funds were allotted for the preceding fiscal year.

9 **SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND**
10 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

11 The Secretary of Homeland Security, in each of fiscal
12 years 2006 through 2010, shall increase by not less than
13 800 the number of positions for full-time active-duty in-
14 vestigators within the Department of Homeland Security
15 investigating violations of immigration laws (as defined in
16 section 101(a)(17) of the Immigration and Nationality Act
17 (8 U.S.C. 1101(a)(17)) above the number of such posi-
18 tions for which funds were allotted for the preceding fiscal
19 year. At least half of these additional investigators shall
20 be designated to investigate potential violations of section
21 274A of the Immigration and Nationality Act (8 U.S.C
22 1324a). Each State shall be allotted at least 3 of these
23 additional investigators.

1 **SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

2 Section 211 of the Immigration and Nationality Act
3 (8 U.S.C. 1181) is amended by adding at the end the fol-
4 lowing:

5 “(d) For purposes of establishing identity to any Fed-
6 eral employee, an alien present in the United States may
7 present any document issued by the Attorney General or
8 the Secretary of Homeland Security under the authority
9 of one of the immigration laws (as defined in section
10 101(a)(17)), a domestically issued document that the Sec-
11 retary of Homeland Security designates as reliable for this
12 purpose and that cannot be issued to an alien unlawfully
13 present in the United States, or an unexpired, lawfully
14 issued foreign passport as determined by the Secretary of
15 State. Subject to the limitations and exceptions in the im-
16 migration laws (as so defined), no other document may
17 be presented for such purposes.”.

18 **SEC. 3006. EXPEDITED REMOVAL.**

19 Section 235(b)(1)(A) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking
21 clauses (i) through (iii) and inserting the following:

22 “(i) IN GENERAL.—If an immigration
23 officer determines that an alien (other
24 than an alien described in subparagraph
25 (F)) who is arriving in the United States,
26 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 the alien indicates an intention to
11 apply for asylum under section 208 or a
12 fear of persecution and the officer deter-
13 mines that the alien has been physically
14 present in the United States for less than
15 1 year.

16 “(ii) CLAIMS FOR ASYLUM.—If an im-
17 migration officer determines that an alien
18 (other than an alien described in subpara-
19 graph (F)) who is arriving in the United
20 States, or who has not been admitted or
21 paroled into the United States and has not
22 been physically present in the United
23 States continuously for the 5-year period
24 immediately prior to the date of the deter-
25 mination of inadmissibility under this

1 paragraph, is inadmissible under section
2 212(a)(6)(C) or 212(a)(7), and the alien
3 indicates either an intention to apply for
4 asylum under section 208 or a fear of per-
5 secution, the officer shall refer the alien
6 for an interview by an asylum officer under
7 subparagraph (B) if the officer determines
8 that the alien has been physically present
9 in the United States for less than 1 year.”.

10 **SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING**
11 **ASYLUM.**

12 (a) **CONDITIONS FOR GRANTING ASYLUM.**—Section
13 208(b) of the Immigration and Nationality Act (8 U.S.C.
14 1158(b)) is amended—

15 (1) in paragraph (1), by striking “The Attorney
16 General” and inserting the following:

17 “(A) **ELIGIBILITY.**—The Secretary of
18 Homeland Security or the Attorney General”;

19 and

20 (2) by adding at the end the following:

21 “(B) **BURDEN OF PROOF.**—

22 “(i) **IN GENERAL.**—The burden of
23 proof is on the applicant to establish that
24 the applicant is a refugee, within the
25 meaning of section 101(a)(42)(A).

1 “(ii) SPECIAL RULE.—The applicant
2 must establish that race, religion, nation-
3 ality, membership in a particular social
4 group, or political opinion was or will be
5 the central motive for persecuting the ap-
6 plicant if the applicant claims that the ap-
7 plicant has been or would be subjected to
8 persecution because the applicant—

9 “(I) has been accused of being or
10 is believed to be a member of, or has
11 been accused of supporting, a guer-
12 rilla, militant, or terrorist organiza-
13 tion; or

14 “(II) has been accused of engag-
15 ing in or supporting guerrilla, mili-
16 tant, or terrorist activities, or is be-
17 lieved to have engaged in or supported
18 such activities.

19 “(iii) SUSTAINING BURDEN.—The tes-
20 timony of the applicant may be sufficient
21 to sustain the applicant’s burden without
22 corroboration, but only if it is credible, is
23 persuasive, and refers to specific facts that
24 demonstrate that the applicant is a ref-
25 ugee. Where the trier of fact finds that it

1 is reasonable to expect corroborating evi-
2 dence for certain alleged facts pertaining
3 to the specifics of the applicant’s claim,
4 such evidence must be provided unless a
5 reasonable explanation is given as to why
6 such information is not provided. It is rea-
7 sonable to expect the applicant to provide
8 corroborating evidence if the applicant has,
9 or has access to, the evidence or could rea-
10 sonably obtain the evidence without depart-
11 ing from the United States.

12 “(iv) CREDIBILITY DETERMINA-
13 TION.—The credibility determination of the
14 trier of fact may be based, in addition to
15 other factors, on the demeanor, candor, or
16 responsiveness of the applicant or witness,
17 the consistency between the applicant’s or
18 witness’s written and oral statements,
19 whether or not under oath, made at any
20 time to any officer, agent, or employee of
21 the United States, the internal consistency
22 of each such statement, the consistency of
23 such statements with the country condi-
24 tions in the country from which the appli-
25 cant claims asylum (as presented by the

1 Department of State) and any inaccuracies
2 or falsehoods in such statements. These
3 factors may be considered individually or
4 cumulatively.”.

5 (b) STANDARD OF REVIEW FOR ORDERS OF RE-
6 MOVAL.—Section 242(b)(4) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1252(b)(4)) is amended by adding
8 after subparagraph (D) the following flush language: “No
9 court shall reverse a determination made by an adjudi-
10 cator with respect to the availability of corroborating evi-
11 dence as described in section 208(b)(1)(B), unless the
12 court finds that a reasonable adjudicator is compelled to
13 conclude that such corroborating evidence is unavailable.”.

14 (c) EFFECTIVE DATE.—The amendment made by
15 subsection (b) shall take effect upon the date of the enact-
16 ment of this Act and shall apply to cases in which the
17 final administrative removal order was issued before, on,
18 or after the date of the enactment of this Act.

19 **SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL**
20 **DOCUMENTATION.**

21 (a) LIMITATION ON REVIEW.—Section 221(i) of the
22 Immigration and Nationality Act (8 U.S.C. 1201(i)) is
23 amended by adding at the end the following: “There shall
24 be no means of judicial review (including review pursuant
25 to section 2241 of title 28, United States Code, or any

1 other habeas corpus provision, and sections 1361 and
2 1651 of such title) of a revocation under this subsection,
3 and no court shall have jurisdiction to consider any claim
4 challenging the validity of such a revocation.”.

5 (b) CLASSES OF DEPORTABLE ALIENS.—Section
6 237(a)(1)(B) of the Immigration and Nationality Act (8
7 U.S.C. 1227(a)(1)(B)) is amended by striking “United
8 States is” and inserting the following: “United States, or
9 whose nonimmigrant visa (or other documentation author-
10 izing admission into the United States as a nonimmigrant)
11 has been revoked under section 221(i), is”.

12 (c) REVOCATION OF PETITIONS.—Section 205 of the
13 Immigration and Nationality Act (8 U.S.C. 1155) is
14 amended—

15 (1) by striking “Attorney General” and insert-
16 ing “Secretary of Homeland Security”; and

17 (2) by striking the final two sentences.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act and shall apply to revocations under sections
21 205 and 221(i) of the Immigration and Nationality Act
22 made before, on, or after such date.

23 **SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

24 (a) IN GENERAL.—Section 242 of the Immigration
25 and Nationality Act (8 U.S.C. 1252) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (2)—

3 (i) in subparagraphs (A), (B), and
4 (C), by inserting “(statutory and nonstatu-
5 tory), including section 2241 of title 28,
6 United States Code, or any other habeas
7 corpus provision, and sections 1361 and
8 1651 of such title” after “Notwithstanding
9 any other provision of law”; and

10 (ii) by adding at the end the fol-
11 lowing:

12 “(D) JUDICIAL REVIEW OF CERTAIN
13 LEGAL CLAIMS.—Nothing in this paragraph
14 shall be construed as precluding consideration
15 by the circuit courts of appeals of constitutional
16 claims or pure questions of law raised upon pe-
17 titions for review filed in accordance with this
18 section. Notwithstanding any other provision of
19 law (statutory and nonstatutory), including sec-
20 tion 2241 of title 28, United States Code, or,
21 except as provided in subsection (e), any other
22 habeas corpus provision, and sections 1361 and
23 1651 of such title, such petitions for review
24 shall be the sole and exclusive means of raising
25 any and all claims with respect to orders of re-

1 moval entered or issued under any provision of
2 this Act.”; and

3 (B) by adding at the end the following:

4 “(4) CLAIMS UNDER THE UNITED NATIONS
5 CONVENTION.—Notwithstanding any other provision
6 of law (statutory and nonstatutory), including sec-
7 tion 2241 of title 28, United States Code, or any
8 other habeas corpus provision, and sections 1361
9 and 1651 of such title, a petition for review by the
10 circuit courts of appeals filed in accordance with this
11 section is the sole and exclusive means of judicial re-
12 view of claims arising under the United Nations
13 Convention Against Torture and Other Forms of
14 Cruel, Inhuman, or Degrading Treatment or Punish-
15 ment.

16 “(5) EXCLUSIVE MEANS OF REVIEW.—The ju-
17 dicial review specified in this subsection shall be the
18 sole and exclusive means for review by any court of
19 an order of removal entered or issued under any pro-
20 vision of this Act. For purposes of this title, in every
21 provision that limits or eliminates judicial review or
22 jurisdiction to review, the terms ‘judicial review’ and
23 ‘jurisdiction to review’ include habeas corpus review
24 pursuant to section 2241 of title 28, United States
25 Code, or any other habeas corpus provision, sections

1 1361 and 1651 of such title, and review pursuant to
2 any other provision of law.”;

3 (2) in subsection (b)—

4 (A) in paragraph (3)(B), by inserting
5 “pursuant to subsection (f)” after “unless”;
6 and

7 (B) in paragraph (9), by adding at the end
8 the following: “Except as otherwise provided in
9 this subsection, no court shall have jurisdiction,
10 by habeas corpus under section 2241 of title
11 28, United States Code, or any other habeas
12 corpus provision, by section 1361 or 1651 of
13 such title, or by any other provision of law
14 (statutory or nonstatutory), to hear any cause
15 or claim subject to these consolidation provi-
16 sions.”;

17 (3) in subsection (f)(2), by inserting “or stay,
18 by temporary or permanent order, including stays
19 pending judicial review,” after “no court shall en-
20 join”; and

21 (4) in subsection (g), by inserting “(statutory
22 and nonstatutory), including section 2241 of title
23 28, United States Code, or any other habeas corpus
24 provision, and sections 1361 and 1651 of such title”
25 after “notwithstanding any other provision of law”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect upon the date of the enact-
3 ment of this Act and shall apply to cases in which the
4 final administrative removal order was issued before, on,
5 or after the date of the enactment of this Act.

6 (c) TRANSFER OF CASES.—If an alien’s case, brought
7 under section 2241 of title 28, United States Code, and
8 challenging a final administrative removal order, is pend-
9 ing in a district court on the date of the enactment of
10 this Act, then the district court shall transfer the case (or
11 part of the case that challenges the removal order) to the
12 court of appeals for the circuit in which a petition for re-
13 view could have been properly filed under section 242 of
14 the Immigration and Nationality Act (8 U.S.C. 1252), as
15 amended by this Act. The court of appeals shall treat the
16 transferred case as if it had been brought pursuant to a
17 petition for review under such section 242.

18 **CHAPTER 2—DEPORTATION OF TERROR-**
19 **ISTS AND SUPPORTERS OF TER-**
20 **RORISM**

21 **SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION**
22 **ON REMOVAL.**

23 (a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C.
24 1231(b)(3)(B)) is amended—

25 (1) in clause (iii), by striking “or”;

1 (2) in clause (iv), by striking the period at the
2 end and inserting “; or”;

3 (3) by inserting after clause (iv) the 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 section
9 212(a)(3)(B)(i)(IV), 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 (4) 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
18 revision—

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 **CHAPTER 3—PREVENTING COMMERCIAL**
7 **ALIEN SMUGGLING**

8 **SEC. 3041. BRINGING IN AND HARBORING CERTAIN ALIENS.**

9 (a) **CRIMINAL PENALTIES.**—Section 274(a) of the
10 Immigration and Nationality Act (8 U.S.C. 1324(a)) is
11 amended by adding at the end the following:

12 “(4) In the case of a person who has brought aliens
13 into the United States in violation of this subsection, the
14 sentence otherwise provided for may be increased by up
15 to 10 years if—

16 “(A) the offense was part of an ongoing com-
17 mercial organization or enterprise;

18 “(B) aliens were transported in groups of 10 or
19 more;

20 “(C) aliens were transported in a manner that
21 endangered their lives; or

22 “(D) the aliens presented a life-threatening
23 health risk to people in the United States.”.

24 (b) **OUTREACH PROGRAM.**—Section 274 of the Immi-
25 gration and Nationality Act (8 U.S.C. 1324), as amended

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of Homeland Security.

3 (4) STATE.—The term “State” means a State
4 of the United States, the District of Columbia, Puer-
5 to Rico, the Virgin Islands, Guam, American Samoa,
6 the Northern Mariana Islands, the Trust Territory
7 of the Pacific Islands, and any other territory or
8 possession of the United States.

9 **SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND**
10 **ISSUANCE STANDARDS FOR FEDERAL REC-**
11 **OGNITION.**

12 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

13 (1) IN GENERAL.—Beginning 3 years after the
14 date of the enactment of this Act, a Federal agency
15 may not accept, for any official purpose, a driver’s
16 license or identification card issued by a State to
17 any person unless the State is meeting the require-
18 ments of this section.

19 (2) STATE CERTIFICATIONS.—The Secretary
20 shall determine whether a State is meeting the re-
21 quirements of this section based on certifications
22 made by the State to the Secretary. Such certifi-
23 cations shall be made at such times and in such
24 manner as the Secretary, in consultation with the

1 Secretary of Transportation, may prescribe by regu-
2 lation.

3 (b) MINIMUM DOCUMENT REQUIREMENTS.—To meet
4 the requirements of this section, a State shall include, at
5 a minimum, the following information and features on
6 each driver’s license and identification card issued to a
7 person by the State:

8 (1) The person’s full legal name.

9 (2) The person’s date of birth.

10 (3) The person’s gender.

11 (4) The person’s driver license or identification
12 card number.

13 (5) A digital photograph of the person.

14 (6) The person’s address of principal residence.

15 (7) The person’s signature.

16 (8) Physical security features designed to pre-
17 vent tampering, counterfeiting, or duplication of the
18 document for fraudulent purposes.

19 (9) A common machine-readable technology,
20 with defined minimum data elements.

21 (c) MINIMUM ISSUANCE STANDARDS.—

22 (1) IN GENERAL.—To meet the requirements of
23 this section, a State shall require, at a minimum,
24 presentation and verification of the following infor-

1 mation before issuing a driver’s license or identifica-
2 tion card to a person:

3 (A) A photo identity document, except that
4 a non-photo identity document is acceptable if
5 it includes both the person’s full legal name and
6 date of birth.

7 (B) Documentation showing the person’s
8 date of birth.

9 (C) Proof of the person’s social security
10 account number or verification that the person
11 is not eligible for a social security account num-
12 ber.

13 (D) Documentation showing the person’s
14 name and address of principal residence.

15 (2) SPECIAL REQUIREMENTS.—

16 (A) IN GENERAL.—To meet the require-
17 ments of this section, a State shall comply with
18 the minimum standards of this paragraph.

19 (B) EVIDENCE OF LEGAL STATUS.—A
20 State shall require, before issuing a driver’s li-
21 cense or identification card to a person, valid
22 documentary evidence that the person—

23 (i) is a citizen of the United States;

1 (ii) is an alien lawfully admitted for
2 permanent or temporary residence in the
3 United States;

4 (iii) has conditional permanent resi-
5 dent status in the United States;

6 (iv) has a valid, unexpired non-
7 immigrant visa or nonimmigrant visa sta-
8 tus for entry into the United States;

9 (v) has a pending or approved applica-
10 tion for asylum in the United States;

11 (vi) has entered into the United
12 States in refugee status;

13 (vii) has a pending or approved appli-
14 cation for temporary protected status in
15 the United States;

16 (viii) has approved deferred action
17 status; or

18 (ix) has a pending application for ad-
19 justment of status to that of an alien law-
20 fully admitted for permanent residence in
21 the United States or conditional perma-
22 nent resident status in the United States.

23 (C) TEMPORARY DRIVERS' LICENSES AND
24 IDENTIFICATION CARDS.—

1 (i) IN GENERAL.—If a person pre-
2 sents evidence under any of clauses (iv)
3 through (ix) of subparagraph (B), the
4 State may only issue a temporary driver’s
5 license or temporary identification card to
6 the person.

7 (ii) EXPIRATION DATE.—A temporary
8 driver’s license or temporary identification
9 card issued pursuant to this subparagraph
10 shall be valid only during the period of
11 time of the applicant’s authorized stay in
12 the United States or if there is no definite
13 end to the period of authorized stay a pe-
14 riod of one year.

15 (iii) DISPLAY OF EXPIRATION
16 DATE.—A temporary driver’s license or
17 temporary identification card issued pursu-
18 ant to this subparagraph shall clearly indi-
19 cate that it is temporary and shall state
20 the date on which it expires.

21 (iv) RENEWAL.—A temporary driver’s
22 license or temporary identification card
23 issued pursuant to this subparagraph may
24 be renewed only upon presentation of valid
25 documentary evidence that the status by

1 which the applicant qualified for the tem-
2 porary driver’s license or temporary identi-
3 fication card has been extended by the Sec-
4 retary of Homeland Security.

5 (3) APPLICATIONS FOR RENEWAL, DUPLICA-
6 TION, OR REISSUANCE.—

7 (A) PRESUMPTION.—For purposes of
8 paragraphs (1) and (2), a State shall presume
9 that any driver’s license or identification card
10 for which an application has been made for re-
11 newal, duplication, or reissuance has been
12 issued in accordance with the provisions of such
13 paragraphs if, at the time the application is
14 made, the driver’s license or identification card
15 has not expired or been canceled, suspended, or
16 revoked.

17 (B) LIMITATION.—Subparagraph (A) shall
18 not apply to a renewal, duplication, or
19 reissuance if the State is notified by a local,
20 State, or Federal government agency that the
21 person seeking such renewal, duplication, or
22 reissuance is neither a citizen of the United
23 States nor legally in the United States.

1 (4) VERIFICATION OF DOCUMENTS.—To meet
2 the requirements of this section, a State shall imple-
3 ment the following procedures:

4 (A) Before issuing a driver’s license or
5 identification card to a person, the State shall
6 verify, with the issuing agency, the issuance, va-
7 lidity, and completeness of each document re-
8 quired to be presented by the person under
9 paragraph (1) or (2).

10 (B) The State shall not accept any foreign
11 document, other than an official passport, to
12 satisfy a requirement of paragraph (1) or (2).

13 (C) Not later than September 11, 2005,
14 the State shall enter into a memorandum of un-
15 derstanding with the Secretary of Homeland
16 Security to routinely utilize the automated sys-
17 tem known as Systematic Alien Verification for
18 Entitlements, as provided for by section 404 of
19 the Illegal Immigration Reform and Immigrant
20 Responsibility Act of 1996 (110 Stat. 3009–
21 664), to verify the legal presence status of a
22 person, other than a United States citizen, ap-
23 plying for a driver’s license or identification
24 card.

1 (d) OTHER REQUIREMENTS.—To meet the require-
2 ments of this section, a State shall adopt the following
3 practices in the issuance of drivers' licenses and identifica-
4 tion cards:

5 (1) Employ technology to capture digital images
6 of identity source documents so that the images can
7 be retained in electronic storage in a transferable
8 format.

9 (2) Retain paper copies of source documents for
10 a minimum of 7 years or images of source docu-
11 ments presented for a minimum of 10 years.

12 (3) Subject each person applying for a driver's
13 license or identification card to mandatory facial
14 image capture.

15 (4) Establish an effective procedure to confirm
16 or verify a renewing applicant's information.

17 (5) Confirm with the Social Security Adminis-
18 tration a social security account number presented
19 by a person using the full social security account
20 number. In the event that a social security account
21 number is already registered to or associated with
22 another person to which any State has issued a driv-
23 er's license or identification card, the State shall re-
24 solve the discrepancy and take appropriate action.

1 (6) Refuse to issue a driver’s license or identi-
2 fication card to a person holding a driver’s license
3 issued by another State without confirmation that
4 the person is terminating or has terminated the driv-
5 er’s license.

6 (7) Ensure the physical security of locations
7 where drivers’ licenses and identification cards are
8 produced and the security of document materials
9 and papers from which drivers’ licenses and identi-
10 fication cards are produced.

11 (8) Subject all persons authorized to manufac-
12 ture or produce drivers’ licenses and identification
13 cards to appropriate security clearance requirements.

14 (9) Establish fraudulent document recognition
15 training programs for appropriate employees en-
16 gaged in the issuance of drivers’ licenses and identi-
17 fication cards.

18 **SEC. 3053. LINKING OF DATABASES.**

19 (a) IN GENERAL.—To be eligible to receive any grant
20 or other type of financial assistance made available under
21 this subtitle, a State shall participate in the interstate
22 compact regarding sharing of driver license data, known
23 as the “Driver License Agreement”, in order to provide
24 electronic access by a State to information contained in
25 the motor vehicle databases of all other States.

1 (b) REQUIREMENTS FOR INFORMATION.—A State
2 motor vehicle database shall contain, at a minimum, the
3 following information:

4 (1) All data fields printed on drivers' licenses
5 and identification cards issued by the State.

6 (2) Motor vehicle drivers' histories, including
7 motor vehicle violations, suspensions, and points on
8 licenses.

9 **SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES**
10 **FOR USE IN FALSE IDENTIFICATION DOCU-**
11 **MENTS.**

12 Section 1028(a)(8) of title 18, United States Code,
13 is amended by striking “false authentication features” and
14 inserting “false or actual authentication features”.

15 **SEC. 3055. GRANTS TO STATES.**

16 (a) IN GENERAL.—The Secretary may make grants
17 to a State to assist the State in conforming to the min-
18 imum standards set forth in this chapter.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary for
21 each of the fiscal years 2005 through 2009 such sums as
22 may be necessary to carry out this chapter.

23 **SEC. 3056. AUTHORITY.**

24 (a) PARTICIPATION OF SECRETARY OF TRANSPOR-
25 TATION AND STATES.—All authority to issue regulations,

1 certify standards, and issue grants under this chapter
2 shall be carried out by the Secretary, in consultation with
3 the Secretary of Transportation and the States.

4 (b) EXTENSIONS OF DEADLINES.—The Secretary
5 may grant to a State an extension of time to meet the
6 requirements of section 3052(a)(1) if the State provides
7 adequate justification for noncompliance.

8 **CHAPTER 2—IMPROVED SECURITY FOR**
9 **BIRTH CERTIFICATES**

10 **SEC. 3061. DEFINITIONS.**

11 (a) APPLICABILITY OF DEFINITIONS.—Except as
12 otherwise specifically provided, the definitions contained in
13 section 3051 apply to this chapter.

14 (b) OTHER DEFINITIONS.—In this chapter, the fol-
15 lowing definitions apply:

16 (1) BIRTH CERTIFICATE.—The term “birth cer-
17 tificate” means a certificate of birth—

18 (A) for an individual (regardless of where
19 born)—

20 (i) who is a citizen or national of the
21 United States at birth; and

22 (ii) whose birth is registered in the
23 United States; and

24 (B) that—

1 (i) is issued by a Federal, State, or
2 local government agency or authorized cus-
3 todian of record and produced from birth
4 records maintained by such agency or cus-
5 todian of record; or

6 (ii) is an authenticated copy, issued
7 by a Federal, State, or local government
8 agency or authorized custodian of record,
9 of an original certificate of birth issued by
10 such agency or custodian of record.

11 (2) REGISTRANT.—The term “registrant”
12 means, with respect to a birth certificate, the person
13 whose birth is registered on the certificate.

14 (3) STATE.—The term “State” shall have the
15 meaning given such term in section 3051; except
16 that New York City shall be treated as a State sepa-
17 rate from New York.

18 **SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO**
19 **LOCAL GOVERNMENTS.**

20 The minimum standards in this chapter applicable to
21 birth certificates issued by a State shall also apply to birth
22 certificates issued by a local government in the State. It
23 shall be the responsibility of the State to ensure that local
24 governments in the State comply with the minimum stand-
25 ards.

1 **SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNITION.**
2

3 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

4 (1) IN GENERAL.—Beginning 3 years after the
5 date of the enactment of this Act, a Federal agency
6 may not accept, for any official purpose, a birth certificate
7 issued by a State to any person unless the
8 State is meeting the requirements of this section.

9 (2) STATE CERTIFICATIONS.—The Secretary
10 shall determine whether a State is meeting the requirements
11 of this section based on certifications made by the State to the
12 Secretary. Such certifications shall be made at such times and in
13 such manner as the Secretary, in consultation with the
14 Secretary of Health and Human Services, may prescribe by
15 regulation.

16
17 (b) MINIMUM DOCUMENT STANDARDS.—To meet the
18 requirements of this section, a State shall include, on each
19 birth certificate issued to a person by the State, the use
20 of safety paper, the seal of the issuing custodian of record,
21 and such other features as the Secretary may determine
22 necessary to prevent tampering, counterfeiting, and otherwise
23 duplicating the birth certificate for fraudulent purposes. The
24 Secretary may not require a single design to which birth
25 certificates issued by all States must conform.

26 (c) MINIMUM ISSUANCE STANDARDS.—

1 (1) IN GENERAL.—To meet the requirements of
2 this section, a State shall require and verify the fol-
3 lowing information from the requestor before issuing
4 an authenticated copy of a birth certificate:

5 (A) The name on the birth certificate.

6 (B) The date and location of the birth.

7 (C) The mother’s maiden name.

8 (D) Substantial proof of the requestor’s
9 identity.

10 (2) ISSUANCE TO PERSONS NOT NAMED ON
11 BIRTH CERTIFICATE.—To meet the requirements of
12 this section, in the case of a request by a person who
13 is not named on the birth certificate, a State must
14 require the presentation of legal authorization to re-
15 quest the birth certificate before issuance.

16 (3) ISSUANCE TO FAMILY MEMBERS.—Not later
17 than one year after the date of the enactment of this
18 Act, the Secretary, in consultation with the Sec-
19 retary of Health and Human Services and the
20 States, shall establish minimum standards for
21 issuance of a birth certificate to specific family
22 members, their authorized representatives, and oth-
23 ers who demonstrate that the certificate is needed
24 for the protection of the requestor’s personal or
25 property rights.

1 (4) WAIVERS.—A State may waive the require-
2 ments set forth in subparagraphs (A) through (C) of
3 subsection (c)(1) in exceptional circumstances, such
4 as the incapacitation of the registrant.

5 (5) APPLICATIONS BY ELECTRONIC MEANS.—
6 To meet the requirements of this section, for appli-
7 cations by electronic means, through the mail or by
8 phone or fax, a State shall employ third party ver-
9 ification, or equivalent verification, of the identity of
10 the requestor.

11 (6) VERIFICATION OF DOCUMENTS.—To meet
12 the requirements of this section, a State shall verify
13 the documents used to provide proof of identity of
14 the requestor.

15 (d) OTHER REQUIREMENTS.—To meet the require-
16 ments of this section, a State shall adopt, at a minimum,
17 the following practices in the issuance and administration
18 of birth certificates:

19 (1) Establish and implement minimum building
20 security standards for State and local vital record
21 offices.

22 (2) Restrict public access to birth certificates
23 and information gathered in the issuance process to
24 ensure that access is restricted to entities with which

1 the State has a binding privacy protection agree-
2 ment.

3 (3) Subject all persons with access to vital
4 records to appropriate security clearance require-
5 ments.

6 (4) Establish fraudulent document recognition
7 training programs for appropriate employees en-
8 gaged in the issuance process.

9 (5) Establish and implement internal operating
10 system standards for paper and for electronic sys-
11 tems.

12 (6) Establish a central database that can pro-
13 vide interoperative data exchange with other States
14 and with Federal agencies, subject to privacy restric-
15 tions and confirmation of the authority and identity
16 of the requestor.

17 (7) Ensure that birth and death records are
18 matched in a comprehensive and timely manner, and
19 that all electronic birth records and paper birth cer-
20 tificates of decedents are marked “deceased”.

21 (8) Cooperate with the Secretary in the imple-
22 mentation of electronic verification of vital events
23 under section 3065.

1 **SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
2 **DEATH REGISTRATION SYSTEMS.**

3 In consultation with the Secretary of Health and
4 Human Services and the Commissioner of Social Security,
5 the Secretary shall take the following actions:

6 (1) Work with the States to establish a common
7 data set and common data exchange protocol for
8 electronic birth registration systems and death reg-
9 istration systems.

10 (2) Coordinate requirements for such systems
11 to align with a national model.

12 (3) Ensure that fraud prevention is built into
13 the design of electronic vital registration systems in
14 the collection of vital event data, the issuance of
15 birth certificates, and the exchange of data among
16 government agencies.

17 (4) Ensure that electronic systems for issuing
18 birth certificates, in the form of printed abstracts of
19 birth records or digitized images, employ a common
20 format of the certified copy, so that those requiring
21 such documents can quickly confirm their validity.

22 (5) Establish uniform field requirements for
23 State birth registries.

24 (6) Not later than 1 year after the date of the
25 enactment of this Act, establish a process with the
26 Department of Defense that will result in the shar-

1 ing of data, with the States and the Social Security
2 Administration, regarding deaths of United States
3 military personnel and the birth and death of their
4 dependents.

5 (7) Not later than 1 year after the date of the
6 enactment of this Act, establish a process with the
7 Department of State to improve registration, notifi-
8 cation, and the sharing of data with the States and
9 the Social Security Administration, regarding births
10 and deaths of United States citizens abroad.

11 (8) Not later than 3 years after the date of es-
12 tablishment of databases provided for under this sec-
13 tion, require States to record and retain electronic
14 records of pertinent identification information col-
15 lected from requestors who are not the registrants.

16 (9) Not later than 6 months after the date of
17 the enactment of this Act, submit to Congress, a re-
18 port on whether there is a need for Federal laws to
19 address penalties for fraud and misuse of vital
20 records and whether violations are sufficiently en-
21 forced.

22 **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

23 (a) LEAD AGENCY.—The Secretary shall lead the im-
24 plementation of electronic verification of a person's birth
25 and death.

1 (b) REGULATIONS.—In carrying out subsection (a),
2 the Secretary shall issue regulations to establish a means
3 by which authorized Federal and State agency users with
4 a single interface will be able to generate an electronic
5 query to any participating vital records jurisdiction
6 throughout the Nation to verify the contents of a paper
7 birth certificate. Pursuant to the regulations, an electronic
8 response from the participating vital records jurisdiction
9 as to whether there is a birth record in their database that
10 matches the paper birth certificate will be returned to the
11 user, along with an indication if the matching birth record
12 has been flagged “deceased”. The regulations shall take
13 effect not later than 5 years after the date of the enact-
14 ment of this Act.

15 **SEC. 3066. GRANTS TO STATES.**

16 (a) IN GENERAL.—The Secretary may make grants
17 to a State to assist the State in conforming to the min-
18 imum standards set forth in this chapter.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary for
21 each of the fiscal years 2005 through 2009 such sums as
22 may be necessary to carry out this chapter.

23 **SEC. 3067. AUTHORITY.**

24 (a) PARTICIPATION WITH FEDERAL AGENCIES AND
25 STATES.—All authority to issue regulations, certify stand-

1 ards, and issue grants under this chapter shall be carried
2 out by the Secretary, with the concurrence of the Sec-
3 retary of Health and Human Services and in consultation
4 with State vital statistics offices and appropriate Federal
5 agencies.

6 (b) EXTENSIONS OF DEADLINES.—The Secretary
7 may grant to a State an extension of time to meet the
8 requirements of section 3063(a)(1) if the State provides
9 adequate justification for noncompliance.

10 **Chapter 3—Measures To Enhance Privacy**
11 **and Integrity of Social Security Account**
12 **Numbers**

13 **SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**
14 **RITY ACCOUNT NUMBERS ON DRIVER'S LI-**
15 **CENSES OR MOTOR VEHICLE REGISTRA-**
16 **TIONS.**

17 (a) IN GENERAL.—Section 205(e)(2)(C)(vi) of the
18 Social Security Act (42 U.S.C. 405(e)(2)(C)(vi)) is
19 amended—

20 (1) by inserting “(I)” after “(vi)”; and

21 (2) by adding at the end the following new sub-
22 clause:

23 “(II) Any State or political subdivision thereof (and
24 any person acting as an agent of such an agency or instru-
25 mentality), in the administration of any driver’s license or

1 motor vehicle registration law within its jurisdiction, may
2 not display a social security account number issued by the
3 Commissioner of Social Security (or any derivative of such
4 number) on any driver’s license or motor vehicle registra-
5 tion or any other document issued by such State or polit-
6 ical subdivision to an individual for purposes of identifica-
7 tion of such individual or include on any such license, reg-
8 istration, or other document a magnetic strip, bar code,
9 or other means of communication which conveys such
10 number (or derivative thereof).”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply with respect to licenses, registra-
13 tions, and other documents issued or reissued after 1 year
14 after the date of the enactment of this Act.

15 **SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH**
16 **RECORDS PROVIDED IN SUPPORT OF APPLI-**
17 **CATIONS FOR SOCIAL SECURITY ACCOUNT**
18 **NUMBERS.**

19 (a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT
20 NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Secu-
21 rity Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

22 (1) by inserting “(I)” after “(ii)”; and

23 (2) by adding at the end the following new sub-
24 clause:

1 “(II) With respect to an application for a social secu-
2 rity account number for an individual, other than for pur-
3 poses of enumeration at birth, the Commissioner shall re-
4 quire independent verification of any birth record provided
5 by the applicant in support of the application. The Com-
6 missioner may provide by regulation for reasonable excep-
7 tions from the requirement for independent verification
8 under this subclause in any case in which the Commis-
9 sioner determines there is minimal opportunity for
10 fraud.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply with respect to applications filed
13 after 270 days after the date of the enactment of this Act.

14 (c) STUDY REGARDING APPLICATIONS FOR RE-
15 PLACEMENT SOCIAL SECURITY CARDS.—

16 (1) IN GENERAL.—As soon as practicable after
17 the date of the enactment of this Act, the Commis-
18 sioner of Social Security shall undertake a study to
19 test the feasibility and cost effectiveness of verifying
20 all identification documents submitted by an appli-
21 cant for a replacement social security card. As part
22 of such study, the Commissioner shall determine the
23 feasibility of, and the costs associated with, the de-
24 velopment of appropriate electronic processes for
25 third party verification of any such identification

1 documents which are issued by agencies and instru-
2 mentalities of the Federal Government and of the
3 States (and political subdivisions thereof).

4 (2) REPORT.—Not later than 2 years after the
5 date of the enactment of this Act, the Commissioner
6 shall report to the Committee on Ways and Means
7 of the House of Representatives and the Committee
8 on Finance of the Senate regarding the results of
9 the study undertaken under paragraph (1). Such re-
10 port shall contain such recommendations for legisla-
11 tive changes as the Commissioner considers nec-
12 essary to implement needed improvements in the
13 process for verifying identification documents sub-
14 mitted by applicants for replacement social security
15 cards.

16 **SEC. 3073. ENUMERATION AT BIRTH.**

17 (a) IMPROVEMENT OF APPLICATION PROCESS.—

18 (1) IN GENERAL.—As soon as practicable after
19 the date of the enactment of this Act, the Commis-
20 sioner of Social Security shall undertake to make
21 improvements to the enumeration at birth program
22 for the issuance of social security account numbers
23 to newborns. Such improvements shall be designed
24 to prevent—

1 (A) the assignment of social security ac-
2 count numbers to unnamed children;

3 (B) the issuance of more than 1 social se-
4 curity account number to the same child; and

5 (C) other opportunities for fraudulently ob-
6 taining a social security account number.

7 (2) REPORT TO THE CONGRESS.—Not later
8 than 1 year after the date of the enactment of this
9 Act, the Commissioner shall transmit to each House
10 of the Congress a report specifying in detail the ex-
11 tent to which the improvements required under
12 paragraph (1) have been made.

13 (b) STUDY REGARDING PROCESS FOR ENUMERATION
14 AT BIRTH.—

15 (1) IN GENERAL.—As soon as practicable after
16 the date of the enactment of this Act, the Commis-
17 sioner of Social Security shall undertake a study to
18 determine the most efficient options for ensuring the
19 integrity of the process for enumeration at birth.
20 Such study shall include an examination of available
21 methods for reconciling hospital birth records with
22 birth registrations submitted to agencies of States
23 and political subdivisions thereof and with informa-
24 tion provided to the Commissioner as part of the
25 process for enumeration at birth.

1 (2) REPORT.—Not later than 18 months after
2 the date of the enactment of this Act, the Commis-
3 sioner shall report to the Committee on Ways and
4 Means of the House of Representatives and the
5 Committee on Finance of the Senate regarding the
6 results of the study undertaken under paragraph
7 (1). Such report shall contain such recommendations
8 for legislative changes as the Commissioner con-
9 siders necessary to implement needed improvements
10 in the process for enumeration at birth.

11 **SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC**
12 **IDENTIFICATION IN CONNECTION WITH AP-**
13 **PLICATIONS FOR BENEFITS, SOCIAL SECU-**
14 **RITY ACCOUNT NUMBERS, AND SOCIAL SECU-**
15 **RITY CARDS.**

16 (a) IN GENERAL.—As soon as practicable after the
17 date of the enactment of this Act, the Commissioner of
18 Social Security shall undertake a study to—

19 (1) determine the best method of requiring and
20 obtaining photographic identification of applicants
21 for old-age, survivors, and disability insurance bene-
22 fits under title II of the Social Security Act, for a
23 social security account number, or for a replacement
24 social security card, and of providing for reasonable
25 exceptions to any requirement for photographic iden-

1 tification of such applicants that may be necessary
2 to promote efficient and effective administration of
3 such title, and

4 (2) evaluate the benefits and costs of instituting
5 such a requirement for photographic identification,
6 including the degree to which the security and integ-
7 rity of the old-age, survivors, and disability insur-
8 ance program would be enhanced.

9 (b) REPORT.—Not later than 18 months after the
10 date of the enactment of this Act, the Commissioner shall
11 report to the Committee on Ways and Means of the House
12 of Representatives and the Committee on Finance of the
13 Senate regarding the results of the study undertaken
14 under subsection (a). Such report shall contain such rec-
15 ommendations for legislative changes as the Commissioner
16 considers necessary relating to requirements for photo-
17 graphic identification of applicants described in subsection
18 (a).

19 **SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE RE-**
20 **PLACEMENT SOCIAL SECURITY CARDS.**

21 (a) IN GENERAL.—Section 205(c)(2)(G) of the Social
22 Security Act (42 U.S.C. 405(c)(2)(G)) is amended by add-
23 ing at the end the following new sentence: “The Commis-
24 sioner shall restrict the issuance of multiple replacement
25 social security cards to any individual to 3 per year and

1 to 10 for the life of the individual, except in any case in
2 which the Commissioner determines there is minimal op-
3 portunity for fraud.”.

4 (b) REGULATIONS AND EFFECTIVE DATE.—The
5 Commissioner of Social Security shall issue regulations
6 under the amendment made by subsection (a) not later
7 than 1 year after the date of the enactment of this Act.
8 Systems controls developed by the Commissioner pursuant
9 to such amendment shall take effect upon the earlier of
10 the issuance of such regulations or the end of such 1-year
11 period.

12 **SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SO-**
13 **CIAL SECURITY ACCOUNT NUMBERING SYS-**
14 **TEM TO SHOW WORK AUTHORIZATION STA-**
15 **TUS.**

16 (a) IN GENERAL.—As soon as practicable after the
17 date of the enactment of this Act, the Commissioner of
18 Social Security, in consultation with the Secretary of
19 Homeland Security, shall undertake a study to examine
20 the best method of modifying the social security account
21 number assigned to individuals who—

22 (1) are not citizens of the United States,

23 (2) have not been admitted for permanent resi-
24 dence, and

1 (3) are not authorized by the Secretary of
2 Homeland Security to work in the United States, or
3 are so authorized subject to one or more restrictions,
4 so as to include an indication of such lack of authorization
5 to work or such restrictions on such an authorization.

6 (b) REPORT.—Not later than 1 year after the date
7 of the enactment of this Act, the Commissioner shall re-
8 port to the Committee on Ways and Means of the House
9 of Representatives and the Committee on Finance of the
10 Senate regarding the results of the study undertaken
11 under this section. Such report shall include the Commis-
12 sioner’s recommendations of feasible options for modifying
13 the social security account number in the manner de-
14 scribed in subsection (a).

15 **Subtitle C—Targeting Terrorist**
16 **Travel**

17 **SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS**
18 **AND TRAVEL HISTORY DATABASE.**

19 (a) IN GENERAL.—Not later than May 31, 2005, the
20 Comptroller General of the United States, the Secretary
21 of State, and the Secretary of Homeland Security each
22 shall submit to the Committees on the Judiciary of the
23 House of Representatives and of the Senate, the Com-
24 mittee on International Relations of the House of Rep-
25 resentatives, and the Committee on Foreign Relations of

1 the Senate the results of a separate study on the subjects
2 described in subsection (c).

3 (b) STUDY.—The study submitted by the Secretary
4 of State under subsection (a) shall be completed by the
5 Office of Visa and Passport Control of the Department
6 of State, in coordination with the appropriate officials of
7 the Department of Homeland Security.

8 (c) CONTENTS.—The studies described in subsection
9 (a) shall examine the feasibility, cost, potential benefits,
10 and relative importance to the objectives of tracking sus-
11 pected terrorists' travel, and apprehending suspected ter-
12 rorists, of each of the following:

13 (1) Requiring nationals of all countries to
14 present machine-readable, tamper-resistant pass-
15 ports that incorporate biometric and document au-
16 thentication identifiers.

17 (2) Creation of a database containing informa-
18 tion on the lifetime travel history of each foreign na-
19 tional or United States citizen who might seek to
20 enter the United States or another country at any
21 time, in order that border and visa issuance officials
22 may ascertain the travel history of a prospective en-
23 trant by means other than a passport.

24 (d) INCENTIVES.—The studies described in sub-
25 section (a) shall also make recommendations on incentives

1 that might be offered to encourage foreign nations to par-
2 ticipate in the initiatives described in paragraphs (1) and
3 (2) of subsection (c).

4 **SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIR-**
5 **PORTS.**

6 (a) IN GENERAL.—Section 235A(a)(4) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1225(a)(4)) is
8 amended—

9 (1) by striking “October 31, 2000,” and insert-
10 ing “January 1, 2008,”;

11 (2) by striking “5 additional” and inserting “at
12 least 15 and up to 25 additional”;

13 (3) by striking “number of aliens” and insert-
14 ing “number of inadmissible aliens, especially aliens
15 who are potential terrorists,”;

16 (4) by striking “who are inadmissible to the
17 United States.” and inserting a period; and

18 (5) by striking “Attorney General” each place
19 such term appears and inserting “Secretary of
20 Homeland Security”.

21 (b) REPORT.—Not later than June 30, 2006, the
22 Secretary of Homeland Security and the Secretary of
23 State shall report to the Committees on the Judiciary of
24 the House of Representatives and of the Senate, the Com-
25 mittee on International Relations of the House of Rep-

1 representatives, and the Committee on Foreign Relations of
2 the Senate on the progress being made in implementing
3 the amendments made by subsection (a).

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary of
6 Homeland Security to carry out the amendments made by
7 subsection (a)—

8 (1) \$24,000,000 for fiscal year 2005;

9 (2) \$48,000,000 for fiscal year 2006; and

10 (3) \$97,000,000 for fiscal year 2007.

11 **SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

12 (a) IN GENERAL.—Section 235A(b) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1225(b)) is amended—

14 (1) in the subsection heading, by inserting
15 “AND IMMIGRATION SECURITY INITIATIVE” after
16 “PROGRAM”; and

17 (2) by adding at the end the following:

18 “Beginning not later than December 31, 2006, the num-
19 ber of airports selected for an assignment under this sub-
20 section shall be at least 50.”.

21 (b) 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) \$25,000,000 for fiscal year 2005;

1 (2) \$40,000,000 for fiscal year 2006; and

2 (3) \$40,000,000 for fiscal year 2007.

3 **SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-**
4 **SULAR OFFICERS.**

5 (a) INCREASED NUMBER OF CONSULAR OFFICERS.—

6 The Secretary of State, in each of fiscal years 2006
7 through 2009, may increase by 150 the number of posi-
8 tions for consular officers above the number of such posi-
9 tions for which funds were allotted for the preceding fiscal
10 year.

11 (b) LIMITATION ON USE OF FOREIGN NATIONALS

12 FOR NONIMMIGRANT VISA SCREENING.—Section 222(d)

13 of the Immigration and Nationality Act (8 U.S.C.

14 1202(d)) is amended by adding at the end the following:

15 “All nonimmigrant visa applications shall be reviewed and

16 adjudicated by a consular officer.”.

17 (c) TRAINING FOR CONSULAR OFFICERS IN DETEC-

18 TION OF FRAUDULENT DOCUMENTS.—Section 305(a) of

19 the Enhanced Border Security and Visa Entry Reform Act

20 of 2002 (8 U.S.C. 1734(a)) is amended by adding at the

21 end the following: “As part of the consular training pro-

22 vided to such officers by the Secretary of State, such offi-

23 cers shall also receive training in detecting fraudulent doc-

24 uments and general document forensics and shall be re-

25 quired as part of such training to work with immigration

1 officers conducting inspections of applicants for admission
2 into the United States at ports of entry.”.

3 (d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

4 (1) SURVEY REGARDING DOCUMENT FRAUD.—

5 The Secretary of State, in coordination with the Sec-
6 retary of Homeland Security, shall conduct a survey
7 of each diplomatic and consular post at which visas
8 are issued to assess the extent to which fraudulent
9 documents are presented by visa applicants to con-
10 sular officers at such posts.

11 (2) PLACEMENT OF SPECIALIST.—Not later
12 than July 31, 2005, the Secretary shall, in coordina-
13 tion with the Secretary of Homeland Security, iden-
14 tify 100 of such posts that experience the greatest
15 frequency of presentation of fraudulent documents
16 by visa applicants. The Secretary shall place in each
17 such post at least one full-time anti-fraud specialist
18 employed by the Department of State to assist the
19 consular officers at each such post in the detection
20 of such fraud.

21 **SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RE-**
22 **LATED ACTIVITY.**

23 Section 1028 of title 18, United States Code, relating
24 to penalties for fraud and related activity in connection

1 with identification documents and information, is
2 amended—

3 (1) in subsection (b)(1)(A)(i), by striking
4 “issued by or under the authority of the United
5 States” and inserting the following: “as described in
6 subsection (d)”;

7 (2) in subsection (b)(2), by striking “three
8 years” and inserting “six years”;

9 (3) in subsection (b)(3), by striking “20 years”
10 and inserting “25 years”;

11 (4) in subsection (b)(4), by striking “25 years”
12 and inserting “30 years”; and

13 (5) in subsection (c)(1), by inserting after
14 “United States” the following: “Government, a
15 State, political subdivision of a State, a foreign gov-
16 ernment, political subdivision of a foreign govern-
17 ment, an international governmental or an inter-
18 national quasi-governmental organization,”.

19 **SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITI-**
20 **ZENSHIP.**

21 Section 1015 of title 18, United States Code, is
22 amended—

23 (1) by striking the dash at the end of sub-
24 section (f) and inserting “; or”; and

1 tains the approval of the Attorney General and provides
2 written notification of such proposed expansion to the ap-
3 propriate congressional committees.

4 (c) DEFINITION.—In this section, the term “appro-
5 priate congressional committees” means—

6 (1) the Committee on International Relations
7 and the Committee on the Judiciary of the House of
8 Representatives; and

9 (2) the Committee on Foreign Relations and
10 the Committee on the Judiciary of the Senate.

11 **SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND**
12 **CURTAIN TERRORIST TRAVEL THROUGH THE**
13 **USE OF FRAUDULENTLY OBTAINED DOCU-**
14 **MENTS.**

15 (a) FINDINGS.—Congress finds the following:

16 (1) International terrorists travel across inter-
17 national borders to raise funds, recruit members,
18 train for operations, escape capture, communicate,
19 and plan and carry out attacks.

20 (2) The international terrorists who planned
21 and carried out the attack on the World Trade Cen-
22 ter on February 26, 1993, the attack on the embas-
23 sies of the United States in Kenya and Tanzania on
24 August 7, 1998, the attack on the USS Cole on Oc-
25 tober 12, 2000, and the attack on the World Trade

1 Center and the Pentagon on September 11, 2001,
2 traveled across international borders to plan and
3 carry out these attacks.

4 (3) The international terrorists who planned
5 other attacks on the United States, including the
6 plot to bomb New York City landmarks in 1993, the
7 plot to bomb the New York City subway in 1997,
8 and the millennium plot to bomb Los Angeles Inter-
9 national Airport on December 31, 1999, traveled
10 across international borders to plan and carry out
11 these attacks.

12 (4) Many of the international terrorists who
13 planned and carried out large-scale attacks against
14 foreign targets, including the attack in Bali, Indo-
15 nesia, on October 11, 2002, and the attack in Ma-
16 drid, Spain, on March 11, 2004, traveled across
17 international borders to plan and carry out these at-
18 tacks.

19 (5) Throughout the 1990s, international terror-
20 ists, including those involved in the attack on the
21 World Trade Center on February 26, 1993, the plot
22 to bomb New York City landmarks in 1993, and the
23 millennium plot to bomb Los Angeles International
24 Airport on December 31, 1999, traveled on fraudu-

1 lent passports and often had more than one pass-
2 port.

3 (6) Two of the September 11, 2001, hijackers
4 were carrying passports that had been manipulated
5 in a fraudulent manner and several other hijackers
6 whose passports did not survive the attacks on the
7 World Trade Center and Pentagon were likely to
8 have carried passports that were similarly manipu-
9 lated.

10 (7) The National Commission on Terrorist At-
11 tacks upon the United States, (commonly referred to
12 as the 9/11 Commission), stated that “Targeting
13 travel is at least as powerful a weapon against ter-
14 rorists as targeting their money.”.

15 (b) INTERNATIONAL AGREEMENTS TO TRACK AND
16 CURTAIL TERRORIST TRAVEL.—

17 (1) INTERNATIONAL AGREEMENT ON LOST,
18 STOLEN, OR FALSIFIED DOCUMENTS.—The Presi-
19 dent shall lead efforts to track and curtail the travel
20 of terrorists by supporting the drafting, adoption,
21 and implementation of international agreements, and
22 by supporting the expansion of existing international
23 agreements, to track and stop international travel by
24 terrorists and other criminals through the use of
25 lost, stolen, or falsified documents to augment exist-

1 ing United Nations and other international anti-ter-
2 rorism efforts.

3 (2) CONTENTS OF INTERNATIONAL AGREE-
4 MENT.—The President shall seek, in the appropriate
5 fora, the drafting, adoption, and implementation of
6 an effective international agreement requiring—

7 (A) the establishment of a system to share
8 information on lost, stolen, and fraudulent
9 passports and other travel documents for the
10 purposes of preventing the undetected travel of
11 persons using such passports and other travel
12 documents that were obtained improperly;

13 (B) the establishment and implementation
14 of a real-time verification system of passports
15 and other travel documents with issuing au-
16 thorities;

17 (C) the assumption of an obligation by
18 countries that are parties to the agreement to
19 share with officials at ports of entry in any
20 such country information relating to lost, sto-
21 len, and fraudulent passports and other travel
22 documents;

23 (D) the assumption of an obligation by
24 countries that are parties to the agreement—

25 (i) to criminalize—

1 (I) the falsification or counter-
2 feiting of travel documents or breeder
3 documents for any purpose;

4 (II) the use or attempted use of
5 false documents to obtain a visa or
6 cross a border for any purpose;

7 (III) the possession of tools or
8 implements used to falsify or counter-
9 feit such documents;

10 (IV) the trafficking in false or
11 stolen travel documents and breeder
12 documents for any purpose;

13 (V) the facilitation of travel by a
14 terrorist; and

15 (VI) attempts to commit, includ-
16 ing conspiracies to commit, the crimes
17 specified above;

18 (ii) to impose significant penalties so
19 as to appropriately punish violations and
20 effectively deter these crimes; and

21 (iii) to limit the issuance of citizenship
22 papers, passports, identification docu-
23 ments, and the like to persons whose iden-
24 tity is proven to the issuing authority, who
25 have a bona fide entitlement to or need for

1 such documents, and who are not issued
2 such documents principally on account of a
3 disproportional payment made by them or
4 on their behalf to the issuing authority;

5 (E) the provision of technical assistance to
6 State Parties to help them meet their obliga-
7 tions under the convention;

8 (F) the establishment and implementation
9 of a system of self-assessments and peer re-
10 views to examine the degree of compliance with
11 the convention; and

12 (G) an agreement that would permit immi-
13 gration and border officials to confiscate a lost,
14 stolen, or falsified passport at ports of entry
15 and permit the traveler to return to the sending
16 country without being in possession of the lost,
17 stolen, or falsified passport, and for the deten-
18 tion and investigation of such traveler upon the
19 return of the traveler to the sending country.

20 (3) INTERNATIONAL CIVIL AVIATION ORGANIZA-
21 TION.—The United States shall lead efforts to track
22 and curtail the travel of terrorists by supporting ef-
23 forts at the International Civil Aviation Organization
24 to continue to strengthen the security features of
25 passports and other travel documents.

1 (c) REPORT.—

2 (1) IN GENERAL.—Not later than one year
3 after the date of the enactment of this Act, and at
4 least annually thereafter, the President shall submit
5 to the appropriate congressional committees a report
6 on progress toward achieving the goals described in
7 subsection (b).

8 (2) TERMINATION.—Paragraph (1) shall cease
9 to be effective when the President certifies to the
10 Committee on International Relations of the House
11 of Representatives and the Committee on Foreign
12 Relations of the Senate that the goals described in
13 subsection (b) have been fully achieved.

14 **SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION**
15 **OF NAMES INTO THE ROMAN ALPHABET FOR**
16 **INTERNATIONAL TRAVEL DOCUMENTS AND**
17 **NAME-BASED WATCHLIST SYSTEMS.**

18 (a) FINDINGS.—Congress finds that—

19 (1) the current lack of a single convention for
20 translating Arabic names enabled some of the 19 hi-
21 jackers of aircraft used in the terrorist attacks
22 against the United States that occurred on Sep-
23 tember 11, 2001, to vary the spelling of their names
24 to defeat name-based terrorist watchlist systems and

1 to make more difficult any potential efforts to locate
2 them; and

3 (2) although the development and utilization of
4 terrorist watchlist systems using biometric identi-
5 fiers will be helpful, the full development and utiliza-
6 tion of such systems will take several years, and
7 name-based terrorist watchlist systems will always
8 be useful.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that the President should seek to enter into an inter-
11 national agreement to modernize and improve standards
12 for the translation of names into the Roman alphabet in
13 order to ensure one common spelling for such names for
14 international travel documents and name-based watchlist
15 systems.

16 **SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

17 (a) FINDING.—Consistent with the report of the Na-
18 tional Commission on Terrorist Attacks Upon the United
19 States, the Congress finds that completing a biometric
20 entry and exit data system as expeditiously as possible is
21 an essential investment in efforts to protect the United
22 States by preventing the entry of terrorists.

23 (b) PLAN AND REPORT.—

24 (1) DEVELOPMENT OF PLAN.—The Secretary
25 of Homeland Security shall develop a plan to accel-

1 erate the full implementation of an automated bio-
2 metric entry and exit data system required by appli-
3 cable sections of—

4 (A) the Illegal Immigration Reform and
5 Immigrant Responsibility Act of 1996 (Public
6 Law 104–208);

7 (B) the Immigration and Naturalization
8 Service Data Management Improvement Act of
9 2000 (Public Law 106–205);

10 (C) the Visa Waiver Permanent Program
11 Act (Public Law 106–396);

12 (D) the Enhanced Border Security and
13 Visa Entry Reform Act of 2002 (Public Law
14 107–173); and

15 (E) the Uniting and Strengthening Amer-
16 ica by Providing Appropriate Tools Required to
17 Intercept and Obstruct Terrorism Act of 2001
18 (Public Law 107–56).

19 (2) REPORT.—Not later than 180 days after
20 the date of the enactment of this Act, the Secretary
21 of Homeland Security shall submit a report to Con-
22 gress on the plan developed under paragraph (1),
23 which shall contain—

- 1 (A) a description of the current
2 functionality of the entry and exit data system,
3 including—
- 4 (i) a listing of ports of entry with bio-
5 metric entry data systems in use and
6 whether such screening systems are located
7 at primary or secondary inspection areas;
- 8 (ii) a listing of ports of entry with bio-
9 metric exit data systems in use;
- 10 (iii) a listing of databases and data
11 systems with which the automated entry
12 and exit data system are interoperable;
- 13 (iv) a description of—
- 14 (I) identified deficiencies con-
15 cerning the accuracy or integrity of
16 the information contained in the entry
17 and exit data system;
- 18 (II) identified deficiencies con-
19 cerning technology associated with
20 processing individuals through the
21 system; and
- 22 (III) programs or policies
23 planned or implemented to correct
24 problems identified in subclause (I) or
25 (II); and

1 (v) an assessment of the effectiveness
2 of the entry and exit data system in ful-
3 filling its intended purposes, including pre-
4 venting terrorists from entering the United
5 States;

6 (B) a description of factors relevant to the
7 accelerated implementation of the biometric
8 entry and exit system, including—

9 (i) the earliest date on which the Sec-
10 retary estimates that full implementation
11 of the biometric entry and exit data system
12 can be completed;

13 (ii) the actions the Secretary will take
14 to accelerate the full implementation of the
15 biometric entry and exit data system at all
16 ports of entry through which all aliens
17 must pass that are legally required to do
18 so; and

19 (iii) the resources and authorities re-
20 quired to enable the Secretary to meet the
21 implementation date described in clause

22 (i);

23 (C) a description of any improvements
24 needed in the information technology employed
25 for the entry and exit data system; and

1 (D) a description of plans for improved or
2 added interoperability with any other databases
3 or data systems.

4 (c) INTEGRATION REQUIREMENT.—Not later than 2
5 years after the date of the enactment of this Act, the Sec-
6 retary of Homeland Security shall integrate the biometric
7 entry and exit data system with all databases and data
8 systems maintained by U.S. Citizenship and Immigration
9 Services that process or contain information on aliens.

10 (d) MAINTAINING ACCURACY AND INTEGRITY OF
11 ENTRY AND EXIT DATA SYSTEM.—

12 (1) IN GENERAL.—The Secretary of Homeland
13 Security, in consultation with other appropriate
14 agencies, shall establish rules, guidelines, policies,
15 and operating and auditing procedures for collecting,
16 removing, and updating data maintained in, and
17 adding information to, the entry and exit data sys-
18 tem, and databases and data systems linked to the
19 entry and exit data system, that ensure the accuracy
20 and integrity of the data.

21 (2) REQUIREMENTS.—The rules, guidelines,
22 policies, and procedures established under paragraph
23 (1) shall—

24 (A) incorporate a simple and timely meth-
25 od for—

- 1 (i) correcting errors; and
2 (ii) clarifying information known to
3 cause false hits or misidentification errors;
4 and
5 (B) include procedures for individuals to
6 seek corrections of data contained in the data
7 systems.

8 (e) EXPEDITING REGISTERED TRAVELERS ACROSS
9 INTERNATIONAL BORDERS.—

10 (1) FINDINGS.—Consistent with the report of
11 the National Commission on Terrorist Attacks Upon
12 the United States, the Congress finds that—

13 (A) expediting the travel of previously
14 screened and known travelers across the bor-
15 ders of the United States should be a high pri-
16 ority; and

17 (B) the process of expediting known trav-
18 elers across the border can permit inspectors to
19 better focus on identifying terrorists attempting
20 to enter the United States.

21 (2) DEFINITION.—For purposes of this section,
22 the term “registered traveler program” means any
23 program designed to expedite the travel of previously
24 screened and known travelers across the borders of
25 the United States.

1 (3) REGISTERED TRAVEL PLAN.—

2 (A) IN GENERAL.—As soon as is prac-
3 ticable, the Secretary of Homeland Security
4 shall develop and implement a plan to expedite
5 the processing of registered travelers who enter
6 and exit the United States through a single reg-
7 istered traveler program.

8 (B) INTEGRATION.—The registered trav-
9 eler program developed under this paragraph
10 shall be integrated into the automated biometric
11 entry and exit data system described in this
12 section.

13 (C) REVIEW AND EVALUATION.—In devel-
14 oping the program under this paragraph, the
15 Secretary of Homeland Security shall—

16 (i) review existing programs or pilot
17 projects designed to expedite the travel of
18 registered travelers across the borders of
19 the United States;

20 (ii) evaluate the effectiveness of the
21 programs described in clause (i), the costs
22 associated with such programs, and the
23 costs to travelers to join such programs;
24 and

1 (iii) increase research and develop-
2 ment efforts to accelerate the development
3 and implementation of a single registered
4 traveler program.

5 (4) REPORT.—Not later than 1 year after the
6 date of the enactment of this Act, the Secretary of
7 Homeland Security shall submit to the Congress a
8 report describing the Department of Homeland Se-
9 curity’s progress on the development and implemen-
10 tation of the plan required by this subsection.

11 (f) INTEGRATED BIOMETRIC ENTRY-EXIT SCREEN-
12 ING SYSTEM.—With respect to the biometric entry and
13 exit data system referred to in subsections (a) and (b),
14 such system shall accomplish the following:

15 (1) Ensure that the system’s tracking capabili-
16 ties encompass data related to all immigration bene-
17 fits processing, including visa applications with the
18 Department of State, immigration related filings
19 with the Department of Labor, cases pending before
20 the Executive Office for Immigration review, and
21 matters pending or under investigation before the
22 Department of Homeland Security.

23 (2) Utilize a biometric based identity number
24 tied to an applicant’s biometric algorithm established

1 under the entry and exit data system to track all im-
2 migration related matters concerning the applicant.

3 (3) Provide that all information about an appli-
4 cant’s immigration related history, including entry
5 and exit history, can be queried through electronic
6 means. Database access and usage guidelines shall
7 include stringent safeguards to prevent misuse of
8 data.

9 (4) Provide real-time updates to the informa-
10 tion described in paragraph (3), including pertinent
11 data from all agencies referenced in paragraph (1).

12 (5) Limit access to the information described in
13 paragraph (4) (and any other database used for
14 tracking immigration related processing or entry and
15 exit) to personnel explicitly authorized to do so, and
16 ensure that any such access may be ascertained by
17 authorized persons by review of the person’s access
18 authorization code or number.

19 (6) Provide continuing education in
20 counterterrorism techniques, tools, and methods for
21 all Federal personnel employed in the evaluation of
22 immigration documents and immigration-related pol-
23 icy.

24 (g) ENTRY-EXIT SYSTEM GOALS.—The Department
25 of Homeland Security shall continue to implement the sys-

1 tem described in subsections (a) and (b) in such a manner
2 that it fulfills the following goals:

3 (1) Serves as a vital counterterrorism tool.

4 (2) Screens travelers efficiently and in a wel-
5 coming manner.

6 (3) Provides inspectors and related personnel
7 with adequate real-time information.

8 (4) Ensures flexibility of training and security
9 protocols to most effectively comply with security
10 mandates.

11 (5) Integrates relevant databases and plans for
12 database modifications to address volume increase
13 and database usage.

14 (6) Improves database search capacities by uti-
15 lizing language algorithms to detect alternate names.

16 (h) DEDICATED SPECIALISTS AND FRONT LINE PER-
17 SONNEL TRAINING.—In implementing the provisions of
18 subsections (f) and (g), the Department of Homeland Se-
19 curity and the Department of State shall—

20 (1) develop cross-training programs that focus
21 on the scope and procedures of the entry and exit
22 data system;

23 (2) provide extensive community outreach and
24 education on the entry and exit data system's proce-
25 dures;

1 (3) provide clear and consistent eligibility
2 guidelines for applicants in low-risk traveler pro-
3 grams; and

4 (4) establish ongoing training modules on immi-
5 gration law to improve adjudications at our ports of
6 entry, consulates, and embassies.

7 (i) INFORMATION ACCURACY STANDARDS.—

8 (1) AUTHORIZED OFFICERS.—Any information
9 placed in the entry and exit data system shall be en-
10 tered by authorized officers in compliance with es-
11 tablished procedures that guarantee the identifica-
12 tion of the person placing the information.

13 (2) DATA COLLECTED FROM FOREIGN NATION-
14 ALS.—The Secretary of Homeland Security, the Sec-
15 retary of State, and the Attorney General, after con-
16 sultation with directors of the relevant intelligence
17 agencies, shall standardize the information and data
18 collected from foreign nationals as well as the proce-
19 dures utilized to collect such data to ensure that the
20 information is consistent and of value to officials ac-
21 cessing that data across multiple agencies.

22 (j) ACCESSIBILITY.—The Secretary of Homeland Se-
23 curity, the Secretary of State, the Attorney General, and
24 the head of any other department or agency that possesses
25 authority to enter data related to the immigration status

1 of foreign nationals, including lawful permanent resident
2 aliens, or where such information could serve to impede
3 lawful admission of United States citizens to the United
4 States, shall each establish guidelines related to data entry
5 procedures. Such guidelines shall—

6 (1) strictly limit the agency personnel author-
7 ized to enter data into the system;

8 (2) identify classes of information to be des-
9 igned as temporary or permanent entries, with
10 corresponding expiration dates for temporary en-
11 tries; and

12 (3) identify classes of prejudicial information
13 requiring additional authority of supervisory per-
14 sonnel prior to entry.

15 (k) SYSTEM ADAPTABILITY.—

16 (1) IN GENERAL.— Each agency authorized to
17 enter data related to the immigration status of any
18 persons identified in subsection (f) shall develop and
19 implement system protocols to—

20 (A) correct erroneous data entries in a
21 timely and effective manner;

22 (B) clarify information known to cause
23 false hits or misidentification errors; and

1 (C) update all relevant information that is
2 dispositive to the adjudicatory or admission
3 process.

4 (2) CENTRALIZING AND STREAMLINING COR-
5 RECTION PROCESS.—The President or agency direc-
6 tor so designated by the President shall establish a
7 clearinghouse bureau as part of the Department of
8 Homeland Security to centralize and streamline the
9 process through which members of the public can
10 seek corrections to erroneous or inaccurate informa-
11 tion related to immigration status, or which other-
12 wise impedes lawful admission to the United States,
13 contained in agency databases. Such process shall
14 include specific time schedules for reviewing data
15 correction requests, rendering decisions on such re-
16 quests, and implementing appropriate corrective ac-
17 tion in a timely manner.

18 (l) TRAINING.—Agency personnel authorized to enter
19 data pursuant to subsection (i)(1) shall undergo extensive
20 training in immigration law and procedure.

21 (m) IMPLEMENTATION AUDIT.—The Secretary of the
22 Department of Homeland Security shall submit a report
23 to the Congress not later than 6 months after the date
24 of the enactment of this Act. The report shall detail activi-
25 ties undertaken to date to develop the biometric entry and

1 exit data system, areas in which the system currently does
2 not achieve the mandates set forth in this section, and
3 the funding, infrastructure, technology and other factors
4 needed to complete the system, as well as a detailed time
5 frame in which the completion of the system will be
6 achieved.

7 (n) REPORTS.—

8 (1) JOINT BIENNIAL REPORTS.—The Secre-
9 taries of the Departments of State and Homeland
10 Security jointly shall report biannually to the Con-
11 gress on the following:

12 (A) Current infrastructure and staffing at
13 each port of entry and each consular post.

14 (B) The numbers of immigrant and non-
15 immigrant visas issued.

16 (C) the numbers of individuals subject to
17 expedited removal at the ports of entry, as well
18 as within 100 miles of the United States bor-
19 der.

20 (D) The plan for enhanced database review
21 at entry.

22 (E) The number of suspected terrorists
23 and criminals intercepted utilizing the biometric
24 entry and exit data system.

1 (F) The funds spent in the preceding fiscal
2 year to achieve the mandates of this section.

3 (G) Areas in which they failed to achieve
4 these mandates, and the steps they are taking
5 to address these deficiencies.

6 (2) PORTS OF ENTRY.—For ports of entry,
7 similar information shall be provided including the
8 number of I-94s issued, immigrant visa admissions
9 made, and nonimmigrant admissions.

10 (3) STATUS REPORT ON COMPLIANCE WITH EN-
11 HANCED BORDER SECURITY AND VISA ENTRY RE-
12 FORM ACT.—Not later than 120 days after the date
13 of the enactment of this Act, the Secretary of Home-
14 land Security and the Secretary of State, after con-
15 sultation with the Director of the National Institute
16 of Standards and Technology and the Commission
17 on Interoperable Data Sharing, shall issue a report
18 addressing the following:

19 (A) The status of agency compliance with
20 the mandates set forth in section 202 of the
21 Enhanced Border Security and Visa Entry Re-
22 form Act (8 U.S.C. 1722).

23 (B) The status of agency compliance with
24 section 201(c)(3) of such Act (8 U.S.C.
25 1721(c)(3)).

1 (4) STATUS REPORT ON COMPLIANCE WITH
2 SECTION.—Not later than 1 year after the date of
3 the enactment of this Act, the Secretary of Home-
4 land Security, the Secretary of State, the Attorney
5 General, and the head of any other department or
6 agency bound by the mandates in this section, shall
7 issue both individual status reports and a joint sta-
8 tus report detailing compliance with each mandate
9 contained in this section.

10 (o) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of
12 Homeland Security, for each of the fiscal years 2005
13 through 2009, such sums as may be necessary to carry
14 out the provisions of this section.

15 **SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COORDI-**
16 **NATOR FOR COUNTERTERRORISM.**

17 (a) DECLARATION OF UNITED STATES POLICY.—
18 Congress declares that it shall be the policy of the United
19 States to—

20 (1) make combating terrorist travel and those
21 who assist them a priority for the United States
22 counterterrorism policy; and

23 (2) ensure that the information relating to indi-
24 viduals who help facilitate terrorist travel by cre-
25 ating false passports, visas, documents used to ob-

1 tain such travel documents, and other documents are
2 fully shared within the United States Government
3 and, to the extent possible, with and from foreign
4 governments, in order to initiate United States and
5 foreign prosecutions of such individuals.

6 (b) AMENDMENT.—Section 1(e)(2) of the State De-
7 partment Basic Authorities Act of 1956 (22 U.S.C.
8 2651a(e)(2)) is amended by adding at the end the fol-
9 lowing:

10 “(C) ADDITIONAL DUTIES RELATING TO
11 TERRORIST TRAVEL.—In addition to the prin-
12 cipal duties of the Coordinator described in sub-
13 paragraph (B), the Coordinator shall analyze
14 methods used by terrorists to travel internation-
15 ally, develop policies with respect to curtailing
16 terrorist travel, and coordinate such policies
17 with the appropriate bureaus and other entities
18 of the Department of State, other United
19 States Government agencies, the Human Traf-
20 ficking and Smuggling Center, and foreign gov-
21 ernments.”.

1 **SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND PASS-**
2 **PORT SECURITY IN THE DEPARTMENT OF**
3 **STATE.**

4 (a) **ESTABLISHMENT.**—There is established within
5 the Bureau of Diplomatic Security of the Department of
6 State an Office of Visa and Passport Security (in this sec-
7 tion referred to as the “Office”).

8 (b) **HEAD OF OFFICE.**—

9 (1) **IN GENERAL.**—Notwithstanding any other
10 provision of law, the head of the Office shall be an
11 individual who shall have the rank and status of
12 Deputy Assistant Secretary of State for Diplomatic
13 Security (in this section referred to as the “Deputy
14 Assistant Secretary”).

15 (2) **RECRUITMENT.**—The Under Secretary of
16 State for Management shall chose the Deputy As-
17 sistant Secretary from among individuals who are
18 Diplomatic Security Agents.

19 (3) **QUALIFICATIONS.**—The Diplomatic Security
20 Agent chosen to serve as the Deputy Assistant Sec-
21 retary shall have expertise and experience in inves-
22 tigating and prosecuting visa and passport fraud.

23 (c) **DUTIES.**—

24 (1) **PREPARATION OF STRATEGIC PLAN.**—

25 (A) **IN GENERAL.**—The Deputy Assistant
26 Secretary, in coordination with the appropriate

1 officials of the Department of Homeland Secu-
2 rity, shall ensure the preparation of a strategic
3 plan to target and disrupt individuals and orga-
4 nizations at home and in foreign countries that
5 are involved in the fraudulent production, dis-
6 tribution, use, or other similar activity—

7 (i) of a United States visa or United
8 States passport;

9 (ii) of documents intended to help
10 fraudulently procure a United States visa
11 or United States passport, or other docu-
12 ments intended to gain unlawful entry into
13 the United States; or

14 (iii) of passports and visas issued by
15 foreign countries intended to gain unlawful
16 entry into the United States.

17 (B) EMPHASIS.—Such plan shall—

18 (i) focus particular emphasis on indi-
19 viduals and organizations that may have
20 links to domestic terrorist organizations or
21 foreign terrorist organizations (as such
22 term is defined in Section 219 of the Im-
23 migration and Nationality Act (8 U.S.C.
24 1189));

1 (ii) require the development of a stra-
2 tegic training course under the
3 Antiterrorism Assistance Training (ATA)
4 program of the Department of State (or
5 any successor or related program) under
6 chapter 8 of part II of the Foreign Assist-
7 ance Act of 1961 (22 U.S.C. 2349aa et
8 seq.) (or other relevant provisions of law)
9 to train participants in the identification of
10 fraudulent documents and the forensic de-
11 tection of such documents which may be
12 used to obtain unlawful entry into the
13 United States; and

14 (iii) determine the benefits and costs
15 of providing technical assistance to foreign
16 governments to ensure the security of pass-
17 ports, visas, and related documents and to
18 investigate, arrest, and prosecute individ-
19 uals who facilitate travel by the creation of
20 false passports and visas, documents to ob-
21 tain such passports and visas, and other
22 types of travel documents.

23 (2) DUTIES OF OFFICE.—The Office shall have
24 the following duties:

1 (A) ANALYSIS OF METHODS.—Analyze
2 methods used by terrorists to travel internation-
3 ally, particularly the use of false or altered trav-
4 el documents to illegally enter foreign countries
5 and the United States, and advise the Bureau
6 of Consular Affairs and the Secretary of Home-
7 land Security on recommended changes to the
8 visa issuance process that could combat such
9 methods, including the introduction of new
10 technologies into such process.

11 (B) IDENTIFICATION OF INDIVIDUALS AND
12 DOCUMENTS.—Identify, in cooperation with the
13 Human Trafficking and Smuggling Center, in-
14 dividuals who facilitate travel by the creation of
15 false passports and visas, documents used to
16 obtain such passports and visas, and other
17 types of travel documents, and ensure that the
18 appropriate agency is notified for further inves-
19 tigation and prosecution or, in the case of such
20 individuals abroad for which no further inves-
21 tigation or prosecution is initiated, ensure that
22 all appropriate information is shared with for-
23 eign governments in order to facilitate inves-
24 tigation, arrest, and prosecution of such individ-
25 uals.

1 (C) IDENTIFICATION OF FOREIGN COUN-
2 TRIES NEEDING ASSISTANCE.—Identify foreign
3 countries that need technical assistance, such as
4 law reform, administrative reform, prosecutorial
5 training, or assistance to police and other inves-
6 tigative services, to ensure passport, visa, and
7 related document security and to investigate,
8 arrest, and prosecute individuals who facilitate
9 travel by the creation of false passports and
10 visas, documents used to obtain such passports
11 and visas, and other types of travel documents.

12 (D) INSPECTION OF APPLICATIONS.—Ran-
13 domly inspect visa and passport applications for
14 accuracy, efficiency, and fraud, especially at
15 high terrorist threat posts, in order to prevent
16 a recurrence of the issuance of visas to those
17 who submit incomplete, fraudulent, or otherwise
18 irregular or incomplete applications.

19 (3) REPORT.—Not later than 90 days after the
20 date of the enactment of this Act, the Deputy As-
21 sistant Secretary shall submit to Congress a report
22 containing—

23 (A) a description of the strategic plan pre-
24 pared under paragraph (1); and

1 (B) an evaluation of the feasibility of es-
2 tablishing civil service positions in field offices
3 of the Bureau of Diplomatic Security to inves-
4 tigate visa and passport fraud, including an
5 evaluation of whether to allow diplomatic secu-
6 rity agents to convert to civil service officers to
7 fill such positions.

8 **Subtitle D—Terrorist Travel**

9 **SEC. 3101. INFORMATION SHARING AND COORDINATION.**

10 The Secretary of Homeland Security shall establish
11 a mechanism to—

12 (1) ensure the coordination and dissemination
13 of terrorist travel intelligence and operational infor-
14 mation among the appropriate agencies within the
15 Department of Homeland Security, including the
16 Bureau of Customs and Border Protection, the Bu-
17 reau of Immigration and Customs Enforcement, the
18 Bureau of Citizenship and Immigration Services, the
19 Transportation Security Administration, the Coast
20 Guard, and other agencies as directed by the Sec-
21 retary; and

22 (2) ensure the sharing of terrorist travel intel-
23 ligence and operational information with the Depart-
24 ment of State, the National Counterterrorism Cen-
25 ter, and other appropriate Federal agencies.

1 **SEC. 3102. TERRORIST TRAVEL PROGRAM.**

2 The Secretary of Homeland Security, in consultation
3 with the Director of the National Counterterrorism Cen-
4 ter, shall establish a program to—

5 (1) analyze and utilize information and intel-
6 ligence regarding terrorist travel tactics, patterns,
7 trends, and practices; and

8 (2) disseminate that information to all front-
9 line Department of Homeland Security personnel
10 who are at ports of entry or between ports of entry,
11 to immigration benefits offices, and, in coordination
12 with the Secretary of State, to appropriate individ-
13 uals at United States embassies and consulates.

14 **SEC. 3103. TRAINING PROGRAM.**

15 (a) REVIEW, EVALUATION, AND REVISION OF EXIST-
16 ING TRAINING PROGRAMS.—The Secretary of Homeland
17 Security shall—

18 (1) review and evaluate the training currently
19 provided to Department of Homeland Security per-
20 sonnel and, in consultation with the Secretary of
21 State, relevant Department of State personnel with
22 respect to travel and identity documents, and tech-
23 niques, patterns, and trends associated with terrorist
24 travel; and

25 (2) develop and implement a revised training
26 program for border, immigration, and consular offi-

1 cials in order to teach such officials how to effec-
2 tively detect, intercept, and disrupt terrorist travel.

3 (b) REQUIRED TOPICS OF REVISED PROGRAMS.—

4 The training program developed under subsection (a)(2)
5 shall include training in the following areas:

6 (1) Methods for identifying fraudulent and gen-
7 uine travel documents.

8 (2) Methods for detecting terrorist indicators on
9 travel documents and other relevant identity docu-
10 ments.

11 (3) Recognizing travel patterns, tactics, and be-
12 haviors exhibited by terrorists.

13 (4) Effectively utilizing information contained
14 in databases and data systems available to the De-
15 partment of Homeland Security.

16 (5) Other topics determined to be appropriate
17 by the Secretary of Homeland Security in consulta-
18 tion with the Secretary of State or the National In-
19 telligence Director.

20 **SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINA-**
21 **TION PLAN.**

22 (a) PLAN REQUIRED.—Not later than 180 days after
23 the date of the enactment of this Act, the Secretary of
24 Homeland Security, in consultation with the Secretary of
25 State, shall submit to the Congress a plan to ensure that

1 the Department of Homeland Security and the Depart-
2 ment of State acquire and deploy, to all consulates, ports
3 of entry, and immigration benefits offices, technologies
4 that facilitate document authentication and the detection
5 of potential terrorist indicators on travel documents.

6 (b) INTEROPERABILITY REQUIREMENT.—To the ex-
7 tent possible, technologies to be acquired and deployed
8 under the plan shall be compatible with current systems
9 used by the Department of Homeland Security to detect
10 and identify fraudulent documents and genuine docu-
11 ments.

12 (c) PASSPORT SCREENING.—The plan shall address
13 the feasibility of using such technologies to screen pass-
14 ports submitted for identification purposes to a United
15 States consular, border, or immigration official.

16 **Subtitle E—Maritime Security** 17 **Requirements**

18 **SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-** 19 **TIME SECURITY REQUIREMENTS.**

20 (a) NATIONAL MARITIME TRANSPORTATION SECUR-
21 ITY PLAN.—Section 70103(a) of the 46, United States
22 Code, is amended by striking “The Secretary” and insert-
23 ing “Not later than December 31, 2004, the Secretary”.

24 (b) FACILITY AND VESSEL VULNERABILITY ASSESS-
25 MENTS.—Section 70102(b)(1) of the 46, United States

1 Code, is amended by striking “, the Secretary” and insert-
2 ing “and by not later than December 31, 2004, the Sec-
3 retary”.

4 (c) TRANSPORTATION SECURITY CARD REGULA-
5 TIONS.—Section 70105(a) of the 46, United States Code,
6 is amended by striking “The Secretary” and inserting
7 “Not later than December 31, 2004, the Secretary”.

8 **TITLE IV—INTERNATIONAL CO-**
9 **OPERATION AND COORDINA-**
10 **TION**

11 **Subtitle A—Attack Terrorists and**
12 **Their Organizations**

13 **CHAPTER 1—PROVISIONS RELATING TO**
14 **TERRORIST SANCTUARIES**

15 **SEC. 4001. UNITED STATES POLICY ON TERRORIST SANC-**
16 **TUARIES.**

17 It is the sense of Congress that it should be the policy
18 of the United States—

19 (1) to identify and prioritize foreign countries
20 that are or that could be used as terrorist sanc-
21 tuaries;

22 (2) to assess current United States resources
23 being provided to such foreign countries;

1 (3) to develop and implement a coordinated
2 strategy to prevent terrorists from using such for-
3 eign countries as sanctuaries; and

4 (4) to work in bilateral and multilateral fora to
5 prevent foreign countries from being used as ter-
6 rorist sanctuaries.

7 **SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

8 (a) INITIAL REPORT.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of the enactment of this Act, the President
11 shall transmit to Congress a report that describes a
12 strategy for addressing and, where possible, elimi-
13 nating terrorist sanctuaries.

14 (2) CONTENT.—The report required under this
15 subsection shall include the following:

16 (A) A list that prioritizes each actual and
17 potential terrorist sanctuary and a description
18 of activities in the actual and potential sanc-
19 tuaries.

20 (B) An outline of strategies for preventing
21 the use of, disrupting, or ending the use of such
22 sanctuaries.

23 (C) A detailed description of efforts, in-
24 cluding an assessment of successes and set-
25 backs, by the United States to work with other

1 countries in bilateral and multilateral fora to
2 address or eliminate each actual or potential
3 terrorist sanctuary and disrupt or eliminate the
4 security provided to terrorists by each such
5 sanctuary.

6 (D) A description of long-term goals and
7 actions designed to reduce the conditions that
8 allow the formation of terrorist sanctuaries.

9 (b) SUBSEQUENT REPORTS.—

10 (1) REQUIREMENT OF REPORTS.—Section
11 140(a)(1) of the Foreign Relations Authorization
12 Act, Fiscal Years 1988 and 1989 (22 U.S.C.
13 2656f(a)(1)) is amended—

14 (A) by striking “(1)” and inserting
15 “(1)(A)”;

16 (B) by redesignating subparagraphs (A)
17 through (C) as clauses (i) through (iii), respec-
18 tively;

19 (C) in subparagraph (A)(iii) (as redesignig-
20 nated), by adding “and” at the end; and

21 (D) by adding at the end the following:

22 “(B) detailed assessments with respect to each
23 foreign country whose territory is being used or
24 could potentially be used as a sanctuary for terror-
25 ists or terrorist organizations;”.

1 (2) PROVISIONS TO BE INCLUDED IN RE-
2 PORT.—Section 140(b) of such Act (22 U.S.C.
3 2656f(b)) is amended—

4 (A) in paragraph (1)—

5 (i) in the matter preceding subpara-
6 graph (A), by striking “subsection (a)(1)”
7 and inserting “subsection (a)(1)(A)”; and

8 (ii) by striking “and” at the end;

9 (B) by redesignating paragraph (2) as
10 paragraph (3);

11 (C) by inserting after paragraph (1) the
12 following:

13 “(2) with respect to subsection (a)(1)(B)—

14 “(A) the extent of knowledge by the gov-
15 ernment of the country with respect to terrorist
16 activities in the territory of the country; and

17 “(B) the actions by the country—

18 “(i) to eliminate each terrorist sanc-
19 tuary in the territory of the country;

20 “(ii) to cooperate with United States
21 antiterrorism efforts; and

22 “(iii) to prevent the proliferation of
23 and trafficking in weapons of mass de-
24 struction in and through the territory of
25 the country;”;

1 (D) by striking the period at the end of
2 paragraph (3) (as redesignated) and inserting a
3 semicolon; and

4 (E) by inserting after paragraph (3) (as
5 redesignated) the following:

6 “(4) a strategy for addressing and, where pos-
7 sible, eliminating terrorist sanctuaries that shall
8 include—

9 “(A) a description of actual and potential
10 terrorist sanctuaries, together with an assess-
11 ment of the priorities of addressing and elimi-
12 nating such sanctuaries;

13 “(B) an outline of strategies for disrupting
14 or eliminating the security provided to terrorists
15 by such sanctuaries;

16 “(C) a description of efforts by the United
17 States to work with other countries in bilateral
18 and multilateral fora to address or eliminate ac-
19 tual or potential terrorist sanctuaries and dis-
20 rupt or eliminate the security provided to ter-
21 rorists by such sanctuaries; and

22 “(D) a description of long-term goals and
23 actions designed to reduce the conditions that
24 allow the formation of terrorist sanctuaries;

1 “(5) an update of the information contained in
2 the report required to be transmitted to Congress
3 pursuant to section 4002(a)(2) of the 9/11 Rec-
4 ommendations Implementation Act;

5 “(6) to the extent practicable, complete statis-
6 tical information on the number of individuals, in-
7 cluding United States citizens and dual nationals,
8 killed, injured, or kidnapped by each terrorist group
9 during the preceding calendar year; and

10 “(7) an analysis, as appropriate, relating to
11 trends in international terrorism, including changes
12 in technology used, methods and targets of attacks,
13 demographic information on terrorists, and other ap-
14 propriate information.”.

15 (3) DEFINITIONS.—Section 140(d) of such Act
16 (22 U.S.C. 2656f(d)) is amended—

17 (A) in paragraph (2), by striking “and” at
18 the end;

19 (B) in paragraph (3), by striking the pe-
20 riod at the end and inserting a semicolon; and

21 (C) by adding at the end the following:

22 “(4) the term ‘territory’ and ‘territory of the
23 country’ means the land, waters, and airspace of the
24 country; and

1 “(5) 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 “(A) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or
5 “(B) to provide transit through the country.”.

6 “(B) to provide transit through the country.”.
7
8 (4) EFFECTIVE DATE.—The amendments made
9 by paragraphs (1), (2), and (3) apply with respect
10 to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act,
11 Fiscal Years 1988 and 1989, by April 30, 2006, and
12 by April 30 of each subsequent year.

13 **SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE**
14 **TERRORIST SANCTUARIES.**

15 (a) AMENDMENTS.—Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is
16 amended—

17 (1) in paragraph (1)—

18 (A) by redesignating subparagraph (B) as
19 subparagraph (C); and
20 (B) by inserting after subparagraph (A)

21 the following:
22 the following:
23 the following:
24 the following:
25 the following:

1 “(B) Any part of the territory of the country is
2 being used as a sanctuary for terrorists or terrorist
3 organizations.”;

4 (2) in paragraph (3), by striking “paragraph
5 (1)(A)” and inserting “subparagraph (A) or (B) of
6 paragraph (1)”;

7 (3) by redesignating paragraph (5) as para-
8 graph (6);

9 (4) by inserting after paragraph (4) the fol-
10 lowing:

11 “(5) A determination made by the Secretary of State
12 under paragraph (1)(B) may not be rescinded unless the
13 President submits to the Speaker of the House of Rep-
14 resentatives and the chairman of the Committee on Bank-
15 ing, Housing, and Urban Affairs and the chairman of the
16 Committee on Foreign Relations of the Senate before the
17 proposed rescission would take effect a report certifying
18 that the government of the country concerned —

19 “(A) is taking concrete, verifiable steps to elimi-
20 nate each terrorist sanctuary in the territory of the
21 country;

22 “(B) is cooperating with United States
23 antiterrorism efforts; and

24 “(C) is taking all appropriate actions to prevent
25 the proliferation of and trafficking in weapons of

1 mass destruction in and through the territory of the
2 country.”; and

3 (5) by inserting after paragraph (6) (as redesign-
4 nated) the following:

5 “(7) In this subsection—

6 “(A) the term ‘territory of the country’ means
7 the land, waters, and airspace of the country; and

8 “(B) the term ‘terrorist sanctuary’ or ‘sanc-
9 tuary’ means an area in the territory of a country
10 that is used by a terrorist group with the express or
11 implied consent of the government of the country—

12 “(i) to carry out terrorist activities, includ-
13 ing training, fundraising, financing, recruit-
14 ment, and education activities; or

15 “(ii) to provide transit through the coun-
16 try.”.

17 (b) IMPLEMENTATION.—The President shall imple-
18 ment the amendments made by subsection (a) by exer-
19 cising the authorities the President has under the Inter-
20 national Emergency Economic Powers Act (50 U.S.C.
21 1701 et seq.).

1 **CHAPTER 2—OTHER PROVISIONS**

2 **SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS**
3 **CONTROL AND NONPROLIFERATION ADVI-**
4 **SORY BOARD.**

5 (a) **REQUIREMENT.**—Not later than December 31,
6 2004, the Secretary of State shall appoint individuals to
7 the Arms Control and Nonproliferation Advisory Board to
8 fill all vacancies in the membership of the Board that exist
9 on the date of the enactment of this Act.

10 (b) **CONSULTATION.**—Appointments to the Board
11 under subsection (a) shall be made in consultation with
12 the Committee on International Relations of the House
13 of Representatives and the Committee on Foreign Rela-
14 tions of the Senate.

15 **SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-**
16 **LIFERATION OF WEAPONS OF MASS DE-**
17 **STRUCTION AND CONTROL OF STRATEGIC**
18 **WEAPONS.**

19 (a) **REVIEW.**—

20 (1) **IN GENERAL.**—The Undersecretary of State
21 for Arms Control and International Security shall
22 instruct the Arms Control and Nonproliferation Ad-
23 visory Board (in this section referred to as the “Ad-
24 visory Board”) to carry out a review of existing poli-
25 cies of the United States relating to the proliferation

1 of weapons of mass destruction and the control of
2 strategic weapons.

3 (2) COMPONENTS.—The review required under
4 this subsection shall contain at a minimum the fol-
5 lowing:

6 (A) An identification of all major defi-
7 ciencies in existing United States policies relat-
8 ing to the proliferation of weapons of mass de-
9 struction and the control of strategic weapons.

10 (B) Proposals that contain a range of op-
11 tions that if implemented would adequately ad-
12 dress any significant threat deriving from the
13 deficiencies in existing United States policies
14 described in subparagraph (A).

15 (b) REPORTS.—

16 (1) INTERIM REPORT.—Not later than June 15,
17 2005, the Advisory Board shall prepare and submit
18 to the Undersecretary of State for Arms Control and
19 International Security an interim report that con-
20 tains the initial results of the review carried out pur-
21 suant to subsection (a).

22 (2) FINAL REPORT.—Not later than December
23 1, 2005, the Advisory Board shall prepare and sub-
24 mit to the Undersecretary of State for Arms Control
25 and International Security, and to the Committee on

1 International Relations of the House of Representa-
2 tives and the Committee on Foreign Relations of the
3 Senate, a final report that contains the comprehen-
4 sive results of the review carried out pursuant to
5 subsection (a).

6 (c) EXPERTS AND CONSULTANTS.— In carrying out
7 this section, the Advisory Board may procure temporary
8 and intermittent services of experts and consultants, in-
9 cluding experts and consultants from nongovernmental or-
10 ganizations, under section 3109(b) of title 5, United
11 States Code.

12 (d) FUNDING AND OTHER RESOURCES.—The Sec-
13 retary of State shall provide to the Advisory Board an ap-
14 propriate amount of funding and other resources to enable
15 the Advisory Board to carry out this section.

16 **SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT**
17 **ACTS OF INTERNATIONAL TERRORISM.**

18 Section 1(e)(2) of the State Department Basic Au-
19 thorities Act of 1956 (22 U.S.C. 2651a(e)(2)), as amend-
20 ed by section 3091(b), is further amended by adding at
21 the end the following:

22 “(D) ADDITIONAL DUTIES RELATING TO
23 INTERNATIONAL AGREEMENTS TO INTERDICT
24 ACTS OF INTERNATIONAL TERRORISM.—

1 “(i) IN GENERAL.—In addition to the
2 principal duties of the Coordinator de-
3 scribed in subparagraph (B), the Coordi-
4 nator, in consultation with relevant United
5 States Government agencies, shall seek to
6 negotiate on a bilateral basis international
7 agreements under which parties to an
8 agreement work in partnership to address
9 and interdict acts of international ter-
10 rorism.

11 “(ii) TERMS OF INTERNATIONAL
12 AGREEMENT.—It is the sense of Congress
13 that—

14 “(I) each party to an inter-
15 national agreement referred to in
16 clause (i)—

17 “(aa) should be in full com-
18 pliance with United Nations Se-
19 curity Council Resolution 1373
20 (September 28, 2001), other ap-
21 propriate international agree-
22 ments relating to antiterrorism
23 measures, and such other appro-
24 priate criteria relating to
25 antiterrorism measures;

1 “(bb) should sign and ad-
2 here to a ‘Counterterrorism
3 Pledge’ and a list of ‘Interdiction
4 Principles’, to be determined by
5 the parties to the agreement;

6 “(cc) should identify assets
7 and agree to multilateral efforts
8 that maximizes the country’s
9 strengths and resources to ad-
10 dress and interdict acts of inter-
11 national terrorism or the financ-
12 ing of such acts;

13 “(dd) should agree to joint
14 training exercises among the
15 other parties to the agreement;
16 and

17 “(ee) should agree to the ne-
18 gotiation and implementation of
19 other relevant international
20 agreements and consensus-based
21 international standards; and

22 “(II) an international agreement
23 referred to in clause (i) should contain
24 provisions that require the parties to
25 the agreement—

1 “(aa) to identify regions
2 throughout the world that are
3 emerging terrorist threats;

4 “(bb) to establish terrorism
5 interdiction centers in such re-
6 gions and other regions, as ap-
7 propriate;

8 “(cc) to deploy terrorism
9 prevention teams to such regions,
10 including United States-led
11 teams; and

12 “(dd) to integrate intel-
13 ligence, military, and law enforce-
14 ment personnel from countries
15 that are parties to the agreement
16 in order to work directly with the
17 regional centers described in item
18 (bb) and regional teams de-
19 scribed in item (cc).”.

20 **SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DE-**
21 **TENTION AND HUMANE TREATMENT OF CAP-**
22 **TURED TERRORISTS.**

23 It is the sense of Congress that the President should
24 pursue by all appropriate diplomatic means with countries
25 that are participating in the Coalition to fight terrorism

1 the development of an effective approach toward the de-
2 tention and humane treatment of captured terrorists. The
3 effective approach referred to in this section may, as ap-
4 propriate, draw on Article 3 of the Convention Relative
5 to the Treatment of Prisoners of War, done at Geneva
6 on August 12, 1949 (6 UST 3316).

7 **Subtitle B—Prevent the Continued**
8 **Growth of Terrorism**

9 **CHAPTER 1—UNITED STATES PUBLIC**

10 **DIPLOMACY**

11 **SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC**

12 **DIPLOMACY STRATEGY.**

13 (a) IN GENERAL.—The Secretary of State, in coordi-
14 nation with all appropriate Federal agencies, shall submit
15 to the Committee on International Relations of the House
16 of Representatives and the Committee on Foreign Rela-
17 tions of the Senate an annual assessment of the impact
18 of public diplomacy efforts on target audiences. Each as-
19 sessment shall review the United States public diplomacy
20 strategy worldwide and by region, including an examina-
21 tion of the allocation of resources and an evaluation and
22 assessment of the progress in, and barriers to, achieving
23 the goals set forth under previous plans submitted under
24 this section. Not later than March 15 of every year, the

1 Secretary shall submit the assessment required by this
2 subsection.

3 (b) FURTHER ACTION.— On the basis of such review,
4 the Secretary, in coordination with all appropriate Federal
5 agencies, shall submit, as part of the annual budget sub-
6 mission, a public diplomacy strategy plan which specifies
7 goals, agency responsibilities, and necessary resources and
8 mechanisms for achieving such goals during the next fiscal
9 year. The plan may be submitted in classified form.

10 **SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

11 (a) STATEMENT OF POLICY.—It should be the policy
12 of the United States:

13 (1) The Foreign Service should recruit individ-
14 uals with expertise and professional experience in
15 public diplomacy.

16 (2) United States chiefs of mission should have
17 a prominent role in the formulation of public diplo-
18 macy strategies for the countries and regions to
19 which they are assigned and should be accountable
20 for the operation and success of public diplomacy ef-
21 forts at their posts.

22 (3) Initial and subsequent training of Foreign
23 Service officers should be enhanced to include infor-
24 mation and training on public diplomacy and the
25 tools and technology of mass communication.

1 (b) PERSONNEL.—

2 (1) QUALIFICATIONS.—In the recruitment,
3 training, and assignment of members of the Foreign
4 Service, the Secretary of State shall emphasize the
5 importance of public diplomacy and applicable skills
6 and techniques. The Secretary shall consider the pri-
7 ority recruitment into the Foreign Service, at mid-
8 dle-level entry, of individuals with expertise and pro-
9 fessional experience in public diplomacy, mass com-
10 munications, or journalism. The Secretary shall give
11 special consideration to individuals with language fa-
12 cility and experience in particular countries and re-
13 gions.

14 (2) LANGUAGES OF SPECIAL INTEREST.—The
15 Secretary of State shall seek to increase the number
16 of Foreign Service officers proficient in languages
17 spoken in predominantly Muslim countries. Such in-
18 crease shall be accomplished through the recruit-
19 ment of new officers and incentives for officers in
20 service.

21 **SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM**
22 **COUNTRIES.**

23 (a) DECLARATION OF POLICY.—Congress declares
24 that the United States should commit to a long-term and
25 sustainable investment in promoting engagement with peo-

1 ple of all levels of society in countries with predominantly
2 Muslim populations, particularly with youth and those who
3 influence youth. Such an investment should make use of
4 the talents and resources in the private sector and should
5 include programs to increase the number of people who
6 can be exposed to the United States and its fundamental
7 ideas and values in order to dispel misconceptions. Such
8 programs should include youth exchange programs, young
9 ambassadors programs, international visitor programs,
10 academic and cultural exchange programs, American Cor-
11 ner programs, library programs, journalist exchange pro-
12 grams, sister city programs, and other programs related
13 to people-to-people diplomacy.

14 (b) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that the United States should significantly increase
16 its investment in the people-to-people programs described
17 in subsection (a).

18 **SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PRO-**
19 **MOTION IN FOREIGN SERVICE.**

20 (a) IN GENERAL.—Section 603(b) of the Foreign
21 Service Act of 1980 (22 U.S.C. 4003(b)) is amended by
22 adding at the end the following new sentences: “The pre-
23 cepts for such selection boards shall also consider whether
24 the member of the Service or the member of the Senior
25 Foreign Service, as the case may be, has served in at least

1 one position in which the primary responsibility of such
2 member was related to public diplomacy. A member may
3 not be promoted into or within the Senior Foreign Service
4 if such member has not served in at least one such posi-
5 tion.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall take effect on January 1, 2009.

8 CHAPTER 2—UNITED STATES

9 MULTILATERAL DIPLOMACY

10 SEC. 4031. PURPOSE.

11 It is the purpose of this chapter to strengthen United
12 States leadership and effectiveness at international organi-
13 zations and multilateral institutions.

14 SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAU- 15 CUS.

16 (a) IN GENERAL.—The President, acting through the
17 Secretary of State and the relevant United States chiefs
18 of mission, shall—

19 (1) continue to strongly support and seek to ex-
20 pand the work of the democracy caucus at the
21 United Nations General Assembly and the United
22 Nations Human Rights Commission; and

23 (2) seek to establish a democracy caucus at the
24 United Nations Conference on Disarmament and at
25 other broad-based international organizations.

1 (b) PURPOSES OF THE CAUCUS.—A democracy cau-
2 cus at an international organization should—

3 (1) forge common positions, including, as ap-
4 propriate, at the ministerial level, on matters of con-
5 cern before the organization and work within and
6 across regional lines to promote agreed positions;

7 (2) work to revise an increasingly outmoded
8 system of membership selection, regional voting, and
9 decision making; and

10 (3) establish a rotational leadership agreement
11 to provide member countries an opportunity, for a
12 set period of time, to serve as the designated presi-
13 dent of the caucus, responsible for serving as its
14 voice in each organization.

15 **SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-**
16 **NATIONAL ORGANIZATIONS.**

17 (a) UNITED STATES POLICY.—The President, acting
18 through the Secretary of State, the relevant United States
19 chiefs of mission, and, where appropriate, the Secretary
20 of the Treasury, shall use the voice, vote, and influence
21 of the United States to—

22 (1) where appropriate, reform the criteria for
23 leadership and, in appropriate cases, for member-
24 ship, at all United Nations bodies and at other inter-
25 national organizations and multilateral institutions

1 to which the United States is a member so as to ex-
2 clude countries that violate the principles of the spe-
3 cific organization;

4 (2) make it a policy of the United Nations and
5 other international organizations and multilateral in-
6 stitutions of which the United States is a member
7 that a member country may not stand in nomination
8 for membership or in nomination or in rotation for
9 a leadership position in such bodies if the member
10 country is subject to sanctions imposed by the
11 United Nations Security Council; and

12 (3) work to ensure that no member country
13 stand in nomination for membership, or in nomina-
14 tion or in rotation for a leadership position in such
15 organizations, or for membership on the United Na-
16 tions Security Council, if the member country is sub-
17 ject to a determination under section 6(j)(1)(A) of
18 the Export Administration Act of 1979 (50 U.S.C.
19 App. 2405(j)(1)(A)), section 620A(a) of the Foreign
20 Assistance Act of 1961 (22 U.S.C. 2371(a)), or sec-
21 tion 40(d) of the Arms Export Control Act (22
22 U.S.C. 2780(d)).

23 (b) REPORT TO CONGRESS.—Not later than 15 days
24 after a country subject to a determination under one or
25 more of the provisions of law specified in subsection (a)(3)

1 is selected for membership or a leadership post in an inter-
2 national organization of which the United States is a
3 member or for membership on the United Nations Secu-
4 rity Council, the Secretary of State shall submit to the
5 Committee on International Relations of the House of
6 Representatives and the Committee on Foreign Relations
7 of the Senate a report on any steps taken pursuant to
8 subsection (a)(3).

9 **SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLO-**
10 **MACY.**

11 (a) TRAINING PROGRAMS.—Section 708 of the For-
12 eign Service Act of 1980 (22 U.S.C. 4028) is amended
13 by adding at the end the following new subsection:

14 “(c) TRAINING IN MULTILATERAL DIPLOMACY.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish a series of training courses for officers of the
17 Service, including appropriate chiefs of mission, on
18 the conduct of diplomacy at international organiza-
19 tions and other multilateral institutions and at
20 broad-based multilateral negotiations of inter-
21 national instruments.

22 “(2) PARTICULAR PROGRAMS.—The Secretary
23 shall ensure that the training described in paragraph
24 (1) is provided at various stages of the career of

1 members of the service. In particular, the Secretary
2 shall ensure that after January 1, 2006—

3 “(A) officers of the Service receive training
4 on the conduct of diplomacy at international or-
5 ganizations and other multilateral institutions
6 and at broad-based multilateral negotiations of
7 international instruments as part of their train-
8 ing upon entry into the Service; and

9 “(B) officers of the Service, including
10 chiefs of mission, who are assigned to United
11 States missions representing the United States
12 to international organizations and other multi-
13 lateral institutions or who are assigned in
14 Washington, D.C., to positions that have as
15 their primary responsibility formulation of pol-
16 icy towards such organizations and institutions
17 or towards participation in broad-based multi-
18 lateral negotiations of international instru-
19 ments, receive specialized training in the areas
20 described in paragraph (1) prior to beginning of
21 service for such assignment or, if receiving such
22 training at that time is not practical, within the
23 first year of beginning such assignment.”.

24 (b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—

25 The Secretary shall ensure that employees of the Depart-

1 ment of State who are members of the civil service and
2 who are assigned to positions described in section 708(c)
3 of the Foreign Service Act of 1980 (as amended by sub-
4 section (a)) receive training described in such section.

5 (c) CONFORMING AMENDMENTS.—Section 708 of
6 such Act is further amended—

7 (1) in subsection (a), by striking “(a) The” and
8 inserting “(a) TRAINING ON HUMAN RIGHTS.—
9 The”; and

10 (2) in subsection (b), by striking “(b) The” and
11 inserting “(b) TRAINING ON REFUGEE LAW AND
12 RELIGIOUS PERSECUTION.—The”.

13 **SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OF-**
14 **FICE ON MULTILATERAL NEGOTIATIONS.**

15 (a) ESTABLISHMENT OF OFFICE.—The Secretary of
16 State is authorized to establish, within the Bureau of
17 International Organization Affairs, an Office on Multilat-
18 eral Negotiations to be headed by a Special Representative
19 for Multilateral Negotiations (in this section referred to
20 as the “Special Representative”).

21 (b) APPOINTMENT.—The Special Representative
22 shall be appointed by the President and shall have the
23 rank of Ambassador-at-Large. At the discretion of the
24 President another official at the Department may serve
25 as the Special Representative.

1 (c) STAFFING.—The Special Representative shall
2 have a staff of Foreign Service and civil service officers
3 skilled in multilateral diplomacy.

4 (d) DUTIES.—The Special Representative shall have
5 the following responsibilities:

6 (1) IN GENERAL.—The primary responsibility
7 of the Special Representative shall be to assist in the
8 organization of, and preparation for, United States
9 participation in multilateral negotiations, including
10 advocacy efforts undertaken by the Department of
11 State and other United States Government agencies.

12 (2) CONSULTATIONS.—The Special Representa-
13 tive shall consult with Congress, international orga-
14 nizations, nongovernmental organizations, and the
15 private sector on matters affecting multilateral nego-
16 tiations.

17 (3) ADVISORY ROLE.—The Special Representa-
18 tive shall advise the Assistant Secretary for Inter-
19 national Organization Affairs and, as appropriate,
20 the Secretary of State, regarding advocacy at inter-
21 national organizations, multilateral institutions, and
22 negotiations, and shall make recommendations
23 regarding—

1 (A) effective strategies (and tactics) to
2 achieve United States policy objectives at multi-
3 lateral negotiations;

4 (B) the need for and timing of high level
5 intervention by the President, the Secretary of
6 State, the Deputy Secretary of State, and other
7 United States officials to secure support from
8 key foreign government officials for United
9 States positions at such organizations, institu-
10 tions, and negotiations; and

11 (C) the composition of United States dele-
12 gations to multilateral negotiations.

13 (4) ANNUAL DIPLOMATIC MISSIONS OF MULTI-
14 LATERAL ISSUES.—The Special Representative, in
15 coordination with the Assistant Secretary for Inter-
16 national Organization Affairs, shall organize annual
17 diplomatic missions to appropriate foreign countries
18 to conduct consultations between principal officers
19 responsible for advising the Secretary of State on
20 international organizations and high-level represent-
21 atives of the governments of such foreign countries
22 to promote the United States agenda at the United
23 Nations General Assembly and other key inter-
24 national fora (such as the United Nations Human
25 Rights Commission).

1 (5) LEADERSHIP AND MEMBERSHIP OF INTER-
2 NATIONAL ORGANIZATIONS.—The Special Represent-
3 ative, in coordination with the Assistant Secretary of
4 International Organization Affairs, shall direct the
5 efforts of the United States to reform the criteria
6 for leadership of and membership in international
7 organizations as described in section 4033.

8 (6) PARTICIPATION IN MULTILATERAL NEGO-
9 TIATIONS.—The Secretary of State may direct the
10 Special Representative to serve as a member of a
11 United States delegation to any multilateral negotia-
12 tion.

13 (7) COORDINATION WITH THE DEPARTMENT OF
14 THE TREASURY.—

15 (A) COORDINATION AND CONSULTATION.—
16 The Special Representative shall coordinate and
17 consult with the relevant staff at the Depart-
18 ment of the Treasury in order to prepare rec-
19 ommendations for the Secretary of State re-
20 garding multilateral negotiations involving
21 international financial institutions and other
22 multilateral financial policymaking bodies.

23 (B) NEGOTIATING AUTHORITY CLARI-
24 FIED.—Notwithstanding any other provision of
25 law, the Secretary of the Treasury shall remain

1 (IV) any other multilateral finan-
2 cial policymaking group in which the
3 Secretary of the Treasury represents
4 the United States.

5 (iii) FINANCIAL ACTION TASK
6 FORCE.—The term “Financial Action Task
7 Force” means the international policy-
8 making and standard-setting body dedi-
9 cated to combating money laundering and
10 terrorist financing that was created by the
11 Group of Seven (G-7) in 1989.

12 **CHAPTER 3—OTHER PUBLIC DIPLOMACY**
13 **PROVISIONS**

14 **SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMER-**
15 **ICAN-SPONSORED SCHOOLS IN PREDOMI-**
16 **NANTLY MUSLIM COUNTRIES TO PROVIDE**
17 **SCHOLARSHIPS.**

18 (a) FINDINGS.—Congress finds the following:

19 (1) During the 2003–2004 school year, the Of-
20 fice of Overseas Schools of the Department of State
21 is financially assisting 189 elementary and sec-
22 ondary schools in foreign countries.

23 (2) American-sponsored elementary and sec-
24 ondary schools are located in more than 20 countries
25 with significant Muslim populations in the Near

1 East, Africa, South Asia, Central Asia, and East
2 Asia.

3 (3) American-sponsored elementary and sec-
4 ondary schools provide an American-style education
5 in English, with curricula that typically include an
6 emphasis on the development of critical thinking and
7 analytical skills.

8 (b) PURPOSE.—The United States has an interest in
9 increasing the level of financial support provided to Amer-
10 ican-sponsored elementary and secondary schools in pre-
11 dominantly Muslim countries, in order to—

12 (1) increase the number of students in such
13 countries who attend such schools;

14 (2) increase the number of young people who
15 may thereby gain at any early age an appreciation
16 for the culture, society, and history of the United
17 States; and

18 (3) increase the number of young people who
19 may thereby improve their proficiency in the English
20 language.

21 (c) PILOT PROGRAM AUTHORIZED.—The Secretary
22 of State, acting through the Director of the Office of Over-
23 seas Schools of the Department of State, may conduct a
24 pilot program to make grants to American-sponsored ele-
25 mentary and secondary schools in predominantly Muslim

1 countries for the purpose of providing full or partial merit-
2 based scholarships to students from lower- and middle-in-
3 come families of such countries to attend such schools.

4 (d) DETERMINATION OF ELIGIBLE STUDENTS.—For
5 purposes of expending grant funds, an American-spon-
6 sored elementary and secondary school that receives a
7 grant under subsection (c) is authorized to establish cri-
8 teria to be implemented by such school to determine what
9 constitutes lower- and middle-income families in the coun-
10 try (or region of the country, if regional variations in in-
11 come levels in the country are significant) in which such
12 school is located.

13 (e) RESTRICTION ON USE OF FUNDS.—Amounts ap-
14 propriated to the Secretary of State pursuant to the au-
15 thorization of appropriations in subsection (h) shall be
16 used for the sole purpose of making grants under this sec-
17 tion, and may not be used for the administration of the
18 Office of Overseas Schools of the Department of State or
19 for any other activity of the Office.

20 (f) VOLUNTARY PARTICIPATION.—Nothing in this
21 section shall be construed to require participation in the
22 pilot program by an American-sponsored elementary or
23 secondary school in a predominantly Muslim country.

24 (g) REPORT.—Not later than April 15, 2006, the
25 Secretary shall submit to the Committee on International

1 Relations of the House of Representatives and the Com-
2 mittee on Foreign Relations of the Senate a report on the
3 pilot program. The report shall assess the success of the
4 program, examine any obstacles encountered in its imple-
5 mentation, and address whether it should be continued,
6 and if so, provide recommendations to increase its effec-
7 tiveness.

8 (h) FUNDING.—There are authorized to be appro-
9 priated to the Secretary of State such sums as may be
10 necessary for each of fiscal years 2005, 2006, and 2007
11 to carry out this section.

12 **SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

13 (a) FINDINGS.—Congress makes the following find-
14 ings:

15 (1) Freedom of speech and freedom of the press
16 are fundamental human rights.

17 (2) The United States has a national interest in
18 promoting these freedoms by supporting free media
19 abroad, which is essential to the development of free
20 and democratic societies consistent with our own.

21 (3) Free media is undermined, endangered, or
22 nonexistent in many repressive and transitional soci-
23 eties around the world, including in Eurasia, Africa,
24 and the Middle East.

1 (4) Individuals lacking access to a plurality of
2 free media are vulnerable to misinformation and
3 propaganda and are potentially more likely to adopt
4 anti-American views.

5 (5) Foreign governments have a responsibility
6 to actively and publicly discourage and rebut unpro-
7 fessional and unethical media while respecting jour-
8 nalistic integrity and editorial independence.

9 (b) STATEMENTS OF POLICY.—It shall be the policy
10 of the United States, acting through the Secretary of
11 State, to—

12 (1) ensure that the promotion of press freedoms
13 and free media worldwide is a priority of United
14 States foreign policy and an integral component of
15 United States public diplomacy;

16 (2) respect the journalistic integrity and edi-
17 torial independence of free media worldwide; and

18 (3) ensure that widely accepted standards for
19 professional and ethical journalistic and editorial
20 practices are employed when assessing international
21 media.

22 (c) GRANTS TO PRIVATE SECTOR GROUP TO ESTAB-
23 LISH MEDIA NETWORK.—

24 (1) IN GENERAL.—Grants made available to the
25 National Endowment for Democracy (NED) pursu-

1 ant to paragraph (3) shall be used by NED to pro-
2 vide funding to a private sector group to establish
3 and manage a free and independent media network
4 in accordance with paragraph (2).

5 (2) PURPOSE.—The purpose of the network
6 shall be to provide an effective forum to convene a
7 broad range of individuals, organizations, and gov-
8 ernmental participants involved in journalistic activi-
9 ties and the development of free and independent
10 media to—

11 (A) fund a clearinghouse to collect and
12 share information concerning international
13 media development and training;

14 (B) improve research in the field of media
15 assistance and program evaluation to better in-
16 form decisions regarding funding and program
17 design for government and private donors;

18 (C) explore the most appropriate use of ex-
19 isting means to more effectively encourage the
20 involvement of the private sector in the field of
21 media assistance; and

22 (D) identify effective methods for the de-
23 velopment of a free and independent media in
24 societies in transition.

1 (4) Foreign governments which encourage bi-
2 ased or false media coverage of the United States
3 bear a significant degree of responsibility for cre-
4 ating a climate within which terrorism can flourish.
5 Such governments are responsible for encouraging
6 biased or false media coverage if they—

7 (A) issue direct or indirect instructions to
8 the media to publish biased or false information
9 regarding the United States;

10 (B) make deliberately biased or false
11 charges expecting that such charges will be dis-
12 seminated; or

13 (C) so severely constrain the ability of the
14 media to express criticism of any such govern-
15 ment that one of the few means of political ex-
16 pression available is criticism of the United
17 States.

18 (b) STATEMENTS OF POLICY.—

19 (1) FOREIGN GOVERNMENTS.—It shall be the
20 policy of the United States to regard foreign govern-
21 ments as knowingly engaged in unfriendly acts to-
22 ward the United States if such governments—

23 (A) instruct their state-owned or influ-
24 enced media to include content that is anti-

1 American or prejudicial to the foreign and secu-
2 rity policies of the United States; or

3 (B) make deliberately false charges regard-
4 ing the United States or permit false or biased
5 charges against the United States to be made
6 while constraining normal political discourse.

7 (2) SEEKING MEDIA ACCESS; RESPONDING TO
8 FALSE CHARGES.—It shall be the policy of the
9 United States to—

10 (A) seek access to the media in foreign
11 countries on terms no less favorable than those
12 afforded any other foreign entity or on terms
13 available to the foreign country in the United
14 States; and

15 (B) combat biased or false media coverage
16 in foreign countries of the United States and its
17 allies by responding in the foreign media or by
18 communicating directly to foreign publics.

19 (c) RESPONSIBILITIES REGARDING BIASED OR
20 FALSE MEDIA COVERAGE.—

21 (1) SECRETARY OF STATE.—The Secretary of
22 State shall instruct chiefs of mission to report on
23 and combat biased or false media coverage origi-
24 nating in or received in foreign countries to which
25 such chiefs are posted. Based on such reports and

1 other information available to the Secretary, the
2 Secretary shall prioritize efforts to combat such
3 media coverage, giving special attention to audiences
4 where fostering popular opposition to terrorism is
5 most important and such media coverage is most
6 prevalent.

7 (2) CHIEFS OF MISSION.—Chiefs of mission
8 shall have the following responsibilities:

9 (A) Chiefs of mission shall give strong pri-
10 ority to combatting biased or false media re-
11 ports in foreign countries to which such chiefs
12 are posted regarding the United States.

13 (B) Chiefs of mission posted to foreign
14 countries in which freedom of the press exists
15 shall inform the governments of such countries
16 of the policies of the United States regarding
17 biased or false media coverage of the United
18 States, and shall make strong efforts to per-
19 suade such governments to change policies that
20 encourage such media coverage.

21 (d) REPORTS.—Not later than 120 days after the
22 date of the enactment of this Act and at least annually
23 thereafter until January 1, 2015, the Secretary shall sub-
24 mit to the Committee on International Relations of the
25 House of Representatives and the Committee on Foreign

1 Relations of the Senate a report regarding the major
2 themes of biased or false media coverage of the United
3 States in foreign countries, the actions taken to persuade
4 foreign governments to change policies that encourage
5 such media coverage (and the results of such actions), and
6 any other actions taken to combat such media coverage
7 in foreign countries.

8 **SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.**

9 (a) REPORT.—Not later than 180 days after the date
10 of the enactment of this Act, the President shall transmit
11 to the Committee on International Relations of the House
12 of Representatives and the Committee on Foreign Rela-
13 tions of the Senate a report on the strategy of the United
14 States to expand its outreach to foreign Muslim audiences
15 through broadcast media.

16 (b) CONTENT.—The report required under subsection
17 (a) shall contain the following:

18 (1) An assessment of the Broadcasting Board
19 of Governors and the public diplomacy activities of
20 the Department of State with respect to outreach to
21 foreign Muslim audiences through broadcast media.

22 (2) An outline of recommended actions that the
23 United States should take to more regularly and
24 comprehensively present a United States point of
25 view through indigenous broadcast media in coun-

1 tries with sizeable Muslim populations, including in-
2 creasing appearances by United States Government
3 officials, experts, and citizens.

4 (3) An assessment of potential incentives for,
5 and costs associated with, encouraging United
6 States broadcasters to dub or subtitle into Arabic
7 and other relevant languages their news and public
8 affairs programs broadcast in Muslim countries in
9 order to present those programs to a much broader
10 Muslim audience than is currently reached.

11 (4) An assessment of providing a training pro-
12 gram in media and press affairs for members of the
13 Foreign Service.

14 **SEC. 4045. OFFICE RELOCATION.**

15 As soon as practicable after the date of the enactment
16 of this Act, the Secretary of State shall take such actions
17 as are necessary to consolidate within the Harry S. Tru-
18 man Building all offices of the Department of State that
19 are responsible for the conduct of public diplomacy, in-
20 cluding the Bureau of Educational and Cultural Affairs.

21 **SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOC-**
22 **RACIES FOR MUSLIM COUNTRIES.**

23 (a) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that the United States—

1 (1) should work with the Community of Democ-
2 racies to discuss, develop, and refine policies and as-
3 sistance programs to support and promote political,
4 economic, judicial, educational, and social reforms in
5 Muslim countries;

6 (2) should, as part of that effort, secure sup-
7 port to require countries seeking membership in the
8 Community of Democracies to be in full compliance
9 with the Community's criteria for participation, as
10 established by the Community's Convening Group,
11 should work to ensure that the criteria are part of
12 a legally binding document, and should urge other
13 donor countries to use compliance with the criteria
14 as a basis for determining diplomatic and economic
15 relations (including assistance programs) with such
16 participating countries; and

17 (3) should seek support for international con-
18 tributions to the Community of Democracies and
19 should seek authority for the Community's Con-
20 vening Group to oversee adherence and compliance
21 of participating countries with the criteria.

22 (b) MIDDLE EAST PARTNERSHIP INITIATIVE AND
23 BROADER MIDDLE EAST AND NORTH AFRICA INITIA-
24 TIVE.—Amounts made available to carry out the Middle
25 East Partnership Initiative and the Broader Middle East

1 and North Africa Initiative may be made available to the
2 Community of Democracies in order to strengthen and ex-
3 pand its work with Muslim countries.

4 (c) REPORT.—The Secretary of State shall include in
5 the annual report entitled “Supporting Human Rights and
6 Democracy: The U.S. Record” a description of efforts by
7 the Community of Democracies to support and promote
8 political, economic, judicial, educational, and social re-
9 forms in Muslim countries and the extent to which such
10 countries meet the criteria for participation in the Com-
11 munity of Democracies.

12 **Subtitle C—Reform of Designation**
13 **of Foreign Terrorist Organizations**

14 **SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANI-**
15 **ZATIONS.**

16 (a) PERIOD OF DESIGNATION.—Section 219(a)(4) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1189(a)(4)) is amended—

19 (1) in subparagraph (A)—

20 (A) by striking “Subject to paragraphs (5)
21 and (6), a” and inserting “A”; and

22 (B) by striking “for a period of 2 years be-
23 ginning on the effective date of the designation
24 under paragraph (2)(B)” and inserting “until

1 after the date of the determination
2 made under clause (iv) on that peti-
3 tion.

4 “(iii) PROCEDURES.—Any foreign ter-
5 rorist organization that submits a petition
6 for revocation under this subparagraph
7 must provide evidence in that petition that
8 the relevant circumstances described in
9 paragraph (1) are sufficiently different
10 from the circumstances that were the basis
11 for the designation such that a revocation
12 with respect to the organization is war-
13 ranted.

14 “(iv) DETERMINATION.—

15 “(I) IN GENERAL.—Not later
16 than 180 days after receiving a peti-
17 tion for revocation submitted under
18 this subparagraph, the Secretary shall
19 make a determination as to such rev-
20 ocation.

21 “(II) CLASSIFIED INFORMA-
22 TION.—The Secretary may consider
23 classified information in making a de-
24 termination in response to a petition
25 for revocation. Classified information

1 shall not be subject to disclosure for
2 such time as it remains classified, ex-
3 cept that such information may be
4 disclosed to a court ex parte and in
5 camera for purposes of judicial review
6 under subsection (c).

7 “(III) PUBLICATION OF DETER-
8 MINATION.—A determination made by
9 the Secretary under this clause shall
10 be published in the Federal Register.

11 “(IV) PROCEDURES.—Any rev-
12 ocation by the Secretary shall be
13 made in accordance with paragraph
14 (6).”; and

15 (3) by adding at the end the following:

16 “(C) OTHER REVIEW OF DESIGNATION.—

17 “(i) IN GENERAL.—If in a 6-year pe-
18 riod no review has taken place under sub-
19 paragraph (B), the Secretary shall review
20 the designation of the foreign terrorist or-
21 ganization in order to determine whether
22 such designation should be revoked pursu-
23 ant to paragraph (6).

24 “(ii) PROCEDURES.—If a review does
25 not take place pursuant to subparagraph

1 (B) in response to a petition for revocation
2 that is filed in accordance with that sub-
3 paragraph, then the review shall be con-
4 ducted pursuant to procedures established
5 by the Secretary. The results of such re-
6 view and the applicable procedures shall
7 not be reviewable in any court.

8 “(iii) PUBLICATION OF RESULTS OF
9 REVIEW.—The Secretary shall publish any
10 determination made pursuant to this sub-
11 paragraph in the Federal Register.”.

12 (b) ALIASES.—Section 219 of the Immigration and
13 Nationality Act (8 U.S.C. 1189) is amended—

14 (1) by redesignating subsections (b) and (c) as
15 subsections (c) and (d), respectively; and

16 (2) by inserting after subsection (a) the fol-
17 lowing new subsection (b):

18 “(b) AMENDMENTS TO A DESIGNATION.—

19 “(1) IN GENERAL.—The Secretary may amend
20 a designation under this subsection if the Secretary
21 finds that the organization has changed its name,
22 adopted a new alias, dissolved and then reconsti-
23 tuted itself under a different name or names, or
24 merged with another organization.

1 “(2) PROCEDURE.—Amendments made to a
2 designation in accordance with paragraph (1) shall
3 be effective upon publication in the Federal Register.
4 Subparagraphs (B) and (C) of subsection (a)(2)
5 shall apply to an amended designation upon such
6 publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),
7 and (8) of subsection (a) shall also apply to an
8 amended designation.

9 “(3) ADMINISTRATIVE RECORD.—The adminis-
10 trative record shall be corrected to include the
11 amendments as well as any additional relevant infor-
12 mation that supports those amendments.

13 “(4) CLASSIFIED INFORMATION.—The Sec-
14 retary may consider classified information in amend-
15 ing a designation in accordance with this subsection.
16 Classified information shall not be subject to disclo-
17 sure for such time as it remains classified, except
18 that such information may be disclosed to a court ex
19 parte and in camera for purposes of judicial review
20 under subsection (e).”.

21 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
22 Section 219 of the Immigration and Nationality Act (8
23 U.S.C. 1189) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (3)(B), by striking “sub-
2 section (b)” and inserting “subsection (c)”;

3 (B) in paragraph (6)(A)—

4 (i) in the matter preceding clause (i),
5 by striking “or a redesignation made under
6 paragraph (4)(B)” and inserting “at any
7 time, and shall revoke a designation upon
8 completion of a review conducted pursuant
9 to subparagraphs (B) and (C) of para-
10 graph (4)”;

11 (ii) in clause (i), by striking “or redesi-
12 gnation”;

13 (C) in paragraph (7), by striking “, or the
14 revocation of a redesignation under paragraph
15 (6),”; and

16 (D) in paragraph (8)—

17 (i) by striking “, or if a redesignation
18 under this subsection has become effective
19 under paragraph (4)(B),”; and

20 (ii) by striking “or redesignation”;

21 and

22 (2) in subsection (c), as so redesignated—

23 (A) in paragraph (1), by striking “of the
24 designation in the Federal Register,” and all
25 that follows through “review of the designa-

1 tion” and inserting “in the Federal Register of
2 a designation, an amended designation, or a de-
3 termination in response to a petition for revoca-
4 tion, the designated organization may seek judi-
5 cial review”;

6 (B) in paragraph (2), by inserting “,
7 amended designation, or determination in re-
8 sponse to a petition for revocation” after “des-
9 ignation”;

10 (C) in paragraph (3), by inserting “,
11 amended designation, or determination in re-
12 sponse to a petition for revocation” after “des-
13 ignation”; and

14 (D) in paragraph (4), by inserting “,
15 amended designation, or determination in re-
16 sponse to a petition for revocation” after “des-
17 ignation” each place that term appears.

18 (d) SAVINGS PROVISION.—For purposes of applying
19 section 219 of the Immigration and Nationality Act on
20 or after the date of enactment of this Act, the term “des-
21 ignation”, as used in that section, includes all redesigna-
22 tions made pursuant to section 219(a)(4)(B) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1189(a)(4)(B))
24 prior to the date of enactment of this Act, and such redes-
25 ignations shall continue to be effective until revoked as

1 provided in paragraph (5) or (6) of section 219(a) of the
2 Immigration and Nationality Act (8 U.S.C. 1189(a)).

3 **SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE**
4 **COUNTRY REPORTS ON TERRORISM OF IN-**
5 **FORMATION ON TERRORIST GROUPS THAT**
6 **SEEK WEAPONS OF MASS DESTRUCTION AND**
7 **GROUPS THAT HAVE BEEN DESIGNATED AS**
8 **FOREIGN TERRORIST ORGANIZATIONS.**

9 (a) INCLUSION IN REPORTS.—Section 140 of the
10 Foreign Relations Authorization Act, Fiscal Years 1988
11 and 1989 (22 U.S.C. 2656f) is amended—

12 (1) in subsection (a)(2)—

13 (A) by inserting “any terrorist group
14 known to have obtained or developed, or to have
15 attempted to obtain or develop, weapons of
16 mass destruction,” after “during the preceding
17 five years,”; and

18 (B) by inserting “any group designated by
19 the Secretary as a foreign terrorist organization
20 under section 219 of the Immigration and Na-
21 tionality Act (8 U.S.C. 1189),” after “Export
22 Administration Act of 1979,”;

23 (2) in subsection (b)(1)(C)(iii), by striking
24 “and” at the end;

25 (3) in subsection (b)(1)(C)—

1 (A) by redesignating clause (iv) as clause
2 (v); and

3 (B) by inserting after clause (iii) the fol-
4 lowing new clause:

5 “(iv) providing weapons of mass de-
6 struction, or assistance in obtaining or de-
7 veloping such weapons, to terrorists or ter-
8 rorist groups; and”;

9 (4) in subsection (b)(3) (as redesignated by sec-
10 tion 4002(b)(2)(B) of this Act)—

11 (A) by redesignating subparagraphs (C),
12 (D), and (E) as (D), (E), and (F), respectively;
13 and

14 (B) by inserting after subparagraph (B)
15 the following new subparagraph:

16 “(C) efforts by those groups to obtain or
17 develop weapons of mass destruction;”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall apply beginning with the first report
20 under section 140 of the Foreign Relations Authorization
21 Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), sub-
22 mitted more than one year after the date of the enactment
23 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 and the Gov-
14 ernment of Afghanistan to ensure that assistance to Af-
15 ghanistan is implemented in a coherent, consistent, and
16 efficient manner to prevent duplication and waste. The co-
17 ordinator designated under subsection (a) shall work
18 through the Secretary of the Treasury and the United
19 States Executive Directors at the international financial
20 institutions in order to effectuate these responsibilities
21 within the international financial institutions. The term
22 ‘international financial institution’ has the meaning given
23 in section 1701(c)(2) of the International Financial Insti-
24 tutions Act.”.

1 **SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-**
2 **GHANISTAN FREEDOM SUPPORT ACT OF 2002.**

3 (a) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL
4 AND SOCIAL DEVELOPMENT.—

5 (1) DECLARATION OF POLICY.—Congress reaffirms the authorities contained in title I of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.; relating to economic and democratic development assistance for Afghanistan).

10 (2) PROVISION OF ASSISTANCE.—Section 11 103(a) of such Act (22 U.S.C. 7513(a)) is amended in the matter preceding paragraph (1) by striking 12 “section 512 of Public Law 107–115 or any other 13 similar” and inserting “any other”. 14

15 (b) DECLARATIONS OF POLICY.—Congress makes the 16 following declarations:

17 (1) The United States reaffirms the support 18 that it and other countries expressed for the report 19 entitled “Securing Afghanistan’s Future” in their 20 Berlin Declaration of April 2004. The United States 21 should help enable the growth needed to create an 22 economically sustainable Afghanistan capable of the 23 poverty reduction and social development foreseen in 24 the report.

25 (2) The United States supports the parliamen- 26 tary elections to be held in Afghanistan by April

1 2005 and will help ensure that such elections are not
2 undermined by warlords or narcotics traffickers.

3 (3)(A) The United States continues to urge
4 North Atlantic Treaty Organization members and
5 other friendly countries to make much greater mili-
6 tary contributions toward securing the peace in Af-
7 ghanistan.

8 (B) The United States should continue to lead
9 in the security domain by, among other things, pro-
10 viding logistical support to facilitate those contribu-
11 tions.

12 (C) In coordination with the Government of Af-
13 ghanistan, the United States should urge others,
14 and act itself, to increase efforts to promote disar-
15 mament, demobilization, and reintegration efforts, to
16 enhance counternarcotics activities, to expand de-
17 ployments of Provincial Reconstruction Teams, and
18 to increase training of Afghanistan's National Army
19 and its police and border security forces.

20 (c) LONG-TERM STRATEGY.—

21 (1) STRATEGY.—Title III of such Act (22
22 U.S.C. 7551 et seq.) is amended by adding at the
23 end the following:

1 **“SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR**
2 **AFGHANISTAN.**

3 “(a) STRATEGY.—

4 “(1) IN GENERAL.—Not later than 180 days
5 after the date of the enactment of the Afghanistan
6 Freedom Support Act Amendments of 2004, the
7 President shall formulate and transmit to the Com-
8 mittee on International Relations of the House of
9 Representatives and the Committee on Foreign Re-
10 lations of the Senate a 5-year strategy for Afghani-
11 stan that includes specific and measurable goals,
12 timeframes for accomplishing such goals, and spe-
13 cific resource levels necessary for accomplishing such
14 goals for addressing the long-term development and
15 security needs of Afghanistan, including sectors such
16 as agriculture and irrigation, parliamentary and
17 democratic development, the judicial system and rule
18 of law, human rights, education, health, tele-
19 communications, electricity, women’s rights, counter-
20 narcotics, police, border security, anti-corruption,
21 and other law-enforcement activities.

22 “(2) ADDITIONAL REQUIREMENT.—The strat-
23 egy shall also delineate responsibilities for achieving
24 such goals and identify and address possible external
25 factors that could significantly affect the achieve-
26 ment of such goals.

1 “(b) IMPLEMENTATION.—Not later than 30 days
2 after the date of the transmission of the strategy required
3 by subsection (a), the Secretary of State, the Adminis-
4 trator of the United States Agency for International De-
5 velopment, and the Secretary of Defense shall submit to
6 the Committee on International Relations of the House
7 of Representatives and the Committee on Foreign Rela-
8 tions of the Senate a written 5-year action plan to imple-
9 ment the strategy developed pursuant to subsection (a).
10 Such action plan shall include a description and schedule
11 of the program evaluations that will monitor progress to-
12 ward achieving the goals described in subsection (a).

13 “(c) REVIEW.—The Secretary of State, the Adminis-
14 trator of the United States Agency for International De-
15 velopment, and the Secretary of Defense shall carry out
16 an annual review of the strategy required by subsection
17 (a) and the action plan required by subsection (b).

18 “(d) MONITORING.—The report required by section
19 206(c)(2) of this Act shall include—

20 “(1) a description of progress toward implemen-
21 tation of both the strategy required by subsection
22 (a) and the action plan required by subsection (b);
23 and

1 “(2) a description of any changes to the strat-
2 egy or action plan since the date of the submission
3 of the last report required by such section.”.

4 (2) CLERICAL AMENDMENT.—The table of con-
5 tents for such Act (22 U.S.C. 7501 note) is amend-
6 ed by adding after the item relating to section 303
7 the following:

“Sec. 304. Formulation of long-term strategy for Afghanistan.”.

8 **SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

9 Section 103(a)(5)(A) of the Afghanistan Freedom
10 Support Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is
11 amended—

12 (1) in clause (v), to read as follows:

13 “(v) support for the activities of the
14 Government of Afghanistan to develop
15 modern legal codes and court rules, to pro-
16 vide for the creation of legal assistance
17 programs, and other initiatives to promote
18 the rule of law in Afghanistan;”;

19 (2) in clause (xii), to read as follows:

20 “(xii) support for the effective admin-
21 istration of justice at the national, re-
22 gional, and local levels, including programs
23 to improve penal institutions and the reha-
24 bilitation of prisoners, to establish a re-
25 sponsible and community-based police

1 force, and to rehabilitate or construct
2 courthouses and detention facilities;”;

3 (3) in clause (xiii), by striking “and” at the
4 end;

5 (4) in clause (xiv), by striking the period at the
6 end and inserting “; and”; and

7 (5) by adding at the end the following:

8 “(xv) assistance for the protection of
9 Afghanistan’s culture, history, and na-
10 tional identity, including with the rehabili-
11 tation of Afghanistan’s museums and sites
12 of cultural significance.”.

13 **SEC. 4065. MONITORING OF ASSISTANCE.**

14 Section 108 of the Afghanistan Freedom Support Act
15 of 2002 (22 U.S.C. 7518) is amended by adding at the
16 end the following:

17 “(c) MONITORING OF ASSISTANCE FOR AFGHANI-
18 STAN.—

19 “(1) REPORT.—The Secretary of State, in con-
20 sultation with the Administrator for the United
21 States Agency for International Development, shall
22 submit to the Committee on International Relations
23 of the House of Representatives and the Committee
24 on Foreign Relations of the Senate a report on the
25 obligations and expenditures of United States assist-

1 ance for Afghanistan from all United States Govern-
2 ment agencies. The first report under this paragraph
3 shall be submitted not later than January 15, 2005,
4 and subsequent reports shall be submitted every six
5 months thereafter and may be included in the report
6 required by section 206(c)(2) of this Act.

7 “(2) SUBMISSION OF INFORMATION FOR RE-
8 PORT.—The head of each United States Government
9 agency referred to in paragraph (1) shall provide on
10 a timely basis to the Secretary of State such infor-
11 mation as the Secretary may reasonably require to
12 allow the Secretary to prepare and submit the report
13 required by such paragraph.”.

14 **SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-**
15 **MAMENT OF PRIVATE MILITIAS AND TO SUP-**
16 **PORT EXPANSION OF INTERNATIONAL**
17 **PEACEKEEPING AND SECURITY OPERATIONS**
18 **IN AFGHANISTAN.**

19 (a) DISARMAMENT OF PRIVATE MILITIAS.—Section
20 103 of the Afghanistan Freedom Support Act of 2002 (22
21 U.S.C. 7513) is amended by adding at the end the fol-
22 lowing:

23 “(d) UNITED STATES POLICY RELATING TO DISAR-
24 MAMENT OF PRIVATE MILITIAS.—

1 “(1) IN GENERAL.—It shall be the policy of the
2 United States to take immediate steps to provide ac-
3 tive support for the disarmament, demobilization,
4 and reintegration of armed soldiers, particularly
5 child soldiers, in Afghanistan, in close consultation
6 with the President of Afghanistan.

7 “(2) REPORT.—The report required by section
8 206(c)(2) of this Act shall include a description of
9 the progress to implement paragraph (1).”.

10 (b) INTERNATIONAL PEACEKEEPING AND SECURITY
11 OPERATIONS.—Section 103 of such Act (22 U.S.C.
12 7513(d)), as amended by subsection (a), is further amend-
13 ed by adding at the end the following:

14 “(e) UNITED STATES POLICY RELATING TO INTER-
15 NATIONAL PEACEKEEPING AND SECURITY OPER-
16 ATIONS.—It shall be the policy of the United States to
17 make every effort to support the expansion of inter-
18 national peacekeeping and security operations in Afghani-
19 stan in order to—

20 “(1) increase the area in which security is pro-
21 vided and undertake vital tasks related to promoting
22 security, such as disarming warlords, militias, and
23 irregulars, and disrupting opium production; and

24 “(2) safeguard highways in order to allow the
25 free flow of commerce and to allow material assist-

1 ance to the people of Afghanistan, and aid personnel
2 in Afghanistan, to move more freely.”.

3 **SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACE-**
4 **KEEPING AND SECURITY OPERATIONS IN AF-**
5 **GHANISTAN.**

6 Section 206(d)(1) of the Afghanistan Freedom Sup-
7 port Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to
8 read as follows:

9 “(1) EFFORTS TO EXPAND INTERNATIONAL
10 PEACEKEEPING AND SECURITY OPERATIONS IN AF-
11 GHANISTAN.—

12 “(A) EFFORTS.—The President shall en-
13 courage, and, as authorized by law, enable other
14 countries to actively participate in expanded
15 international peacekeeping and security oper-
16 ations in Afghanistan, especially through the
17 provision of military personnel for extended pe-
18 riods of time.

19 “(B) REPORTS.—The President shall pre-
20 pare and transmit to the Committee on Inter-
21 national Relations of the House of Representa-
22 tives and the Committee on Foreign Relations
23 of the Senate a report on efforts carried out
24 pursuant to subparagraph (A). The first report
25 under this subparagraph shall be transmitted

1 not later than 60 days after the date of the en-
2 actment of the Afghanistan Freedom Support
3 Act Amendments of 2004 and subsequent re-
4 ports shall be transmitted every six months
5 thereafter and may be included in the report re-
6 quired by subsection (c)(2).”.

7 **SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS**
8 **EFFORTS IN AFGHANISTAN.**

9 (a) COUNTERNARCOTICS EFFORTS.—The Afghani-
10 stan Freedom Support Act of 2002 (22 U.S.C. 7501 et
11 seq.) is amended—

12 (1) by redesignating—

13 (A) title III as title IV; and

14 (B) sections 301 through 305 as sections
15 401 through 405, respectively; and

16 (2) by inserting after title II the following:

17 **“TITLE III—PROVISIONS RELAT-**
18 **ING TO COUNTERNARCOTICS**
19 **EFFORTS IN AFGHANISTAN**

20 **“SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EF-**
21 **FORTS.**

22 “In addition to programs established pursuant to sec-
23 tion 103(a)(3) of this Act or other similar programs, the
24 President is authorized and encouraged to implement spe-
25 cific initiatives to assist in the eradication of poppy cul-

1 tivation and the disruption of heroin production in Af-
2 ghanistan, such as—

3 “(1) promoting alternatives to poppy cultiva-
4 tion, including the introduction of high value crops
5 that are suitable for export and the provision of ap-
6 propriate technical assistance and credit mechanisms
7 for farmers;

8 “(2) enhancing the ability of farmers to bring
9 legitimate agricultural goods to market;

10 “(3) notwithstanding section 660 of the For-
11 eign Assistance Act of 1961 (22 U.S.C. 2420), as-
12 sistance, including nonlethal equipment, training (in-
13 cluding training in internationally recognized stand-
14 ards of human rights, the rule of law, anti-corrup-
15 tion, and the promotion of civilian police roles that
16 support democracy), and payments, during fiscal
17 years 2006 through 2008, for salaries for special
18 counternarcotics police and supporting units;

19 “(4) training the Afghan National Army in
20 counternarcotics activities; and

21 “(5) creating special counternarcotics courts,
22 prosecutors, and places of incarceration.

1 **“SEC. 302. 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
2 reducing poppy cultivation and heroin production ca-
3 pabilities in Afghanistan; and

4 “(B) the extent to which profits from illegal
5 drug activity in Afghanistan are used to financially
6 support terrorist organizations and groups seeking
7 to 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 the 9/11 Recommendations Im-
11 plementation Act.”.

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 305 as the items relating to sections
19 401 through 405; 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.

“Sec. 302. Sense of Congress and report regarding counter-drug efforts in Af-
ghanistan.”.

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 (3) FORM.—The strategy required by this sub-
4 section may contain a classified annex.

5 **SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE**
6 **OF PAKISTAN.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the United States should, over a long-term pe-
9 riod, help to ensure a promising, stable, and secure future
10 for Pakistan, and should in particular provide assistance
11 to encourage and enable Pakistan—

12 (1) to continue and improve upon its commit-
13 ment to combating extremists;

14 (2) to seek to resolve any outstanding difficul-
15 ties with its neighbors and other countries in its re-
16 gion;

17 (3) to continue to make efforts to fully control
18 its territory and borders;

19 (4) to progress towards becoming a more effec-
20 tive and participatory democracy;

21 (5) to participate more vigorously in the global
22 marketplace and to continue to modernize its econ-
23 omy;

24 (6) to take all necessary steps to halt the
25 spread of weapons of mass destruction;

1 (7) to continue to reform its education system;

2 and

3 (8) to, in other ways, implement a general

4 strategy of moderation.

5 (b) STRATEGY.—Not later than 180 days after the
6 date of the enactment of this Act, the President shall
7 transmit to Congress a detailed proposed strategy for the
8 future, long-term, engagement of the United States with
9 Pakistan. The strategy required by this subsection may
10 contain a classified annex.

11 **SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.**

12 The Act entitled “An Act to authorize the President
13 to exercise waivers of foreign assistance restrictions with
14 respect to Pakistan through September 30, 2003, and for
15 other purposes”, approved October 27, 2001 (Public Law
16 107–57; 115 Stat. 403), as amended by section 2213 of
17 the Emergency Supplemental Appropriations Act for De-
18 fense and for the Reconstruction of Iraq and Afghanistan,
19 2004 (Public Law 108–106; 117 Stat. 1232), is further
20 amended—

21 (1) in section 1(b)—

22 (A) in the heading, by striking “FISCAL
23 YEAR 2004” and inserting “FISCAL YEARS
24 2005 AND 2006”; and

1 (B) in paragraph (1), by striking “2004”
2 and inserting “2005 or 2006”;
3 (2) in section 3(2), by striking “and 2004,”
4 and inserting “2004, 2005, and 2006”; and
5 (3) in section 6, by striking “2004” and insert-
6 ing “2006”.

7 **Subtitle F—Oversight Provisions**

8 **SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

9 (a) AVAILABILITY OF TREATIES AND INTER-
10 NATIONAL AGREEMENTS.—Section 112a of title 1, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(d) The Secretary of State shall cause to be pub-
14 lished in slip form or otherwise made publicly available
15 through the Internet website of the Department of State
16 each treaty or international agreement proposed to be
17 published in the compilation entitled ‘United States Trea-
18 ties and Other International Agreements’ not later than
19 180 days after the date on which the treaty or agreement
20 enters into force.”.

21 (b) TRANSMISSION TO CONGRESS.—Section 112b(a)
22 of title 1, United States Code (commonly referred to as
23 the “Case-Zablocki Act”), is amended—

1 (1) in the first sentence, by striking “has en-
2 tered into force” and inserting “has been signed or
3 entered into force”; and

4 (2) in the second sentence, by striking “Com-
5 mittee on Foreign Affairs” and inserting “Com-
6 mittee on International Relations”.

7 (c) REPORT.—Section 112b of title 1, United States
8 Code, is amended—

9 (1) by redesignating subsections (d) and (e) as
10 subsections (e) and (f), respectively; and

11 (2) by inserting after subsection (e) the fol-
12 lowing:

13 “(d)(1) The Secretary of State shall submit to Con-
14 gress on an annual basis a report that contains an index
15 of all international agreements (including oral agree-
16 ments), listed by country, date, title, and summary of each
17 such agreement (including a description of the duration
18 of activities under the agreement and the agreement
19 itself), that the United States—

20 “(A) has signed, proclaimed, or with reference
21 to which any other final formality has been executed,
22 or that has been extended or otherwise modified,
23 during the preceding calendar year; and

24 “(B) has not been published, or is not proposed
25 to be published, in the compilation entitled ‘United

1 States Treaties and Other International Agree-
2 ments’.

3 “(2) The report described in paragraph (1) may be
4 submitted in classified form.”.

5 (d) DETERMINATION OF INTERNATIONAL AGREE-
6 MENT.—Subsection (e) of section 112b of title 1, United
7 States Code, (as redesignated) is amended—

8 (1) by striking “(e) The Secretary of State”
9 and inserting “(e)(1) Subject to paragraph (2), the
10 Secretary of State”; and

11 (2) by adding at the end the following:

12 “(2)(A) An arrangement shall constitute an inter-
13 national agreement within the meaning of this section
14 (other than subsection (c) of this section) irrespective of
15 the duration of activities under the arrangement or the
16 arrangement itself.

17 “(B) Arrangements that constitute an international
18 agreement within the meaning of this section (other than
19 subsection (c) of this section) include, but are not limited
20 to, the following:

21 “(i) A bilateral or multilateral counterterrorism
22 agreement.

23 “(ii) A bilateral agreement with a country that
24 is subject to a determination under section
25 6(j)(1)(A) of the Export Administration Act of 1979

1 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of
2 the Foreign Assistance Act of 1961 (22 U.S.C.
3 2371(a)), or section 40(d) of the Arms Export Con-
4 trol Act (22 U.S.C. 2780(d)).”.

5 (e) ENFORCEMENT OF REQUIREMENTS.—Section
6 139(b) of the Foreign Relations Authorization Act, Fiscal
7 Years 1988 and 1989 is amended to read as follows:

8 “(b) EFFECTIVE DATE.—Subsection (a) shall take
9 effect 60 days after the date of the enactment of the 9/
10 11 Recommendations Implementation Act and shall apply
11 during fiscal years 2005, 2006, and 2007.”.

12 **Subtitle G—Additional Protections**
13 **of United States Aviation Sys-**
14 **tem from Terrorist Attacks**

15 **SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**
16 **IMUM DEPLOYMENT OF FEDERAL FLIGHT**
17 **DECK OFFICERS.**

18 The President is encouraged to pursue aggressively
19 international agreements with foreign governments to
20 allow the maximum deployment of Federal air marshals
21 and Federal flight deck officers on international flights.

22 **SEC. 4102. FEDERAL AIR MARSHAL TRAINING.**

23 Section 44917 of title 49, United States Code, is
24 amended by adding at the end the following:

1 “(d) TRAINING FOR FOREIGN LAW ENFORCEMENT
2 PERSONNEL.—

3 “(1) IN GENERAL.—The Assistant Secretary for
4 Immigration and Customs Enforcement of the De-
5 partment of Homeland Security, after consultation
6 with the Secretary of State, may direct the Federal
7 Air Marshal Service to provide appropriate air mar-
8 shal training to law enforcement personnel of foreign
9 countries.

10 “(2) WATCHLIST SCREENING.—The Federal
11 Air Marshal Service may only provide appropriate
12 air marshal training to law enforcement personnel of
13 foreign countries after comparing the identifying in-
14 formation and records of law enforcement personnel
15 of foreign countries against appropriate records in
16 the consolidated and integrated terrorist watchlists
17 of the Federal Government.

18 “(3) FEES.—The Assistant Secretary shall es-
19 tablish reasonable fees and charges to pay expenses
20 incurred in carrying out this subsection. Funds col-
21 lected under this subsection shall be credited to the
22 account in the Treasury from which the expenses
23 were incurred and shall be available to the Assistant
24 Secretary for purposes for which amounts in such
25 account are available.”.

1 **SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS**
2 **(MANPADS).**

3 (a) UNITED STATES POLICY ON NONPROLIFERATION
4 AND EXPORT CONTROL.—

5 (1) TO LIMIT AVAILABILITY AND TRANSFER OF
6 MANPADS.—The President shall pursue, on an ur-
7 gent basis, further strong international diplomatic
8 and cooperative efforts, including bilateral and mul-
9 tilateral treaties, in the appropriate forum to limit
10 the availability, transfer, and proliferation of
11 MANPADSs worldwide.

12 (2) TO LIMIT THE PROLIFERATION OF
13 MANPADS.—The President is encouraged to seek to
14 enter into agreements with the governments of for-
15 eign countries that, at a minimum, would—

16 (A) prohibit the entry into force of a
17 MANPADS manufacturing license agreement
18 and MANPADS co-production agreement, other
19 than the entry into force of a manufacturing li-
20 cense or co-production agreement with a coun-
21 try that is party to such an agreement;

22 (B) prohibit, except pursuant to transfers
23 between governments, the export of a
24 MANPADS, including any component, part, ac-
25 cessory, or attachment thereof, without an indi-
26 vidual validated license; and

1 (C) prohibit the reexport or retransfer of a
2 MANPADS, including any component, part, ac-
3 cessory, or attachment thereof, to a third per-
4 son, organization, or government unless the
5 written consent of the government that ap-
6 proved the original export or transfer is first
7 obtained.

8 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—

9 The President should continue to pursue further
10 strong international diplomatic and cooperative ef-
11 forts, including bilateral and multilateral treaties, in
12 the appropriate forum to assure the destruction of
13 excess, obsolete, and illicit stocks of MANPADSs
14 worldwide.

15 (4) REPORTING AND BRIEFING REQUIRE-
16 MENT.—

17 (A) PRESIDENT'S REPORT.—Not later
18 than 180 days after the date of enactment of
19 this Act, the President shall transmit to the ap-
20 propriate congressional committees a report
21 that contains a detailed description of the sta-
22 tus of diplomatic efforts under paragraphs (1),
23 (2), and (3) and of efforts by the appropriate
24 United States agencies to comply with the rec-
25 ommendations of the General Accounting Office

1 set forth in its report GAO-04-519, entitled
2 “Nonproliferation: Further Improvements
3 Needed in U.S. Efforts to Counter Threats
4 from Man-Portable Air Defense Systems”.

5 (B) ANNUAL BRIEFINGS.—Annually after
6 the date of submission of the report under sub-
7 paragraph (A) and until completion of the dip-
8 lomatic and compliance efforts referred to in
9 subparagraph (A), the Secretary of State shall
10 brief the appropriate congressional committees
11 on the status of such efforts.

12 (b) FAA AIRWORTHINESS CERTIFICATION OF MIS-
13 SILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

14 (1) IN GENERAL.—As soon as practicable, but
15 not later than the date of completion of Phase II of
16 the Department of Homeland Security’s counter-
17 man-portable air defense system (MANPADS) devel-
18 opment and demonstration program, the Adminis-
19 trator of the Federal Aviation Administration shall
20 establish a process for conducting airworthiness and
21 safety certification of missile defense systems for
22 commercial aircraft certified as effective and func-
23 tional by the Department of Homeland Security.
24 The process shall require a certification by the Ad-
25 ministrator that such systems can be safely inte-

1 grated into aircraft systems and ensure airworthi-
2 ness and aircraft system integrity.

3 (2) CERTIFICATION ACCEPTANCE.—Under the
4 process, the Administrator shall accept the certifi-
5 cation of the Department of Homeland Security that
6 a missile defense system is effective and functional
7 to defend commercial aircraft against MANPADSs.

8 (3) EXPEDITIOUS CERTIFICATION.—Under the
9 process, the Administrator shall expedite the air-
10 worthiness and safety certification of missile defense
11 systems for commercial aircraft certified by the De-
12 partment of Homeland Security.

13 (4) REPORTS.—Not later than 90 days after
14 the first airworthiness and safety certification for a
15 missile defense system for commercial aircraft is
16 issued by the Administrator, and annually thereafter
17 until December 31, 2008, the Federal Aviation Ad-
18 ministration shall transmit to the Committee on
19 Transportation and Infrastructure of the House of
20 Representatives and the Committee on Commerce,
21 Science, and Transportation of the Senate a report
22 that contains a detailed description of each air-
23 worthiness and safety certification issued for a mis-
24 sile defense system for commercial aircraft.

25 (c) PROGRAMS TO REDUCE MANPADS.—

1 (1) IN GENERAL.—The President is encouraged
2 to pursue strong programs to reduce the number of
3 MANPADSs worldwide so that fewer MANPADSs
4 will be available for trade, proliferation, and sale.

5 (2) REPORTING AND BRIEFING REQUIRE-
6 MENTS.—Not later than 180 days after the date of
7 enactment of this Act, the President shall transmit
8 to the appropriate congressional committees a report
9 that contains a detailed description of the status of
10 the programs being pursued under subsection (a).
11 Annually thereafter until the programs are no longer
12 needed, the Secretary of State shall brief the appro-
13 priate congressional committees on the status of pro-
14 grams.

15 (3) FUNDING.—There are authorized to be ap-
16 propriated such sums as may be necessary to carry
17 out this section.

18 (d) MANPADS VULNERABILITY ASSESSMENTS RE-
19 PORT.—

20 (1) IN GENERAL.—Not later than one year
21 after the date of enactment of this Act, the Sec-
22 retary of Homeland Security shall transmit to the
23 Committee on Transportation and Infrastructure of
24 the House of Representatives and the Committee on
25 Commerce, Science, and Transportation of the Sen-

1 ate a report describing the Department of Homeland
2 Security’s plans to secure airports and the aircraft
3 arriving and departing from airports against
4 MANPADSs attacks.

5 (2) MATTERS TO BE ADDRESSED.—The Sec-
6 retary’s report shall address, at a minimum, the fol-
7 lowing:

8 (A) The status of the Department’s efforts
9 to conduct MANPADSs vulnerability assess-
10 ments at United States airports at which the
11 Department is conducting assessments.

12 (B) How intelligence is shared between the
13 United States intelligence agencies and Federal,
14 State, and local law enforcement to address the
15 MANPADS threat and potential ways to im-
16 prove such intelligence sharing.

17 (C) Contingency plans that the Depart-
18 ment has developed in the event that it receives
19 intelligence indicating a high threat of a
20 MANPADS attack on aircraft at or near
21 United States airports.

22 (D) The feasibility and effectiveness of im-
23 plementing public education and neighborhood
24 watch programs in areas surrounding United
25 States airports in cases in which intelligence re-

1 ports indicate there is a high risk of
2 MANPADS attacks on aircraft.

3 (E) Any other issues that the Secretary
4 deems relevant.

5 (3) FORMAT.—The report required by this sub-
6 section may be submitted in a classified format.

7 (e) DEFINITIONS.—In this section, the following defi-
8 nitions apply:

9 (1) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.—The term “appropriate congressional com-
11 mittees” means—

12 (A) the Committee on Armed Services, the
13 Committee on International Relations, and the
14 Committee on Transportation and Infrastruc-
15 ture of the House of Representatives; and

16 (B) the Committee on Armed Services, the
17 Committee on Foreign Relations, and the Com-
18 mittee on Commerce, Science, and Transpor-
19 tation of the Senate.

20 (2) MANPADS.—The term “MANPADS”
21 means—

22 (A) a surface-to-air missile system de-
23 signed to be man-portable and carried and fired
24 by a single individual; and

1 (B) any other surface-to-air missile system
2 designed to be operated and fired by more than
3 one individual acting as a crew and portable by
4 several individuals.

5 **Subtitle H—Improving Inter-**
6 **national Standards and Co-**
7 **operation to Fight Terrorist Fi-**
8 **nancing**

9 **SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS**
10 **IN MULTILATERAL ORGANIZATIONS.**

11 (a) FINDINGS.—The Congress finds as follows:

12 (1) The global war on terrorism and cutting off
13 terrorist financing is a policy priority for the United
14 States and its partners, working bilaterally and mul-
15 tilaterally through the United Nations (UN), the
16 UN Security Council and its Committees, such as
17 the 1267 and 1373 Committees, the Financial Ac-
18 tion Task Force (FATF) and various international
19 financial institutions, such as the International Mon-
20 etary Fund (IMF), the International Bank for Re-
21 construction and Development (IBRD), and the re-
22 gional multilateral development banks, and other
23 multilateral fora.

24 (2) The Secretary of the Treasury has engaged
25 the international financial community in the global

1 fight against terrorist financing. Specifically, the De-
2 partment of the Treasury helped redirect the focus
3 of the Financial Action Task Force on the new
4 threat posed by terrorist financing to the inter-
5 national financial system, resulting in the establish-
6 ment of the FATF's Eight Special Recommenda-
7 tions on Terrorist Financing as the international
8 standard on combating terrorist financing. The Sec-
9 retary of the Treasury has engaged the Group of
10 Seven and the Group of Twenty Finance Ministers
11 to develop action plans to curb the financing of ter-
12 ror. In addition, other economic and regional fora,
13 such as the Asia-Pacific Economic Cooperation
14 (APEC) Forum, the Western Hemisphere Financial
15 Ministers, have been used to marshal political will
16 and actions in support of countering the financing of
17 terrorism (CFT) standards.

18 (3) FATF's Forty Recommendations on Money
19 Laundering and the Eight Special Recommendations
20 on Terrorist Financing are the recognized global
21 standards for fighting money laundering and ter-
22 rorist financing. The FATF has engaged in an as-
23 sessment process for jurisdictions based on their
24 compliance with these standards.

1 (4) In March 2004, the IMF and IBRD Boards
2 agreed to make permanent a pilot program of col-
3 laboration with the FATF to assess global compli-
4 ance with the FATF Forty Recommendations on
5 Money Laundering and the Eight Special Rec-
6 ommendations on Terrorist Financing. As a result,
7 anti-money laundering (AML) and combating the fi-
8 nancing of terrorism (CFT) assessments are now a
9 regular part of their Financial Sector Assessment
10 Program (FSAP) and Offshore Financial Center as-
11 sessments, which provide for a comprehensive anal-
12 ysis of the strength of a jurisdiction’s financial sys-
13 tem. These reviews assess potential systemic
14 vulnerabilities, consider sectoral development needs
15 and priorities, and review the state of implementa-
16 tion of and compliance with key financial codes and
17 regulatory standards, among them the AML and
18 CFT standards.

19 (5) To date, 70 FSAPs have been conducted,
20 with over 24 of those incorporating AML and CFT
21 assessments. The international financial institutions
22 (IFIs), the FATF, and the FATF-style regional
23 bodies together are expected to assess AML and
24 CFT regimes in up to 40 countries or jurisdictions
25 per year. This will help countries and jurisdictions

1 identify deficiencies in their AML and CFT regimes
2 and help focus technical assistance (TA) efforts.

3 (6) TA programs from the United States and
4 other nations, coordinated with the Department of
5 State and other departments and agencies, are play-
6 ing an important role in helping countries and juris-
7 dictions address shortcomings in their AML and
8 CFT regimes and bringing their regimes into con-
9 formity with international standards. Training is co-
10 ordinated within the United States Government,
11 which leverages multilateral organizations and bodies
12 and international financial institutions to inter-
13 nationalize the conveyance of technical assistance.

14 (7) In fulfilling its duties in advancing incorpora-
15 tion of AML and CFT standards into the IFIs as
16 part of the IFIs' work on protecting the integrity of
17 the international monetary system, the Department
18 of the Treasury, under the guidance of the Secretary
19 of the Treasury, has effectively brought together all
20 of the key United States Government agencies. In
21 particular, United States Government agencies con-
22 tinue to work together to foster broad support for
23 this important undertaking in various multilateral
24 fora, and United States Government agencies recog-

1 nize the need for close coordination and communica-
2 tion within our own government.

3 (b) SENSE OF THE CONGRESS.—It is the sense of
4 the Congress that the Secretary of the Treasury should
5 continue to promote the dissemination of international
6 AML and CFT standards, and to press for full implemen-
7 tation of the FATF 40 + 8 Recommendations by all coun-
8 tries in order to curb financial risks and hinder terrorist
9 financing around the globe.

10 **SEC. 4112. EXPANDED REPORTING AND TESTIMONY RE-**
11 **QUIREMENTS FOR THE SECRETARY OF THE**
12 **TREASURY.**

13 (a) REPORTING REQUIREMENTS.—Section 1503(a)
14 of the International Financial Institutions Act (22 U.S.C.
15 2620-2(a)) is amended by adding at the end the following
16 new paragraph:

17 “(15) Work with the International Monetary
18 Fund to—

19 “(A) foster strong global anti-money laun-
20 dering (AML) and combat the financing of ter-
21 rorism (CFT) regimes;

22 “(B) ensure that country performance
23 under the Financial Action Task Force anti-
24 money laundering and counter-terrorist financ-

1 ing standards is effectively and comprehensively
2 monitored;

3 “(C) ensure note is taken of AML and
4 CFT issues in Article IV reports, International
5 Monetary Fund programs, and other regular re-
6 views of country progress;

7 “(D) ensure that effective AML and CFT
8 regimes are considered to be indispensable ele-
9 ments of sound financial systems; and

10 “(E) emphasize the importance of sound
11 AML and CFT regimes to global growth and
12 development.”.

13 (b) TESTIMONY.—Section 1705(b) of such Act (22
14 U.S.C. 262r-4(b)) is amended—

15 (1) by striking “and” at the end of paragraph
16 (2);

17 (2) by striking the period at the end of para-
18 graph (3) and inserting “; and” and

19 (3) by adding at the end the following:

20 “(4) the status of implementation of inter-
21 national anti-money laundering and counter-terrorist
22 financing standards by the International Monetary
23 Fund, the multilateral development banks, and other
24 multilateral financial policymaking bodies.”.

1 **SEC. 4113. COORDINATION OF UNITED STATES GOVERN-**
2 **MENT EFFORTS.**

3 The Secretary of the Treasury, or the designee of the
4 Secretary as the lead United States Government official
5 to the Financial Action Task Force (FATF), shall con-
6 tinue to convene the interagency United States Govern-
7 ment FATF working group. This group, which includes
8 representatives from all relevant federal agencies, shall
9 meet at least once a year to advise the Secretary on poli-
10 cies to be pursued by the United States regarding the de-
11 velopment of common international AML and CFT stand-
12 ards, to assess the adequacy and implementation of such
13 standards, and to recommend to the Secretary improved
14 or new standards as necessary.

15 **SEC. 4114. DEFINITIONS.**

16 In this subtitle:

17 (1) **INTERNATIONAL FINANCIAL INSTITU-**
18 **TIONS.**—The term “international financial institu-
19 tions” has the meaning given in section 1701(e)(2)
20 of the International Financial Institutions Act.

21 (2) **FINANCIAL ACTION TASK FORCE.**—The
22 term “Financial Action Task Force” means the
23 international policy-making and standard-setting
24 body dedicated to combating money laundering and
25 terrorist financing that was created by the Group of
26 Seven in 1989.

1 **TITLE V—GOVERNMENT**
2 **RESTRUCTURING**
3 **Subtitle A—Faster and Smarter**
4 **Funding for First Responders**

5 **SEC. 5001. SHORT TITLE.**

6 This subtitle may be cited as the “Faster and Smart-
7 er Funding for First Responders Act of 2004”.

8 **SEC. 5002. FINDINGS.**

9 The Congress finds the following:

10 (1) In order to achieve its objective of mini-
11 mizing the damage, and assisting in the recovery,
12 from terrorist attacks, the Department of Homeland
13 Security must play a leading role in assisting com-
14 munities to reach the level of preparedness they need
15 to respond to a terrorist attack.

16 (2) First responder funding is not reaching the
17 men and women of our Nation’s first response teams
18 quickly enough, and sometimes not at all.

19 (3) To reform the current bureaucratic process
20 so that homeland security dollars reach the first re-
21 sponders who need it most, it is necessary to clarify
22 and consolidate the authority and procedures of the
23 Department of Homeland Security that support first
24 responders.

1 (4) Ensuring adequate resources for the new
2 national mission of homeland security, without de-
3 grading the ability to address effectively other types
4 of major disasters and emergencies, requires a dis-
5 crete and separate grant making process for home-
6 land security funds for first response to terrorist
7 acts, on the one hand, and for first responder pro-
8 grams designed to meet pre-September 11 priorities,
9 on the other.

10 (5) While a discrete homeland security grant
11 making process is necessary to ensure proper focus
12 on the unique aspects of terrorism prevention, pre-
13 paredness, and response, it is essential that State
14 and local strategies for utilizing such grants be inte-
15 grated, to the greatest extent practicable, with exist-
16 ing State and local emergency management plans.

17 (6) Homeland security grants to first respond-
18 ers must be based on the best intelligence con-
19 cerning the capabilities and intentions of our ter-
20 rorist enemies, and that intelligence must be used to
21 target resources to the Nation's greatest threats,
22 vulnerabilities, and consequences.

23 (7) The Nation's first response capabilities will
24 be improved by sharing resources, training, plan-
25 ning, personnel, and equipment among neighboring

1 jurisdictions through mutual aid agreements and re-
2 gional cooperation. Such regional cooperation should
3 be supported, where appropriate, through direct
4 grants from the Department of Homeland Security.

5 (8) An essential prerequisite to achieving the
6 Nation's homeland security objectives for first re-
7 sponders is the establishment of well-defined na-
8 tional goals for terrorism preparedness. These goals
9 should delineate the essential capabilities that every
10 jurisdiction in the United States should possess or
11 to which it should have access.

12 (9) A national determination of essential capa-
13 bilities is needed to identify levels of State and local
14 government terrorism preparedness, to determine
15 the nature and extent of State and local first re-
16 sponder needs, to identify the human and financial
17 resources required to fulfill them, and to direct fund-
18 ing to meet those needs and to measure prepared-
19 ness levels on a national scale.

20 (10) To facilitate progress in achieving, main-
21 taining, and enhancing essential capabilities for
22 State and local first responders, the Department of
23 Homeland Security should seek to allocate homeland
24 security funding for first responders to meet nation-
25 wide needs.

1 (11) Private sector resources and citizen volun-
2 teers can perform critical functions in assisting in
3 preventing and responding to terrorist attacks, and
4 should be integrated into State and local planning
5 efforts to ensure that their capabilities and roles are
6 understood, so as to provide enhanced State and
7 local operational capability and surge capacity.

8 (12) Public-private partnerships, such as the
9 partnerships between the Business Executives for
10 National Security and the States of New Jersey and
11 Georgia, can be useful to identify and coordinate pri-
12 vate sector support for State and local first respond-
13 ers. Such models should be expanded to cover all
14 States and territories.

15 (13) An important aspect of essential capabili-
16 ties is measurability, so that it is possible to deter-
17 mine how prepared a State or local government is
18 now, and what additional steps it needs to take, in
19 order to respond to acts of terrorism.

20 (14) The Department of Homeland Security
21 should establish, publish, and regularly update na-
22 tional voluntary consensus standards for both equip-
23 ment and training, in cooperation with both public
24 and private sector standard setting organizations, to
25 assist State and local governments in obtaining the

1 equipment and training to attain the essential capa-
2 bilities for first response to acts of terrorism, and to
3 ensure that first responder funds are spent wisely.

4 **SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST RE-**
5 **SPONDERS.**

6 (a) IN GENERAL.—The Homeland Security Act of
7 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is
8 amended—

9 (1) in section 1(b) in the table of contents by
10 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 train-
ing.”; and

11 (2) by adding at the end the following:

12 **“TITLE XVIII—FUNDING FOR**
13 **FIRST RESPONDERS**

14 **“SEC. 1801. DEFINITIONS.**

15 “In this title:

16 “(1) BOARD.—The term ‘Board’ means the
17 First Responder Grants Board established under
18 section 1805(f).

1 “(2) COVERED GRANT.—The term ‘covered
2 grant’ means any grant to which this title applies
3 under section 1802.

4 “(3) DIRECTLY ELIGIBLE TRIBE.—The term
5 ‘directly eligible tribe’ means any Indian tribe or
6 consortium of Indian tribes that—

7 “(A) meets the criteria for inclusion in the
8 qualified applicant pool for Self-Governance
9 that are set forth in section 402(c) of the In-
10 dian Self-Determination and Education Assist-
11 ance Act (25 U.S.C. 458bb(c));

12 “(B) employs at least 10 full-time per-
13 sonnel in a law enforcement or emergency re-
14 sponse agency with the capacity to respond to
15 calls for law enforcement or emergency services;
16 and

17 “(C)(i) is located on, or within 5 miles of,
18 an international border or waterway;

19 “(ii) is located within 5 miles of a facility
20 within a critical infrastructure sector identified
21 in section 1803(c)(2);

22 “(iii) is located within or contiguous to one
23 of the 50 largest metropolitan statistical areas
24 in the United States; or

1 “(iv) has more than 1,000 square miles of
2 Indian country, as that term is defined in sec-
3 tion 1151 of title 18, United States Code.

4 “(4) ELEVATIONS IN THE THREAT ALERT
5 LEVEL.—The term ‘elevations in the threat alert
6 level’ means any designation (including those that
7 are less than national in scope) that raises the
8 homeland security threat level to either the highest
9 or second highest threat level under the Homeland
10 Security Advisory System referred to in section
11 201(d)(7).

12 “(5) EMERGENCY PREPAREDNESS.—The term
13 ‘emergency preparedness’ shall have the same mean-
14 ing that term has under section 602 of the Robert
15 T. Stafford Disaster Relief and Emergency Assist-
16 ance Act (42 U.S.C. 5195a).

17 “(6) ESSENTIAL CAPABILITIES.—The term ‘es-
18 sential capabilities’ means the levels, availability,
19 and competence of emergency personnel, planning,
20 training, and equipment across a variety of dis-
21 ciplines needed to effectively and efficiently prevent,
22 prepare for, and respond to acts of terrorism con-
23 sistent with established practices.

1 “(7) FIRST RESPONDER.—The term ‘first re-
2 sponder’ shall have the same meaning as the term
3 ‘emergency response provider’.

4 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
5 means any Indian tribe, band, nation, or other orga-
6 nized group or community, including any Alaskan
7 Native village or regional or village corporation as
8 defined in or established pursuant to the Alaskan
9 Native Claims Settlement Act (43 U.S.C. 1601 et
10 seq.), which is recognized as eligible for the special
11 programs and services provided by the United States
12 to Indians because of their status as Indians.

13 “(9) REGION.—The term ‘region’ means—

14 “(A) any geographic area consisting of all
15 or parts of 2 or more contiguous States, coun-
16 ties, municipalities, or other local governments
17 that have a combined population of at least
18 1,650,000 or have an area of not less than
19 20,000 square miles, and that, for purposes of
20 an application for a covered grant, is rep-
21 resented by 1 or more governments or govern-
22 mental agencies within such geographic area,
23 and that is established by law or by agreement
24 of 2 or more such governments or governmental
25 agencies in a mutual aid agreement; or

1 “(B) any other combination of contiguous
2 local government units (including such a com-
3 bination established by law or agreement of two
4 or more governments or governmental agencies
5 in a mutual aid agreement) that is formally cer-
6 tified by the Secretary as a region for purposes
7 of this Act with the consent of—

8 “(i) the State or States in which they
9 are located, including a multi-State entity
10 established by a compact between two or
11 more States; and

12 “(ii) the incorporated municipalities,
13 counties, and parishes that they encom-
14 pass.

15 “(10) TASK FORCE.—The term ‘Task Force’
16 means the Task Force on Essential Capabilities for
17 First Responders established under section 1804.

18 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
19 **SPONDERS.**

20 “(a) COVERED GRANTS.—This title applies to grants
21 provided by the Department to States, regions, or directly
22 eligible tribes for the primary purpose of improving the
23 ability of first responders to prevent, prepare for, respond
24 to, or mitigate threatened or actual terrorist attacks, espe-

1 cially those involving weapons of mass destruction, admin-
2 istered under the following:

3 “(1) STATE HOMELAND SECURITY GRANT PRO-
4 GRAM.—The State Homeland Security Grant Pro-
5 gram of the Department, or any successor to such
6 grant program.

7 “(2) URBAN AREA SECURITY INITIATIVE.—The
8 Urban Area Security Initiative of the Department,
9 or any successor to such grant program.

10 “(3) LAW ENFORCEMENT TERRORISM PREVEN-
11 TION PROGRAM.—The Law Enforcement Terrorism
12 Prevention Program of the Department, or any suc-
13 cessor to such grant program.

14 “(4) CITIZEN CORPS PROGRAM.—The Citizen
15 Corps Program of the Department, or any successor
16 to such grant program.

17 “(b) EXCLUDED PROGRAMS.—This title does not
18 apply to or otherwise affect the following Federal grant
19 programs or any grant under such a program:

20 “(1) NONDEPARTMENT PROGRAMS.—Any Fed-
21 eral grant program that is not administered by the
22 Department.

23 “(2) FIRE GRANT PROGRAMS.—The fire grant
24 programs authorized by sections 33 and 34 of the

1 Federal Fire Prevention and Control Act of 1974
2 (15 U.S.C. 2229, 2229a).

3 “(3) EMERGENCY MANAGEMENT PLANNING
4 AND ASSISTANCE ACCOUNT GRANTS.—The Emer-
5 gency Management Performance Grant program and
6 the Urban Search and Rescue Grants program au-
7 thorized by title VI of the Robert T. Stafford Dis-
8 aster Relief and Emergency Assistance Act (42
9 U.S.C. 5195 et seq.); the Departments of Veterans
10 Affairs and Housing and Urban Development, and
11 Independent Agencies Appropriations Act, 2000
12 (113 Stat. 1047 et seq.); and the Earthquake Haz-
13 ards Reduction Act of 1977 (42 U.S.C. 7701 et
14 seq.).

15 **“SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPOND-**
16 **ERS.**

17 “(a) ESTABLISHMENT OF ESSENTIAL CAPABILI-
18 TIES.—

19 “(1) IN GENERAL.—For purposes of covered
20 grants, the Secretary shall establish clearly defined
21 essential capabilities for State and local government
22 preparedness for terrorism, in consultation with—

23 “(A) the Task Force on Essential Capabili-
24 ties for First Responders established under sec-
25 tion 1804;

1 “(B) the Under Secretaries for Emergency
2 Preparedness and Response, Border and Trans-
3 portation Security, Information Analysis and
4 Infrastructure Protection, and Science and
5 Technology, and the Director of the Office for
6 Domestic Preparedness;

7 “(C) the Secretary of Health and Human
8 Services;

9 “(D) other appropriate Federal agencies;

10 “(E) State and local first responder agen-
11 cies and officials; and

12 “(F) consensus-based standard making or-
13 ganizations responsible for setting standards
14 relevant to the first responder community.

15 “(2) DEADLINES.—The Secretary shall—

16 “(A) establish essential capabilities under
17 paragraph (1) within 30 days after receipt of
18 the report under section 1804(b); and

19 “(B) regularly update such essential capa-
20 bilities as necessary, but not less than every 3
21 years.

22 “(3) PROVISION OF ESSENTIAL CAPABILI-
23 TIES.—The Secretary shall ensure that a detailed
24 description of the essential capabilities established
25 under paragraph (1) is provided promptly to the

1 States and to the Congress. The States shall make
2 the essential capabilities available as necessary and
3 appropriate to local governments within their juris-
4 dictions.

5 “(b) OBJECTIVES.—The Secretary shall ensure that
6 essential capabilities established under subsection (a)(1)
7 meet the following objectives:

8 “(1) SPECIFICITY.—The determination of es-
9 sential capabilities specifically shall describe the
10 training, planning, personnel, and equipment that
11 different types of communities in the Nation should
12 possess, or to which they should have access, in
13 order to meet the Department’s goals for terrorism
14 preparedness based upon—

15 “(A) the most current risk assessment
16 available by the Directorate for Information
17 Analysis and Infrastructure Protection of the
18 threats of terrorism against the United States;

19 “(B) the types of threats, vulnerabilities,
20 geography, size, and other factors that the Sec-
21 retary has determined to be applicable to each
22 different type of community; and

23 “(C) the principles of regional coordination
24 and mutual aid among State and local govern-
25 ments.

1 “(2) FLEXIBILITY.—The establishment of es-
2 sential capabilities shall be sufficiently flexible to
3 allow State and local government officials to set pri-
4 orities based on particular needs, while reaching na-
5 tionally determined terrorism preparedness levels
6 within a specified time period.

7 “(3) MEASURABILITY.—The establishment of
8 essential capabilities shall be designed to enable
9 measurement of progress towards specific terrorism
10 preparedness goals.

11 “(4) COMPREHENSIVENESS.—The determina-
12 tion of essential capabilities for terrorism prepared-
13 ness shall be made within the context of a com-
14 prehensive State emergency management system.

15 “(c) FACTORS TO BE CONSIDERED.—

16 “(1) IN GENERAL.—In establishing essential ca-
17 pabilities under subsection (a)(1), the Secretary spe-
18 cifically shall consider the variables of threat, vulner-
19 ability, and consequences with respect to the Na-
20 tion’s population (including transient commuting
21 and tourist populations) and critical infrastructure.
22 Such consideration shall be based upon the most
23 current risk assessment available by the Directorate
24 for Information Analysis and Infrastructure Protec-

1 tion of the threats of terrorism against the United
2 States.

3 “(2) CRITICAL INFRASTRUCTURE SECTORS.—
4 The Secretary specifically shall consider threats of
5 terrorism against the following critical infrastructure
6 sectors in all areas of the Nation, urban and rural:

7 “(A) Agriculture.

8 “(B) Banking and finance.

9 “(C) Chemical industries.

10 “(D) The defense industrial base.

11 “(E) Emergency services.

12 “(F) Energy.

13 “(G) Food.

14 “(H) Government.

15 “(I) Postal and shipping.

16 “(J) Public health.

17 “(K) Information and telecommunications
18 networks.

19 “(L) Transportation.

20 “(M) Water.

21 The order in which the critical infrastructure sectors
22 are listed in this paragraph shall not be construed
23 as an order of priority for consideration of the im-
24 portance of such sectors.

1 “(3) TYPES OF THREAT.—The Secretary spe-
2 cifically shall consider the following types of threat
3 to the critical infrastructure sectors described in
4 paragraph (2), and to populations in all areas of the
5 Nation, urban and rural:

6 “(A) Biological threats.

7 “(B) Nuclear threats.

8 “(C) Radiological threats.

9 “(D) Incendiary threats.

10 “(E) Chemical threats.

11 “(F) Explosives.

12 “(G) Suicide bombers.

13 “(H) Cyber threats.

14 “(I) Any other threats based on proximity
15 to specific past acts of terrorism or the known
16 activity of any terrorist group.

17 The order in which the types of threat are listed in
18 this paragraph shall not be construed as an order of
19 priority for consideration of the importance of such
20 threats.

21 “(4) CONSIDERATION OF ADDITIONAL FAC-
22 TORS.—In establishing essential capabilities under
23 subsection (a)(1), the Secretary shall take into ac-
24 count any other specific threat to a population (in-
25 cluding a transient commuting or tourist population)

1 or critical infrastructure sector that the Secretary
2 has determined to exist.

3 **“SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES FOR**
4 **FIRST RESPONDERS.**

5 “(a) ESTABLISHMENT.—To assist the Secretary in
6 establishing essential capabilities under section
7 1803(a)(1), the Secretary shall establish an advisory body
8 pursuant to section 871(a) not later than 60 days after
9 the date of the enactment of this section, which shall be
10 known as the Task Force on Essential Capabilities for
11 First Responders.

12 “(b) REPORT.—

13 “(1) IN GENERAL.—The Task Force shall sub-
14 mit to the Secretary, not later than 9 months after
15 its establishment by the Secretary under subsection
16 (a) and every 3 years thereafter, a report on its rec-
17 ommendations for essential capabilities for prepared-
18 ness for terrorism.

19 “(2) CONTENTS.—The report shall—

20 “(A) include a priority ranking of essential
21 capabilities in order to provide guidance to the
22 Secretary and to the Congress on determining
23 the appropriate allocation of, and funding levels
24 for, first responder needs;

1 “(B) set forth a methodology by which any
2 State or local government will be able to deter-
3 mine the extent to which it possesses or has ac-
4 cess to the essential capabilities that States and
5 local governments having similar risks should
6 obtain;

7 “(C) describe the availability of national
8 voluntary consensus standards, and whether
9 there is a need for new national voluntary con-
10 sensus standards, with respect to first re-
11 sponder training and equipment;

12 “(D) include such additional matters as
13 the Secretary may specify in order to further
14 the terrorism preparedness capabilities of first
15 responders; and

16 “(E) include such revisions to the contents
17 of past reports as are necessary to take into ac-
18 count changes in the most current risk assess-
19 ment available by the Directorate for Informa-
20 tion Analysis and Infrastructure Protection or
21 other relevant information as determined by the
22 Secretary.

23 “(3) CONSISTENCY WITH FEDERAL WORKING
24 GROUP.—The Task Force shall ensure that its rec-
25 ommendations for essential capabilities are, to the

1 extent feasible, consistent with any preparedness
2 goals or recommendations of the Federal working
3 group established under section 319F(a) of the Pub-
4 lic Health Service Act (42 U.S.C. 247d–6(a)).

5 “(4) COMPREHENSIVENESS.—The Task Force
6 shall ensure that its recommendations regarding es-
7 sential capabilities for terrorism preparedness are
8 made within the context of a comprehensive State
9 emergency management system.

10 “(5) PRIOR MEASURES.—The Task Force shall
11 ensure that its recommendations regarding essential
12 capabilities for terrorism preparedness take into ac-
13 count any capabilities that State or local officials
14 have determined to be essential and have undertaken
15 since September 11, 2001, to prevent or prepare for
16 terrorist attacks.

17 “(c) MEMBERSHIP.—

18 “(1) IN GENERAL.—The Task Force shall con-
19 sist of 25 members appointed by the Secretary, and
20 shall, to the extent practicable, represent a geo-
21 graphic and substantive cross section of govern-
22 mental and nongovernmental first responder dis-
23 ciplines from the State and local levels, including as
24 appropriate—

1 “(A) members selected from the emergency
2 response field, including fire service and law en-
3 forcement, hazardous materials response, emer-
4 gency medical services, and emergency manage-
5 ment personnel (including public works per-
6 sonnel routinely engaged in emergency re-
7 sponse);

8 “(B) health scientists, emergency and in-
9 patient medical providers, and public health
10 professionals, including experts in emergency
11 health care response to chemical, biological, ra-
12 diological, and nuclear terrorism, and experts in
13 providing mental health care during emergency
14 response operations;

15 “(C) experts from Federal, State, and local
16 governments, and the private sector, rep-
17 resenting standards-setting organizations, in-
18 cluding representation from the voluntary con-
19 sensus codes and standards development com-
20 munity, particularly those with expertise in first
21 responder disciplines; and

22 “(D) State and local officials with exper-
23 tise in terrorism preparedness, subject to the
24 condition that if any such official is an elected
25 official representing one of the two major polit-

1 ical parties, an equal number of elected officials
2 shall be selected from each such party.

3 “(2) COORDINATION WITH THE DEPARTMENT
4 OF HEALTH AND HEALTH SERVICES.—In the selec-
5 tion of members of the Task Force who are health
6 professionals, including emergency medical profes-
7 sionals, the Secretary shall coordinate the selection
8 with the Secretary of Health and Human Services.

9 “(3) EX OFFICIO MEMBERS.—The Secretary
10 and the Secretary of Health and Human Services
11 shall each designate one or more officers of their re-
12 spective Departments to serve as ex officio members
13 of the Task Force. One of the ex officio members
14 from the Department of Homeland Security shall be
15 the designated officer of the Federal Government for
16 purposes of subsection (e) of section 10 of the Fed-
17 eral Advisory Committee Act (5 App. U.S.C.).

18 “(d) APPLICABILITY OF FEDERAL ADVISORY COM-
19 MITTEE ACT.—Notwithstanding section 871(a), the Fed-
20 eral Advisory Committee Act (5 U.S.C. App.), including
21 subsections (a), (b), and (d) of section 10 of such Act,
22 and section 552b(c) of title 5, United States Code, shall
23 apply to the Task Force.

1 **“SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.**

2 “(a) GRANT ELIGIBILITY.—Any State, region, or di-
3 rectly eligible tribe shall be eligible to apply for a covered
4 grant.

5 “(b) GRANT CRITERIA.—In awarding covered grants,
6 the Secretary shall assist States and local governments in
7 achieving, maintaining, and enhancing the essential capa-
8 bilities for first responders established by the Secretary
9 under section 1803.

10 “(c) STATE HOMELAND SECURITY PLANS.—

11 “(1) SUBMISSION OF PLANS.—The Secretary
12 shall require that any State applying to the Sec-
13 retary for a covered grant must submit to the Sec-
14 retary a 3-year State homeland security plan that—

15 “(A) demonstrates the extent to which the
16 State has achieved the essential capabilities
17 that apply to the State;

18 “(B) demonstrates the needs of the State
19 necessary to achieve, maintain, or enhance the
20 essential capabilities that apply to the State;

21 “(C) includes a prioritization of such needs
22 based on threat, vulnerability, and consequence
23 assessment factors applicable to the State;

24 “(D) describes how the State intends—

25 “(i) to address such needs at the city,
26 county, regional, tribal, State, and inter-

1 state level, including a precise description
2 of any regional structure the State has es-
3 tablished for the purpose of organizing
4 homeland security preparedness activities
5 funded by covered grants;

6 “(ii) to use all Federal, State, and
7 local resources available for the purpose of
8 addressing such needs; and

9 “(iii) to give particular emphasis to
10 regional planning and cooperation, includ-
11 ing the activities of multijurisdictional
12 planning agencies governed by local offi-
13 cials, both within its jurisdictional borders
14 and with neighboring States;

15 “(E) is developed in consultation with and
16 subject to appropriate comment by local govern-
17 ments within the State; and

18 “(F) with respect to the emergency pre-
19 paredness of first responders, addresses the
20 unique aspects of terrorism as part of a com-
21 prehensive State emergency management plan.

22 “(2) APPROVAL BY SECRETARY.—The Sec-
23 retary may not award any covered grant to a State
24 unless the Secretary has approved the applicable
25 State homeland security plan.

1 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-
2 retary shall ensure that each covered grant is used to sup-
3 plement and support, in a consistent and coordinated
4 manner, the applicable State homeland security plan or
5 plans.

6 “(e) APPLICATION FOR GRANT.—

7 “(1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, any State, region, or di-
9 rectly eligible tribe may apply for a covered grant by
10 submitting to the Secretary an application at such
11 time, in such manner, and containing such informa-
12 tion as is required under this subsection, or as the
13 Secretary may reasonably require.

14 “(2) DEADLINES FOR APPLICATIONS AND
15 AWARDS.—All applications for covered grants must
16 be submitted at such time as the Secretary may rea-
17 sonably require for the fiscal year for which they are
18 submitted. The Secretary shall award covered grants
19 pursuant to all approved applications for such fiscal
20 year as soon as practicable, but not later than
21 March 1 of such year.

22 “(3) AVAILABILITY OF FUNDS.—All funds
23 awarded by the Secretary under covered grants in a
24 fiscal year shall be available for obligation through
25 the end of the subsequent fiscal year.

1 “(4) MINIMUM CONTENTS OF APPLICATION.—
2 The Secretary shall require that each applicant in-
3 clude in its application, at a minimum—

4 “(A) the purpose for which the applicant
5 seeks covered grant funds and the reasons why
6 the applicant needs the covered grant to meet
7 the essential capabilities for terrorism prepared-
8 ness within the State, region, or directly eligible
9 tribe to which the application pertains;

10 “(B) a description of how, by reference to
11 the applicable State homeland security plan or
12 plans under subsection (c), the allocation of
13 grant funding proposed in the application, in-
14 cluding, where applicable, the amount not
15 passed through under section 1806(g)(1), would
16 assist in fulfilling the essential capabilities spec-
17 ified in such plan or plans;

18 “(C) a statement of whether a mutual aid
19 agreement applies to the use of all or any por-
20 tion of the covered grant funds;

21 “(D) if the applicant is a State, a descrip-
22 tion of how the State plans to allocate the cov-
23 ered grant funds to regions, local governments,
24 and Indian tribes;

25 “(E) if the applicant is a region—

1 “(i) a precise geographical description
2 of the region and a specification of all par-
3 ticipating and nonparticipating local gov-
4 ernments within the geographical area
5 comprising that region;

6 “(ii) a specification of what govern-
7 mental entity within the region will admin-
8 ister the expenditure of funds under the
9 covered grant; and

10 “(iii) a designation of a specific indi-
11 vidual to serve as regional liaison;

12 “(F) a capital budget showing how the ap-
13 plicant intends to allocate and expend the cov-
14 ered grant funds;

15 “(G) if the applicant is a directly eligible
16 tribe, a designation of a specific individual to
17 serve as the tribal liaison; and

18 “(H) a statement of how the applicant in-
19 tends to meet the matching requirement, if any,
20 that applies under section 1806(g)(2).

21 “(5) REGIONAL APPLICATIONS.—

22 “(A) RELATIONSHIP TO STATE APPLICA-
23 TIONS.—A regional application—

1 “(i) shall be coordinated with an ap-
2 plication submitted by the State or States
3 of which such region is a part;

4 “(ii) shall supplement and avoid dupli-
5 cation with such State application; and

6 “(iii) shall address the unique regional
7 aspects of such region’s terrorism pre-
8 paredness needs beyond those provided for
9 in the application of such State or States.

10 “(B) STATE REVIEW AND SUBMISSION.—

11 To ensure the consistency required under sub-
12 section (d) and the coordination required under
13 subparagraph (A) of this paragraph, an appli-
14 cant that is a region must submit its applica-
15 tion to each State of which any part is included
16 in the region for review and concurrence prior
17 to the submission of such application to the
18 Secretary. The regional application shall be
19 transmitted to the Secretary through each such
20 State within 30 days of its receipt, unless the
21 Governor of such a State notifies the Secretary,
22 in writing, that such regional application is in-
23 consistent with the State’s homeland security
24 plan and provides an explanation of the reasons
25 therefor.

1 “(C) DISTRIBUTION OF REGIONAL
2 AWARDS.—If the Secretary approves a regional
3 application, then the Secretary shall distribute
4 a regional award to the State or States submit-
5 ting the applicable regional application under
6 subparagraph (B), and each such State shall,
7 not later than the end of the 45-day period be-
8 ginning on the date after receiving a regional
9 award, pass through to the region all covered
10 grant funds or resources purchased with such
11 funds, except those funds necessary for the
12 State to carry out its responsibilities with re-
13 spect to such regional application; *Provided*
14 That, in no such case shall the State or States
15 pass through to the region less than 80 percent
16 of the regional award.

17 “(D) CERTIFICATIONS REGARDING DIS-
18 TRIBUTION OF GRANT FUNDS TO REGIONS.—
19 Any State that receives a regional award under
20 subparagraph (C) shall certify to the Secretary,
21 by not later than 30 days after the expiration
22 of the period described in subparagraph (C)
23 with respect to the grant, that the State has
24 made available to the region the required funds

1 and resources in accordance with subparagraph
2 (C).

3 “(E) DIRECT PAYMENTS TO REGIONS.—If
4 any State fails to pass through a regional
5 award to a region as required by subparagraph
6 (C) within 45 days after receiving such award
7 and does not request or receive an extension of
8 such period under section 1806(h)(2), the re-
9 gion may petition the Secretary to receive di-
10 rectly the portion of the regional award that is
11 required to be passed through to such region
12 under subparagraph (C).

13 “(F) REGIONAL LIAISONS.—A regional li-
14 aison designated under paragraph (4)(E)(iii)
15 shall—

16 “(i) coordinate with Federal, State,
17 local, regional, and private officials within
18 the region concerning terrorism prepared-
19 ness;

20 “(ii) develop a process for receiving
21 input from Federal, State, local, regional,
22 and private sector officials within the re-
23 gion to assist in the development of the re-
24 gional application and to improve the re-
25 gion’s access to covered grants; and

1 “(iii) administer, in consultation with
2 State, local, regional, and private officials
3 within the region, covered grants awarded
4 to the region.

5 “(6) TRIBAL APPLICATIONS.—

6 “(A) SUBMISSION TO THE STATE OR
7 STATES.—To ensure the consistency required
8 under subsection (d), an applicant that is a di-
9 rectly eligible tribe must submit its application
10 to each State within the boundaries of which
11 any part of such tribe is located for direct sub-
12 mission to the Department along with the appli-
13 cation of such State or States.

14 “(B) OPPORTUNITY FOR STATE COM-
15 MENT.—Before awarding any covered grant to
16 a directly eligible tribe, the Secretary shall pro-
17 vide an opportunity to each State within the
18 boundaries of which any part of such tribe is lo-
19 cated to comment to the Secretary on the con-
20 sistency of the tribe’s application with the
21 State’s homeland security plan. Any such com-
22 ments shall be submitted to the Secretary con-
23 currently with the submission of the State and
24 tribal applications.

1 “(C) FINAL AUTHORITY.—The Secretary
2 shall have final authority to determine the con-
3 sistency of any application of a directly eligible
4 tribe with the applicable State homeland secu-
5 rity plan or plans, and to approve any applica-
6 tion of such tribe. The Secretary shall notify
7 each State within the boundaries of which any
8 part of such tribe is located of the approval of
9 an application by such tribe.

10 “(D) TRIBAL LIAISON.—A tribal liaison
11 designated under paragraph (4)(G) shall—

12 “(i) coordinate with Federal, State,
13 local, regional, and private officials con-
14 cerning terrorism preparedness;

15 “(ii) develop a process for receiving
16 input from Federal, State, local, regional,
17 and private sector officials to assist in the
18 development of the application of such
19 tribe and to improve the tribe’s access to
20 covered grants; and

21 “(iii) administer, in consultation with
22 State, local, regional, and private officials,
23 covered grants awarded to such tribe.

24 “(E) LIMITATION ON THE NUMBER OF DI-
25 RECT GRANTS.—The Secretary may make cov-

1 ered grants directly to not more than 20 di-
2 rectly eligible tribes per fiscal year.

3 “(F) TRIBES NOT RECEIVING DIRECT
4 GRANTS.—An Indian tribe that does not receive
5 a grant directly under this section is eligible to
6 receive funds under a covered grant from the
7 State or States within the boundaries of which
8 any part of such tribe is located, consistent with
9 the homeland security plan of the State as de-
10 scribed in subsection (c). If a State fails to
11 comply with section 1806(g)(1), the tribe may
12 request payment under section 1806(h)(3) in
13 the same manner as a local government.

14 “(7) EQUIPMENT STANDARDS.—If an applicant
15 for a covered grant proposes to upgrade or purchase,
16 with assistance provided under the grant, new equip-
17 ment or systems that do not meet or exceed any ap-
18 plicable national voluntary consensus standards es-
19 tablished by the Secretary under section 1807(a),
20 the applicant shall include in the application an ex-
21 planation of why such equipment or systems will
22 serve the needs of the applicant better than equip-
23 ment or systems that meet or exceed such standards.

24 “(f) FIRST RESPONDER GRANTS BOARD.—

1 “(1) ESTABLISHMENT OF BOARD.—The Sec-
2 retary shall establish a First Responder Grants
3 Board, consisting of—

4 “(A) the Secretary;

5 “(B) the Under Secretary for Emergency
6 Preparedness and Response;

7 “(C) the Under Secretary for Border and
8 Transportation Security;

9 “(D) the Under Secretary for Information
10 Analysis and Infrastructure Protection;

11 “(E) the Under Secretary for Science and
12 Technology; and

13 “(F) the Director of the Office for Domes-
14 tic Preparedness.

15 “(2) CHAIRMAN.—

16 “(A) IN GENERAL.—The Secretary shall be
17 the Chairman of the Board.

18 “(B) EXERCISE OF AUTHORITIES BY DEP-
19 UTY SECRETARY.—The Deputy Secretary of
20 Homeland Security may exercise the authorities
21 of the Chairman, if the Secretary so directs.

22 “(3) RANKING OF GRANT APPLICATIONS.—

23 “(A) PRIORITIZATION OF GRANTS.—The
24 Board—

1 “(i) shall evaluate and annually
2 prioritize all pending applications for cov-
3 ered grants based upon the degree to
4 which they would, by achieving, maintain-
5 ing, or enhancing the essential capabilities
6 of the applicants on a nationwide basis,
7 lessen the threat to, vulnerability of, and
8 consequences for persons and critical infra-
9 structure; and

10 “(ii) in evaluating the threat to per-
11 sons and critical infrastructure for pur-
12 poses of prioritizing covered grants, shall
13 give greater weight to threats of terrorism
14 based on their specificity and credibility,
15 including any pattern of repetition.

16 “(B) MINIMUM AMOUNTS.—After evalu-
17 ating and prioritizing grant applications under
18 subparagraph (A), the Board shall ensure that,
19 for each fiscal year—

20 “(i) each of the States, other than the
21 Virgin Islands, American Samoa, Guam,
22 and the Northern Mariana Islands, that
23 has an approved State homeland security
24 plan receives no less than 0.25 percent of
25 the funds available for covered grants for

1 that fiscal year for purposes of imple-
2 menting its homeland security plan in ac-
3 cordance with the prioritization of needs
4 under subsection (c)(1)(C);

5 “(ii) each of the States, other than
6 the Virgin Islands, American Samoa,
7 Guam, and the Northern Mariana Islands,
8 that has an approved State homeland secu-
9 rity plan and that meets one or both of the
10 additional high-risk qualifying criteria
11 under subparagraph (C) receives no less
12 than 0.45 percent of the funds available
13 for covered grants for that fiscal year for
14 purposes of implementing its homeland se-
15 curity plan in accordance with the
16 prioritization of needs under subsection
17 (c)(1)(C);

18 “(iii) the Virgin Islands, American
19 Samoa, Guam, and the Northern Mariana
20 Islands each receives no less than 0.08 per-
21 cent of the funds available for covered
22 grants for that fiscal year for purposes of
23 implementing its approved State homeland
24 security plan in accordance with the

1 prioritization of needs under subsection
2 (c)(1)(C); and

3 “(iv) directly eligible tribes collectively
4 receive no less than 0.08 percent of the
5 funds available for covered grants for such
6 fiscal year for purposes of addressing the
7 needs identified in the applications of such
8 tribes, consistent with the homeland secu-
9 rity plan of each State within the bound-
10 aries of which any part of any such tribe
11 is located, except that this clause shall not
12 apply with respect to funds available for a
13 fiscal year if the Secretary receives less
14 than 5 applications for such fiscal year
15 from such tribes under subsection
16 (e)(6)(A) or does not approve at least one
17 such application.

18 “(C) ADDITIONAL HIGH-RISK QUALIFYING
19 CRITERIA.—For purposes of subparagraph
20 (B)(ii), additional high-risk qualifying criteria
21 consist of—

22 “(i) having a significant international
23 land border; or

1 volving weapons of mass destruction, including train-
2 ing in the use of equipment and computer software;

3 “(4) developing or updating response plans;

4 “(5) establishing or enhancing mechanisms for
5 sharing terrorism threat information;

6 “(6) systems architecture and engineering, pro-
7 gram planning and management, strategy formula-
8 tion and strategic planning, life-cycle systems de-
9 sign, product and technology evaluation, and proto-
10 type development for terrorism preparedness and re-
11 sponse purposes;

12 “(7) additional personnel costs resulting from—

13 “(A) elevations in the threat alert level of
14 the Homeland Security Advisory System by the
15 Secretary, or a similar elevation in threat alert
16 level issued by a State, region, or local govern-
17 ment with the approval of the Secretary;

18 “(B) travel to and participation in exer-
19 cises and training in the use of equipment and
20 on prevention activities;

21 “(C) the temporary replacement of per-
22 sonnel during any period of travel to and par-
23 ticipation in exercises and training in the use of
24 equipment and on prevention activities; and

1 “(D) participation in information, inves-
2 tigative, and intelligence sharing activities spe-
3 cifically related to terrorism prevention;

4 “(8) the costs of equipment (including software)
5 required to receive, transmit, handle, and store clas-
6 sified information;

7 “(9) protecting critical infrastructure against
8 potential attack by the addition of barriers, fences,
9 gates, and other such devices, except that the cost
10 of such measures may not exceed the greater of—

11 “(A) \$1,000,000 per project; or

12 “(B) such greater amount as may be ap-
13 proved by the Secretary, which may not exceed
14 10 percent of the total amount of the covered
15 grant;

16 “(10) the costs of commercially available inter-
17 operable communications equipment (which, where
18 applicable, is based on national, voluntary consensus
19 standards) that the Secretary, in consultation with
20 the Chairman of the Federal Communications Com-
21 mission, deems best suited to facilitate interoper-
22 ability, coordination, and integration between and
23 among emergency communications systems, and that
24 complies with prevailing grant guidance of the De-
25 partment for interoperable communications;

1 “(11) educational curricula development for
2 first responders to ensure that they are prepared for
3 terrorist attacks;

4 “(12) training and exercises to assist public ele-
5 mentary and secondary schools in developing and
6 implementing programs to instruct students regard-
7 ing age-appropriate skills to prepare for and respond
8 to an act of terrorism;

9 “(13) paying of administrative expenses directly
10 related to administration of the grant, except that
11 such expenses may not exceed 3 percent of the
12 amount of the grant; and

13 “(14) other appropriate activities as determined
14 by the Secretary.

15 “(b) PROHIBITED USES.—Funds provided as a cov-
16 ered grant may not be used—

17 “(1) to supplant State or local funds;

18 “(2) to construct buildings or other physical fa-
19 cilities;

20 “(3) to acquire land; or

21 “(4) for any State or local government cost
22 sharing contribution.

23 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
24 section shall be construed to preclude State and local gov-
25 ernments from using covered grant funds in a manner

1 that also enhances first responder preparedness for emer-
2 gencies and disasters unrelated to acts of terrorism, if
3 such use assists such governments in achieving essential
4 capabilities for terrorism preparedness established by the
5 Secretary under section 1803.

6 “(d) REIMBURSEMENT OF COSTS.—In addition to
7 the activities described in subsection (a), a covered grant
8 may be used to provide a reasonable stipend to paid-on-
9 call or volunteer first responders who are not otherwise
10 compensated for travel to or participation in training cov-
11 ered by this section. Any such reimbursement shall not
12 be considered compensation for purposes of rendering
13 such a first responder an employee under the Fair Labor
14 Standards Act of 1938 (29 U.S.C. 201 et seq.).

15 “(e) ASSISTANCE REQUIREMENT.—The Secretary
16 may not request that equipment paid for, wholly or in
17 part, with funds provided as a covered grant be made
18 available for responding to emergencies in surrounding
19 States, regions, and localities, unless the Secretary under-
20 takes to pay the costs directly attributable to transporting
21 and operating such equipment during such response.

22 “(f) FLEXIBILITY IN UNSPENT HOMELAND SECUR-
23 ITY GRANT FUNDS.—Upon request by the recipient of
24 a covered grant, the Secretary may authorize the grantee
25 to transfer all or part of funds provided as the covered

1 grant from uses specified in the grant agreement to other
2 uses authorized under this section, if the Secretary deter-
3 mines that such transfer is in the interests of homeland
4 security.

5 “(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
6 ITIES.—

7 “(1) PASS-THROUGH.—The Secretary shall re-
8 quire a recipient of a covered grant that is a State
9 to obligate or otherwise make available to local gov-
10 ernments, first responders, and other local groups,
11 to the extent required under the State homeland se-
12 curity plan or plans specified in the application for
13 the grant, not less than 80 percent of the grant
14 funds, resources purchased with the grant funds
15 having a value equal to at least 80 percent of the
16 amount of the grant, or a combination thereof, by
17 not later than the end of the 45-day period begin-
18 ning on the date the grant recipient receives the
19 grant funds.

20 “(2) COST SHARING.—

21 “(A) IN GENERAL.—The Federal share of
22 the costs of an activity carried out with a cov-
23 ered grant to a State, region, or directly eligible
24 tribe awarded after the 2-year period beginning

1 on the date of the enactment of this section
2 shall not exceed 75 percent.

3 “(B) INTERIM RULE.—The Federal share
4 of the costs of an activity carried out with a
5 covered grant awarded before the end of the 2-
6 year period beginning on the date of the enact-
7 ment of this section shall be 100 percent.

8 “(C) IN-KIND MATCHING.—Each recipient
9 of a covered grant may meet the matching re-
10 quirement under subparagraph (A) by making
11 in-kind contributions of goods or services that
12 are directly linked with the purpose for which
13 the grant is made, including, but not limited to,
14 any necessary personnel overtime, contractor
15 services, administrative costs, equipment fuel
16 and maintenance, and rental space.

17 “(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—
18 Any State that receives a covered grant shall certify
19 to the Secretary, by not later than 30 days after the
20 expiration of the period described in paragraph (1)
21 with respect to the grant, that the State has made
22 available for expenditure by local governments, first
23 responders, and other local groups the required
24 amount of grant funds pursuant to paragraph (1).
25

1 “(4) QUARTERLY REPORT ON HOMELAND SECUR-
2 RITY SPENDING.—The Federal share described in
3 paragraph (2)(A) may be increased by up to 2 per-
4 cent for any State, region, or directly eligible tribe
5 that, not later than 30 days after the end of each
6 fiscal quarter, submits to the Secretary a report on
7 that fiscal quarter. Each such report must include,
8 for each recipient of a covered grant or a pass-
9 through under paragraph (1)—

10 “(A) the amount obligated to that recipient
11 in that quarter;

12 “(B) the amount expended by that recipi-
13 ent in that quarter; and

14 “(C) a summary description of the items
15 purchased by such recipient with such amount.

16 “(5) ANNUAL REPORT ON HOMELAND SECUR-
17 RITY SPENDING.—Each recipient of a covered grant
18 shall submit an annual report to the Secretary not
19 later than 60 days after the end of each fiscal year.
20 Each recipient of a covered grant that is a region
21 must simultaneously submit its report to each State
22 of which any part is included in the region. Each re-
23 cipient of a covered grant that is a directly eligible
24 tribe must simultaneously submit its report to each
25 State within the boundaries of which any part of

1 such tribe is located. Each report must include the
2 following:

3 “(A) The amount, ultimate recipients, and
4 dates of receipt of all funds received under the
5 grant during the previous fiscal year.

6 “(B) The amount and the dates of dis-
7 bursements of all such funds expended in com-
8 pliance with paragraph (1) or pursuant to mu-
9 tual aid agreements or other sharing arrange-
10 ments that apply within the State, region, or di-
11 rectly eligible tribe, as applicable, during the
12 previous fiscal year.

13 “(C) How the funds were utilized by each
14 ultimate recipient or beneficiary during the pre-
15 ceding fiscal year.

16 “(D) The extent to which essential capa-
17 bilities identified in the applicable State home-
18 land security plan or plans were achieved, main-
19 tained, or enhanced as the result of the expend-
20 iture of grant funds during the preceding fiscal
21 year.

22 “(E) The extent to which essential capa-
23 bilities identified in the applicable State home-
24 land security plan or plans remain unmet.

1 “(6) INCLUSION OF RESTRICTED ANNEXES.—A
2 recipient of a covered grant may submit to the Sec-
3 retary an annex to the annual report under para-
4 graph (5) that is subject to appropriate handling re-
5 strictions, if the recipient believes that discussion in
6 the report of unmet needs would reveal sensitive but
7 unclassified information.

8 “(7) PROVISION OF REPORTS.—The Secretary
9 shall ensure that each annual report under para-
10 graph (5) is provided to the Under Secretary for
11 Emergency Preparedness and Response and the Di-
12 rector of the Office for Domestic Preparedness.

13 “(h) INCENTIVES TO EFFICIENT ADMINISTRATION
14 OF HOMELAND SECURITY GRANTS.—

15 “(1) PENALTIES FOR DELAY IN PASSING
16 THROUGH LOCAL SHARE.—If a recipient of a cov-
17 ered grant that is a State fails to pass through to
18 local governments, first responders, and other local
19 groups funds or resources required by subsection
20 (g)(1) within 45 days after receiving funds under
21 the grant, the Secretary may—

22 “(A) reduce grant payments to the grant
23 recipient from the portion of grant funds that
24 is not required to be passed through under sub-
25 section (g)(1);

1 “(B) terminate payment of funds under
2 the grant to the recipient, and transfer the ap-
3 propriate portion of those funds directly to local
4 first responders that were intended to receive
5 funding under that grant; or

6 “(C) impose additional restrictions or bur-
7 dens on the recipient’s use of funds under the
8 grant, which may include—

9 “(i) prohibiting use of such funds to
10 pay the grant recipient’s grant-related
11 overtime or other expenses;

12 “(ii) requiring the grant recipient to
13 distribute to local government beneficiaries
14 all or a portion of grant funds that are not
15 required to be passed through under sub-
16 section (g)(1); or

17 “(iii) for each day that the grant re-
18 cipient fails to pass through funds or re-
19 sources in accordance with subsection
20 (g)(1), reducing grant payments to the
21 grant recipient from the portion of grant
22 funds that is not required to be passed
23 through under subsection (g)(1), except
24 that the total amount of such reduction

1 may not exceed 20 percent of the total
2 amount of the grant.

3 “(2) EXTENSION OF PERIOD.—The Governor of
4 a State may request in writing that the Secretary
5 extend the 45-day period under section
6 1805(e)(5)(E) or paragraph (1) for an additional
7 15-day period. The Secretary may approve such a
8 request, and may extend such period for additional
9 15-day periods, if the Secretary determines that the
10 resulting delay in providing grant funding to the
11 local government entities that will receive funding
12 under the grant will not have a significant detri-
13 mental impact on such entities’ terrorism prepared-
14 ness efforts.

15 “(3) PROVISION OF NON-LOCAL SHARE TO
16 LOCAL GOVERNMENT.—

17 “(A) IN GENERAL.—The Secretary may
18 upon request by a local government pay to the
19 local government a portion of the amount of a
20 covered grant awarded to a State in which the
21 local government is located, if—

22 “(i) the local government will use the
23 amount paid to expedite planned enhance-
24 ments to its terrorism preparedness as de-

1 scribed in any applicable State homeland
2 security plan or plans;

3 “(ii) the State has failed to pass
4 through funds or resources in accordance
5 with subsection (g)(1); and

6 “(iii) the local government complies
7 with subparagraphs (B) and (C).

8 “(B) SHOWING REQUIRED.—To receive a
9 payment under this paragraph, a local govern-
10 ment must demonstrate that—

11 “(i) it is identified explicitly as an ul-
12 timate recipient or intended beneficiary in
13 the approved grant application;

14 “(ii) it was intended by the grantee to
15 receive a severable portion of the overall
16 grant for a specific purpose that is identi-
17 fied in the grant application;

18 “(iii) it petitioned the grantee for the
19 funds or resources after expiration of the
20 period within which the funds or resources
21 were required to be passed through under
22 subsection (g)(1); and

23 “(iv) it did not receive the portion of
24 the overall grant that was earmarked or
25 designated for its use or benefit.

1 “(C) EFFECT OF PAYMENT.—Payment of
2 grant funds to a local government under this
3 paragraph—

4 “(i) shall not affect any payment to
5 another local government under this para-
6 graph; and

7 “(ii) shall not prejudice consideration
8 of a request for payment under this para-
9 graph that is submitted by another local
10 government.

11 “(D) DEADLINE FOR ACTION BY SEC-
12 RETARY.—The Secretary shall approve or dis-
13 approve each request for payment under this
14 paragraph by not later than 15 days after the
15 date the request is received by the Department.

16 “(i) REPORTS TO CONGRESS.—The Secretary shall
17 submit an annual report to the Congress by December 31
18 of each year—

19 “(1) describing in detail the amount of Federal
20 funds provided as covered grants that were directed
21 to each State, region, and directly eligible tribe in
22 the preceding fiscal year;

23 “(2) containing information on the use of such
24 grant funds by grantees; and

25 “(3) describing—

1 “(A) the Nation’s progress in achieving,
2 maintaining, and enhancing the essential capa-
3 bilities established under section 1803(a) as a
4 result of the expenditure of covered grant funds
5 during the preceding fiscal year; and

6 “(B) an estimate of the amount of expend-
7 itures required to attain across the United
8 States the essential capabilities established
9 under section 1803(a).

10 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER**
11 **EQUIPMENT AND TRAINING.**

12 “(a) EQUIPMENT STANDARDS.—

13 “(1) IN GENERAL.—The Secretary, in consulta-
14 tion with the Under Secretaries for Emergency Pre-
15 paredness and Response and Science and Tech-
16 nology and the Director of the Office for Domestic
17 Preparedness, shall, not later than 6 months after
18 the date of enactment of this section, support the
19 development of, promulgate, and update as nec-
20 essary national voluntary consensus standards for
21 the performance, use, and validation of first re-
22 sponder equipment for purposes of section
23 1805(e)(7). Such standards—

1 “(A) shall be, to the maximum extent prac-
2 ticable, consistent with any existing voluntary
3 consensus standards;

4 “(B) shall take into account, as appro-
5 priate, new types of terrorism threats that may
6 not have been contemplated when such existing
7 standards were developed;

8 “(C) shall be focused on maximizing inter-
9 operability, interchangeability, durability, flexi-
10 bility, efficiency, efficacy, portability, sustain-
11 ability, and safety; and

12 “(D) shall cover all appropriate uses of the
13 equipment.

14 “(2) REQUIRED CATEGORIES.—In carrying out
15 paragraph (1), the Secretary shall specifically con-
16 sider the following categories of first responder
17 equipment:

18 “(A) Thermal imaging equipment.

19 “(B) Radiation detection and analysis
20 equipment.

21 “(C) Biological detection and analysis
22 equipment.

23 “(D) Chemical detection and analysis
24 equipment.

1 “(E) Decontamination and sterilization
2 equipment.

3 “(F) Personal protective equipment, in-
4 cluding garments, boots, gloves, and hoods and
5 other protective clothing.

6 “(G) Respiratory protection equipment.

7 “(H) Interoperable communications, in-
8 cluding wireless and wireline voice, video, and
9 data networks.

10 “(I) Explosive mitigation devices and ex-
11 plosive detection and analysis equipment.

12 “(J) Containment vessels.

13 “(K) Contaminant-resistant vehicles.

14 “(L) Such other equipment for which the
15 Secretary determines that national voluntary
16 consensus standards would be appropriate.

17 “(b) TRAINING 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 support the development of, pro-
23 mulgate, and regularly update as necessary national
24 voluntary consensus standards for first responder
25 training carried out with amounts provided under

1 covered grant programs, that will enable State and
2 local government first responders to achieve optimal
3 levels of terrorism preparedness as quickly as prac-
4 ticable. Such standards shall give priority to pro-
5 viding training to—

6 “(A) enable first responders to prevent,
7 prepare for, respond to, and mitigate terrorist
8 threats, including threats from chemical, bio-
9 logical, nuclear, and radiological weapons and
10 explosive devices capable of inflicting significant
11 human casualties; and

12 “(B) familiarize first responders with the
13 proper use of equipment, including software,
14 developed pursuant to the standards established
15 under subsection (a).

16 “(2) REQUIRED CATEGORIES.—In carrying out
17 paragraph (1), the Secretary specifically shall in-
18 clude the following categories of first responder ac-
19 tivities:

20 “(A) Regional planning.

21 “(B) Joint exercises.

22 “(C) Intelligence collection, analysis, and
23 sharing.

24 “(D) Emergency notification of affected
25 populations.

1 “(E) Detection of biological, nuclear, radi-
2 ological, and chemical weapons of mass destruc-
3 tion.

4 “(F) Such other activities for which the
5 Secretary determines that national voluntary
6 consensus training standards would be appro-
7 priate.

8 “(3) CONSISTENCY.—In carrying out this sub-
9 section, the Secretary shall ensure that such training
10 standards are consistent with the principles of emer-
11 gency preparedness for all hazards.

12 “(c) CONSULTATION WITH STANDARDS ORGANIZA-
13 TIONS.—In establishing national voluntary consensus
14 standards for first responder equipment and training
15 under this section, the Secretary shall consult with rel-
16 evant public and private sector groups, including—

17 “(1) the National Institute of Standards and
18 Technology;

19 “(2) the National Fire Protection Association;

20 “(3) the National Association of County and
21 City Health Officials;

22 “(4) the Association of State and Territorial
23 Health Officials;

24 “(5) the American National Standards Insti-
25 tute;

1 “(6) the National Institute of Justice;

2 “(7) the Inter-Agency Board for Equipment
3 Standardization and Interoperability;

4 “(8) the National Public Health Performance
5 Standards Program;

6 “(9) the National Institute for Occupational
7 Safety and Health;

8 “(10) ASTM International;

9 “(11) the International Safety Equipment Asso-
10 ciation;

11 “(12) the Emergency Management Accredita-
12 tion Program; and

13 “(13) to the extent the Secretary considers ap-
14 propriate, other national voluntary consensus stand-
15 ards development organizations, other interested
16 Federal, State, and local agencies, and other inter-
17 ested persons.

18 “(d) COORDINATION WITH SECRETARY OF HHS.—
19 In establishing any national voluntary consensus stand-
20 ards under this section for first responder equipment or
21 training that involve or relate to health professionals, in-
22 cluding emergency medical professionals, the Secretary
23 shall coordinate activities under this section with the Sec-
24 retary of Health and Human Services.”.

1 (b) DEFINITION OF EMERGENCY RESPONSE PRO-
2 VIDERS.—Paragraph (6) of section 2 of the Homeland Se-
3 curity Act of 2002 (Public Law 107–296; 6 U.S.C.
4 101(6)) is amended by striking “includes” and all that
5 follows and inserting “includes Federal, State, and local
6 governmental and nongovernmental emergency public
7 safety, law enforcement, fire, emergency response, emer-
8 gency medical (including hospital emergency facilities),
9 and related personnel, organizations, agencies, and au-
10 thorities.”.

11 (c) TEMPORARY LIMITATIONS ON APPLICATION.—

12 (1) 1-YEAR DELAY IN APPLICATION.—The fol-
13 lowing provisions of title XVIII of the Homeland Se-
14 curity Act of 2002, as amended by subsection (a),
15 shall not apply during the 1-year period beginning
16 on the date of the enactment of this Act:

17 (A) Subsections (b), (c), and (e)(4)(A) and

18 (B) of section 1805.

19 (B) In section 1805(f)(3)(A), the phrase “,
20 by enhancing the essential capabilities of the
21 applicants,”.

22 (2) 2-YEAR DELAY IN APPLICATION.—The fol-
23 lowing provisions of title XVIII of the Homeland Se-
24 curity Act of 2002, as amended by subsection (a),

1 shall not apply during the 2-year period beginning
2 on the date of the enactment of this Act:

3 (A) Subparagraphs (D) and (E) of section
4 1806(g)(5).

5 (B) Section 1806(i)(3).

6 **SEC. 5004. COORDINATION OF INDUSTRY EFFORTS.**

7 Section 102(f) of the Homeland Security Act of 2002
8 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by
9 striking “and” after the semicolon at the end of paragraph
10 (6), by striking the period at the end of paragraph (7)
11 and inserting “; and”, and by adding at the end the fol-
12 lowing:

13 “(8) coordinating industry efforts, with respect
14 to functions of the Department of Homeland Secu-
15 rity, to identify private sector resources and capabili-
16 ties that could be effective in supplementing Federal,
17 State, and local government agency efforts to pre-
18 vent or respond to a terrorist attack.”.

19 **SEC. 5005. SUPERSEDED PROVISION.**

20 This subtitle supersedes section 1014 of Public Law
21 107–56.

22 **SEC. 5006. SENSE OF CONGRESS REGARDING INTEROPER-**
23 **ABLE COMMUNICATIONS.**

24 (a) FINDING.—The Congress finds that—

1 (1) many emergency response providers (as de-
2 fined under section 2 of the Homeland Security Act
3 of 2002 (6 U.S.C. 101), as amended by this Act)
4 working in the same jurisdiction or in different ju-
5 risdictions cannot effectively and efficiently commu-
6 nicate with one another; and

7 (2) their inability to do so threatens the public’s
8 safety and may result in unnecessary loss of lives
9 and property.

10 (b) SENSE OF CONGRESS.—It is the sense of the
11 Congress that interoperable emergency communications
12 systems and radios should continue to be deployed as soon
13 as practicable for use by the emergency response provider
14 community, and that upgraded and new digital commu-
15 nications systems and new digital radios must meet pre-
16 vailing national, voluntary consensus standards for inter-
17 operability.

18 **SEC. 5007. 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.

1 (b) SENSE OF CONGRESS.—It is the sense of the
2 Congress that individual Citizen Corps councils should
3 seek to enhance the preparedness and response capabilities
4 of all organizations participating in the councils, including
5 by providing funding to as many of their participating or-
6 ganizations as practicable to promote local terrorism pre-
7 paredness programs.

8 **SEC. 5008. STUDY REGARDING NATIONWIDE EMERGENCY**
9 **NOTIFICATION SYSTEM.**

10 (a) STUDY.—The Secretary of Homeland Security, in
11 consultation with the heads of other appropriate Federal
12 agencies and representatives of providers and participants
13 in the telecommunications industry, shall conduct a study
14 to determine whether it is cost-effective, efficient, and fea-
15 sible to establish and implement an emergency telephonic
16 alert notification system that will—

17 (1) alert persons in the United States of immi-
18 nent or current hazardous events caused by acts of
19 terrorism; and

20 (2) provide information to individuals regarding
21 appropriate measures that may be undertaken to al-
22 leviate or minimize threats to their safety and wel-
23 fare posed by such events.

24 (b) TECHNOLOGIES TO CONSIDER.—In conducting
25 the study, the Secretary shall consider the use of the tele-

1 phone, wireless communications, and other existing com-
2 munications networks to provide such notification.

3 (c) REPORT.—Not later than 9 months after the date
4 of the enactment of this Act, the Secretary shall submit
5 to the Congress a report regarding the conclusions of the
6 study.

7 **SEC. 5009. REQUIRED COORDINATION.**

8 The Secretary of Homeland Security shall ensure
9 that there is effective and ongoing coordination of Federal
10 efforts to prevent, prepare for, and respond to acts of ter-
11 rorism and other major disasters and emergencies among
12 the divisions of the Department of Homeland Security, in-
13 cluding the Directorate of Emergency Preparedness and
14 Response and the Office for State and Local Government
15 Coordination and Preparedness.

16 **Subtitle B—Government**
17 **Reorganization Authority**

18 **SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY**

19 **REORGANIZATION PLANS.**

20 (a) REORGANIZATION PLANS.—Section 903(a)(2) of
21 title 5, United States Code, is amended to read as follows:

22 “(2) the abolition of all or a part of the func-
23 tions of an agency;”.

24 (b) REPEAL OF LIMITATIONS.—Section 905 of title
25 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
7 Enforcement—

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) within the Joint Terrorism Task Force
22 construct to track and sever connections between il-
23 legal drug trafficking and terrorism; and

24 “(5) to be a representative of the Department
25 on all task forces, committees, or other entities

1 whose purpose is to coordinate the counternarcotics
2 enforcement activities of the Department and other
3 Federal, state or local agencies.

4 “(f) REPORTS TO CONGRESS.—

5 “(1) ANNUAL BUDGET REVIEW.—The Director
6 of the Office of Counternarcotics Enforcement shall,
7 not later than 30 days after the submission by the
8 President to Congress of any request for expendi-
9 tures for the Department, submit to the Committees
10 on Appropriations and the authorizing committees of
11 jurisdiction of the House of Representatives and the
12 Senate a review and evaluation of such request. The
13 review and evaluation shall—

14 “(A) identify any request or subpart of any
15 request that affects or may affect the counter-
16 narcotics activities of the Department or any of
17 its subdivisions, or that affects the ability of the
18 Department or any subdivision of the Depart-
19 ment to meet its responsibility to stop the entry
20 of illegal drugs into the United States;

21 “(B) describe with particularity how such
22 requested funds would be or could be expended
23 in furtherance of counternarcotics activities;
24 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 (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 with
8 undertaking a thorough and complete study of the
9 operation and implementation of the rules of the
10 House, including the rule governing committee juris-
11 diction, with respect to the issue of homeland secu-
12 rity and to make its recommendations to the Com-
13 mittee 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 **SEC. 5028. ASSISTANT SECRETARY FOR CYBERSECURITY.**

2 (a) IN GENERAL.—Subtitle A of title II of the Home-
3 land Security Act of 2002 (6 USC 121 et. seq.) is amend-
4 ed by adding at the end the following:

5 **“SEC. 203. ASSISTANT SECRETARY FOR CYBERSERURITY.**

6 “(a) IN GENERAL.—There shall be in the Depart-
7 ment an Assistant Secretary for Cybersecurity, who shall
8 be appointed by the President.

9 “(b) RESPONSIBILITIES.—The Assistant Secretary
10 for Cybersecurity shall assist the Under Secretary for In-
11 formation Analysis and Infrastructure Protection in dis-
12 charging the responsibilities of the Under Secretary under
13 this subtitle.

14 “(c) AUTHORITY OVER THE NATIONAL COMMUNICA-
15 TIONS SYSTEM.—The Assistant Secretary shall have pri-
16 mary authority within the Department over the National
17 Communications System.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1(b) of the Homeland Security Act of 2002 (6
20 U.S.C. 101 et seq.) is amended by inserting after the item
21 relating to section 202 the following:

“203. Assistant Secretary for Cybersecurity.”.

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 officers and employees
14 who—

15 “(1) are employed in or under—

16 “(A) the Office of the National Intelligence
17 Director; or

18 “(B) an element of the intelligence commu-
19 nity, as defined in section 3(4) of the National
20 Security Act of 1947 (50 U.S.C. 401a(4)); and

21 “(2) would (but for this subsection) otherwise
22 be subject to title I by virtue of paragraph (3) of
23 section 101(f), including—

1 “(A) any special Government employee and
2 any member of a uniformed service who is de-
3 scribed in such paragraph; and

4 “(B) any officer or employee in any posi-
5 tion with respect to which the Director of the
6 Office of Government Ethics makes a deter-
7 mination described in such paragraph.

8 “(f)(1) Reasonable extensions of time for filing any
9 report may be granted under procedures prescribed by the
10 Office of Government Ethics, but the total of such exten-
11 sions shall not exceed 90 days.

12 “(2)(A) In the case of an individual who is serving
13 in the Armed Forces, or serving in support of the Armed
14 Forces, in an area while that area is designated by the
15 President by Executive order as a combat zone for pur-
16 poses of section 112 of the Internal Revenue Code of
17 1986, the date for the filing of any report shall be ex-
18 tended so that the date is 180 days after the later of—

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

21 “(ii) the last day of the individual’s hos-
22 pitalization as a result of injury received or dis-
23 ease contracted while serving in such area.

1 “(B) The Office of Government Ethics, in consulta-
2 tion with the Secretary of Defense, may prescribe proce-
3 dures under this paragraph.

4 “(g) The Director of the Office of Government Ethics
5 may grant a publicly available request for a waiver of any
6 reporting requirement under this title with respect to an
7 individual if the Director determines that—

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

10 “(2) such individual is able to provide special
11 services needed by the Government;

12 “(3) it is unlikely that such individual’s outside
13 employment or financial interests will create a con-
14 flict of interest;

15 “(4) such individual is not reasonably expected
16 to perform the duties of his office or position for
17 more than 60 days in a calendar year; and

18 “(5) public financial disclosure by such indi-
19 vidual is not necessary in the circumstances.

20 **“SEC. 302. CONTENTS OF REPORTS.**

21 “(a) Each report filed pursuant to section 301 (c)
22 and (d) shall include a full and complete statement with
23 respect to the following:

24 “(1)(A) The source, description, and category
25 of amount or value of income (other than income re-

1 ferred to in subparagraph (B)) from any source
2 (other than from current employment by the United
3 States Government), received during the preceding
4 calendar year, aggregating more than \$500 in
5 amount or value, except that honoraria received dur-
6 ing Government service by an officer or employee
7 shall include, in addition to the source, the exact
8 amount and the date it was received.

9 “(B) The source, description, and category of
10 amount or value of investment income which may in-
11 clude but is not limited to dividends, rents, interest,
12 and capital gains, received during the preceding cal-
13 endar year which exceeds \$500 in amount or value.

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

17 “(i) greater than \$500 but not more than
18 \$20,000;

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

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

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

25 “(v) greater than \$2,500,000.

1 “(2)(A) The identity of the source, a brief de-
2 scription, and the value of all gifts aggregating more
3 than the minimal value as established by section
4 7342(a)(5) of title 5, United States Code, or \$250,
5 whichever is greater, received from any source other
6 than a relative of the reporting individual during the
7 preceding calendar year, except that any food, lodg-
8 ing, or entertainment received as personal hospitality
9 of an individual need not be reported, and any gift
10 with a fair market value of \$100 or less, as adjusted
11 at the same time and by the same percentage as the
12 minimal value is adjusted, need not be aggregated
13 for purposes of this subparagraph.

14 “(B) The identity of the source and a brief de-
15 scription (including dates of travel and nature of ex-
16 penses provided) of reimbursements received from
17 any source aggregating more than the minimal value
18 as established by section 7342(a)(5) of title 5,
19 United States Code, or \$250, whichever is greater
20 and received during the preceding calendar year.

21 “(C) In an unusual case, a gift need not be ag-
22 gregated under subparagraph (A) if a publicly avail-
23 able request for a waiver is granted.

24 “(3) The identity and category of value of any
25 interest in property held during the preceding cal-

1 endar year in a trade or business, or for investment
2 or the production of income, which has a fair market
3 value which exceeds \$5,000 as of the close of the
4 preceding calendar year, excluding any personal li-
5 ability owed to the reporting individual by a spouse,
6 or by a parent, brother, sister, or child of the report-
7 ing individual or of the reporting individual’s spouse,
8 or any deposit accounts aggregating \$100,000 or
9 less in a financial institution, or any Federal Gov-
10 ernment securities aggregating \$100,000 or less.

11 “(4) The identity and category of value of the
12 total liabilities owed to any creditor other than a
13 spouse, or a parent, brother, sister, or child of the
14 reporting individual or of the reporting individual’s
15 spouse which exceed \$20,000 at any time during the
16 preceding calendar year, excluding—

17 “(A) any mortgage secured by real prop-
18 erty which is a personal residence of the report-
19 ing individual or his spouse; and

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

24 With respect to revolving charge accounts, only
25 those with an outstanding liability which exceeds

1 \$20,000 as of the close of the preceding calendar
2 year need be reported under this paragraph.

3 “(5) Except as provided in this paragraph, a
4 brief description of any real property, other than
5 property used solely as a personal residence of the
6 reporting individual or his spouse, and stocks,
7 bonds, commodities futures, and other forms of se-
8 curities, if—

9 “(A) purchased, sold, or exchanged during
10 the preceding calendar year;

11 “(B) the value of the transaction exceeded
12 \$5,000; and

13 “(C) the property or security is not already
14 required to be reported as a source of income
15 pursuant to paragraph (1)(B) or as an asset
16 pursuant to paragraph (3).

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

20 “(6)(A) The identity of all positions held on or
21 before the date of filing during the current calendar
22 year (and, for the first report filed by an individual,
23 during the 1-year period preceding such calendar
24 year) as an officer, director, trustee, partner, propri-
25 etor, representative, employee, or consultant of any

1 corporation, company, firm, partnership, or other
2 business enterprise, any nonprofit organization, any
3 labor organization, or any educational or other insti-
4 tution other than the United States Government.
5 This subparagraph shall not require the reporting of
6 positions held in any religious, social, fraternal, or
7 political entity and positions solely of an honorary
8 nature.

9 “(B) If any person, other than a person re-
10 ported as a source of income under paragraph
11 (1)(A) or the United States Government, paid a
12 nonelected reporting individual compensation in ex-
13 cess of \$25,000 in the calendar year in which, or the
14 calendar year prior to the calendar year in which,
15 the individual files his first report under this title,
16 the individual shall include in the report—

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

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

22 “(C) Subparagraph (B) shall not require any
23 individual to include in such report any
24 information—

1 “(i) with respect to a person for whom
2 services were provided by any firm or associa-
3 tion of which such individual was a member,
4 partner, or employee, unless the individual was
5 directly involved in the provision of such serv-
6 ices;

7 “(ii) that is protected by a court order or
8 is under seal; or

9 “(iii) that is considered confidential as a
10 result of—

11 “(I) a privileged relationship estab-
12 lished by a confidentiality agreement en-
13 tered into at the time the person retained
14 the services of the individual;

15 “(II) a grand jury proceeding or a
16 nonpublic investigation, if there are no
17 public filings, statements, appearances, or
18 reports that identify the person for whom
19 such individual is providing services; or

20 “(III) an applicable rule of profes-
21 sional conduct that prohibits disclosure of
22 the information and that can be enforced
23 by a professional licensing body.

24 “(7) A description of parties to and terms of
25 any agreement or arrangement with respect to (A)

1 future employment; (B) a leave of absence during
2 the period of the reporting individual's Government
3 service; (C) continuation of payments by a former
4 employer other than the United States Government;
5 and (D) continuing participation in an employee wel-
6 fare or benefit plan maintained by a former em-
7 ployer. The description of any formal agreement for
8 future employment shall include the date of that
9 agreement.

10 “(8) The category of the total cash value of any
11 interest of the reporting individual in a qualified
12 blind trust.

13 “(b)(1) Each report filed pursuant to subsections (a)
14 and (b) of section 301 shall include a full and complete
15 statement with respect to the information required by—

16 “(A) paragraphs (1) and (6) of subsection (a)
17 for the year of filing and the preceding calendar
18 year,

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

22 “(C) paragraph (7) of subsection (a) as of the
23 filing date but for periods described in such para-
24 graph.

1 “(2)(A) In lieu of filling out 1 or more schedules of
2 a financial disclosure form, an individual may supply the
3 required information in an alternative format, pursuant
4 to either rules adopted by the Office of Government Ethics
5 or pursuant to a specific written determination by the Di-
6 rector of the Office of Government Ethics for a reporting
7 individual.

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

12 “(c) In the case of any individual described in section
13 301(e), any reference to the preceding calendar year shall
14 be considered also to include that part of the calendar year
15 of filing up to the date of the termination of employment.

16 “(d)(1) The categories for reporting the amount or
17 value of the items covered in subsection (a)(3) are—

18 “(A) greater than \$5,000 but not more than
19 \$15,000;

20 “(B) greater than \$15,000 but not more than
21 \$25,000;

22 “(C) greater than \$25,000 but not more than
23 \$100,000;

24 “(D) greater than \$100,000 but not more than
25 \$1,000,000;

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

3 “(F) greater than \$2,500,000.

4 “(2) For the purposes of subsection (a)(3) if the cur-
5 rent value of an interest in real property (or an interest
6 in a real estate partnership) is not ascertainable without
7 an appraisal, an individual may list (A) the date of pur-
8 chase and the purchase price of the interest in the real
9 property, or (B) the assessed value of the real property
10 for tax purposes, adjusted to reflect the market value of
11 the property used for the assessment if the assessed value
12 is computed at less than 100 percent of such market value,
13 but such individual shall include in his report a full and
14 complete description of the method used to determine such
15 assessed value, instead of specifying a category of value
16 pursuant to paragraph (1). If the current value of any
17 other item required to be reported under subsection (a)(3)
18 is not ascertainable without an appraisal, such individual
19 may list the book value of a corporation whose stock is
20 not publicly traded, the net worth of a business partner-
21 ship, the equity value of an individually owned business,
22 or with respect to other holdings, any recognized indica-
23 tion of value, but such individual shall include in his report
24 a full and complete description of the method used in de-
25 termining such value. In lieu of any value referred to in

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

8 “(3) The categories for reporting the amount or value
9 of the items covered in paragraphs (4) and (8) of sub-
10 section (a) are—

11 “(A) greater than \$20,000 but not more than
12 \$100,000;

13 “(B) greater than \$100,000 but not more than
14 \$500,000;

15 “(C) greater than \$500,000 but not more than
16 \$1,000,000; and

17 “(D) greater than \$1,000,000.

18 “(e)(1) Except as provided in subparagraph (F), each
19 report required by section 301 shall also contain informa-
20 tion listed in paragraphs (1) through (5) of subsection (a)
21 respecting the spouse or dependent child of the reporting
22 individual as follows:

23 “(A) The sources of earned income earned by
24 a spouse, including honoraria, which exceed \$500,
25 except that, with respect to earned income, if the

1 spouse is self-employed in business or a profession,
2 only the nature of such business or profession need
3 be reported.

4 “(B) All information required to be reported in
5 subsection (a)(1)(B) with respect to investment in-
6 come derived by a spouse or dependent child.

7 “(C) In the case of any gifts received by a
8 spouse or dependent child which are not received to-
9 tally independent of the relationship of the spouse or
10 dependent child to the reporting individual, the iden-
11 tity of the source and a brief description of gifts of
12 transportation, lodging, food, or entertainment and
13 a brief description and the value of other gifts.

14 “(D) In the case of any reimbursements re-
15 ceived by a spouse or dependent child which are not
16 received totally independent of the relationship of
17 the spouse or dependent child to the reporting indi-
18 vidual, the identity of the source and a brief descrip-
19 tion of each such reimbursement.

20 “(E) In the case of items described in para-
21 graphs (3) through (5) of subsection (a), all infor-
22 mation required to be reported under these para-
23 graphs other than items which the reporting indi-
24 vidual certifies (i) represent the spouse’s or depend-
25 ent child’s sole financial interest or responsibility

1 and which the reporting individual has no knowledge
2 of, (ii) are not in any way, past or present, derived
3 from the income, assets, or activities of the reporting
4 individual, and (iii) are ones from which he neither
5 derives, nor expects to derive, any financial or eco-
6 nomic benefit.

7 “(F) Reports required by subsections (a), (b),
8 and (c) of section 301 shall, with respect to the
9 spouse and dependent child of the reporting indi-
10 vidual, only contain information listed in paragraphs
11 (1), (3), and (4) of subsection (a).

12 “(2) No report shall be required with respect to a
13 spouse living separate and apart from the reporting indi-
14 vidual with the intention of terminating the marriage or
15 providing for permanent separation, or with respect to any
16 income or obligations of an individual arising from the dis-
17 solution of his marriage or the permanent separation from
18 his spouse.

19 “(f)(1) Except as provided in paragraph (2), each re-
20 porting individual shall report the information required to
21 be reported pursuant to subsections (a), (b), and (c) with
22 respect to the holdings of and the income from a trust
23 or other financial arrangement from which income is re-
24 ceived by, or with respect to which a beneficial interest

1 in principal or income is held by, such individual, his
2 spouse, or any dependent child.

3 “(2) A reporting individual need not report the hold-
4 ings of or the source of income from any of the holdings
5 of—

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

8 “(B) a trust—

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

12 “(ii) the holdings or sources of income of
13 which such individual, his spouse, and any de-
14 pendent child have no knowledge; or

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

20 “(3) For purposes of this subsection, the term ‘quali-
21 fied blind trust’ includes any trust in which a reporting
22 individual, his spouse, or any minor or dependent child
23 has a beneficial interest in the principal or income, and
24 which meets the following requirements:

1 “(A)(i) The trustee of the trust and any other
2 entity designated in the trust instrument to perform
3 fiduciary duties is a financial institution, an attor-
4 ney, a certified public accountant, a broker, or an in-
5 vestment advisor who—

6 “(I) is independent of and not affiliated
7 with any interested party so that the trustee or
8 other person cannot be controlled or influenced
9 in the administration of the trust by any inter-
10 ested party;

11 “(II) is not and has not been an employee
12 of or affiliated with any interested party and is
13 not a partner of, or involved in any joint ven-
14 ture or other investment with, any interested
15 party; and

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

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

21 “(I) is independent of and not affiliated
22 with any interested party so that such officer or
23 employee cannot be controlled or influenced in
24 the administration of the trust by any inter-
25 ested party;

1 “(II) is not a partner of, or involved in any
2 joint venture or other investment with, any in-
3 terested party; and

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

6 “(B) Any asset transferred to the trust by an
7 interested party is free of any restriction with re-
8 spect to its transfer or sale unless such restriction
9 is expressly approved by the Office of Government
10 Ethics.

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

13 “(i) except to the extent provided in sub-
14 paragraph (B), the trustee in the exercise of his
15 authority and discretion to manage and control
16 the assets of the trust shall not consult or no-
17 tify any interested party;

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

21 “(iii) the trustee shall promptly notify the
22 reporting individual and the Office of Govern-
23 ment Ethics when the holdings of any par-
24 ticular asset transferred to the trust by any in-

1 interested party are disposed of or when the value
2 of such holding is less than \$1,000;

3 “(iv) the trust tax return shall be prepared
4 by the trustee or his designee, and such return
5 and any information relating thereto (other
6 than the trust income summarized in appro-
7 priate categories necessary to complete an inter-
8 ested party’s tax return), shall not be disclosed
9 to any interested party;

10 “(v) an interested party shall not receive
11 any report on the holdings and sources of in-
12 come of the trust, except a report at the end of
13 each calendar quarter with respect to the total
14 cash value of the interest of the interested party
15 in the trust or the net income or loss of the
16 trust or any reports necessary to enable the in-
17 terested party to complete an individual tax re-
18 turn required by law or to provide the informa-
19 tion required by subsection (a)(1) of this sec-
20 tion, but such report shall not identify any
21 asset or holding;

22 “(vi) except for communications which
23 solely consist of requests for distributions of
24 cash or other unspecified assets of the trust,
25 there shall be no direct or indirect communica-

1 tion between the trustee and an interested
2 party with respect to the trust unless such com-
3 munication is in writing and unless it relates
4 only (I) to the general financial interest and
5 needs of the interested party (including, but not
6 limited to, an interest in maximizing income or
7 long-term capital gain), (II) to the notification
8 of the trustee of a law or regulation subse-
9 quently applicable to the reporting individual
10 which prohibits the interested party from hold-
11 ing an asset, which notification directs that the
12 asset not be held by the trust, or (III) to direc-
13 tions to the trustee to sell all of an asset ini-
14 tially placed in the trust by an interested party
15 which in the determination of the reporting in-
16 dividual creates a conflict of interest or the ap-
17 pearance thereof due to the subsequent assump-
18 tion of duties by the reporting individual (but
19 nothing herein shall require any such direction);
20 and

21 “(vii) the interested parties shall make no
22 effort to obtain information with respect to the
23 holdings of the trust, including obtaining a copy
24 of any trust tax return filed or any information

1 relating thereto except as otherwise provided in
2 this subsection.

3 “(D) The proposed trust instrument and the
4 proposed trustee is approved by the Office of Gov-
5 ernment Ethics.

6 “(E) For purposes of this subsection, ‘inter-
7 ested party’ means a reporting individual, his
8 spouse, and any minor or dependent child; ‘broker’
9 has the meaning set forth in section 3(a)(4) of the
10 Securities and Exchange Act of 1934 (15 U.S.C.
11 78c(a)(4)); and ‘investment adviser’ includes any in-
12 vestment adviser who, as determined under regula-
13 tions prescribed by the supervising ethics office, is
14 generally involved in his role as such an adviser in
15 the management or control of trusts.

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

24 “(B)(i) The provisions of subparagraph (A) shall not
25 apply with respect to a trust created for the benefit of

1 a reporting individual, or the spouse, dependent child, or
2 minor child of such a person, if the Office of Government
3 Ethics finds that—

4 “(I) the assets placed in the trust consist of a
5 widely-diversified portfolio of readily marketable se-
6 curities;

7 “(II) none of the assets consist of securities of
8 entities having substantial activities in the area of
9 the reporting individual’s primary area of responsi-
10 bility;

11 “(III) the trust instrument prohibits the trust-
12 ee, notwithstanding the provisions of paragraph
13 (3)(C) (iii) and (iv), from making public or inform-
14 ing any interested party of the sale of any securities;

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

21 “(V) except as otherwise provided in this para-
22 graph, the trust instrument provides (or in the case
23 of a trust which by its terms does not permit amend-
24 ment, the trustee, the reporting individual, and any
25 other interested party agree in writing) that the

1 trust shall be administered in accordance with the
2 requirements of this subsection and the trustee of
3 such trust meets the requirements of paragraph
4 (3)(A).

5 “(ii) In any instance covered by subparagraph (B)
6 in which the reporting individual is an individual whose
7 nomination is being considered by a congressional com-
8 mittee, the reporting individual shall inform the congres-
9 sional committee considering his nomination before or dur-
10 ing the period of such individual’s confirmation hearing
11 of his intention to comply with this paragraph.

12 “(5)(A) The reporting individual shall, within 30
13 days after a qualified blind trust is approved by the Office
14 of Government Ethics, file with such office a copy of—

15 “(i) the executed trust instrument of such trust
16 (other than those provisions which relate to the tes-
17 tamentary disposition of the trust assets), and

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

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

24 “(B) The reporting individual shall, within 30 days
25 of transferring an asset (other than cash) to a previously

1 established qualified blind trust, notify the Office of Gov-
2 ernment Ethics of the identity of each such asset and the
3 category of value of each asset as determined under sub-
4 section (d).

5 “(C) Within 30 days of the dissolution of a qualified
6 blind trust, a reporting individual shall (i) notify the Of-
7 fice of Government Ethics of such dissolution, and (ii) file
8 with such Office and his designated agency ethics official
9 a copy of a list of the assets of the trust at the time of
10 such dissolution and the category of value under sub-
11 section (c) of each such asset.

12 “(D) Documents filed under subparagraphs (A), (B),
13 and (C) and the lists provided by the trustee of assets
14 placed in the trust by an interested party which have been
15 sold shall be made available to the public in the same man-
16 ner as a report is made available under section 305 and
17 the provisions of that section shall apply with respect to
18 such documents and lists.

19 “(E) A copy of each written communication with re-
20 spect to the trust under paragraph (3)(C)(vi) shall be filed
21 by the person initiating the communication with the Office
22 of Government Ethics within 5 days of the date of the
23 communication.

24 “(6)(A) A trustee of a qualified blind trust shall not
25 knowingly and willfully, or negligently, (i) disclose any in-

1 formation to an interested party with respect to such trust
2 that may not be disclosed under paragraph (3); (ii) ac-
3 quire any holding the ownership of which is prohibited by
4 the trust instrument; (iii) solicit advice from any inter-
5 ested party with respect to such trust, which solicitation
6 is prohibited by paragraph (3) or the trust agreement; or
7 (iv) fail to file any document required by this subsection.

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

14 “(C)(i) The Attorney General may bring a civil action
15 in any appropriate United States district court against
16 any individual who knowingly and willfully violates the
17 provisions of subparagraph (A) or (B). The court in which
18 such action is brought may assess against such individual
19 a civil penalty in any amount not to exceed \$11,000.

20 “(ii) The Attorney General may bring a civil action
21 in any appropriate United States district court against
22 any individual who negligently violates the provisions of
23 subparagraph (A) or (B). The court in which such action
24 is brought may assess against such individual a civil pen-
25 alty in any amount not to exceed \$5,500.

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

3 “(A) the trust instrument is amended to comply
4 with the requirements of paragraph (3) or, in the
5 case of a trust instrument which does not by its
6 terms permit amendment, the trustee, the reporting
7 individual, and any other interested party agree in
8 writing that the trust shall be administered in ac-
9 cordance with the requirements of this subsection
10 and the trustee of such trust meets the requirements
11 of paragraph (3)(A); except that in the case of any
12 interested party who is a dependent child, a parent
13 or guardian of such child may execute the agreement
14 referred to in this subparagraph;paragraph;

15 “(B) a copy of the trust instrument (except tes-
16 tamentary provisions) and a copy of the agreement
17 referred to in subparagraph (A), and a list of the as-
18 sets held by the trust at the time of approval by the
19 Office of Government Ethics, including the category
20 of value of each asset as determined under sub-
21 section (d), are filed with such office and made
22 available to the public as provided under paragraph
23 (5)(D); and

24 “(C) the Director of the Office of Government
25 Ethics determines that approval of the trust ar-

1 rangement as a qualified blind trust is in the par-
2 ticular case appropriate to assure compliance with
3 applicable laws and regulations.

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

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

10 “(ii) the assets of the fund are widely diversi-
11 fied; and

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

15 “(9)(A) A reporting individual described in sub-
16 section (a), (b), or (c) of section 301 shall not be required
17 to report the assets or sources of income of any publicly
18 available investment fund if—

19 “(i) the identity of such assets and sources of
20 income is not provided to investors;

21 “(ii) the reporting individual neither exercises
22 control over nor has the ability to exercise control
23 over the fund; and

24 “(iii) the reporting individual—

1 “(I) does not otherwise have knowledge of
2 the individual assets of the fund and provides
3 written certification by the fund manager that
4 individual assets of the fund are not disclosed
5 to investors; or

6 “(II) has executed a written ethics agree-
7 ment that contains a commitment to divest the
8 interest in the investment fund no later than 90
9 days after the date of the agreement.

10 The reporting individual shall file the written certification
11 by the fund manager as an attachment to the report filed
12 pursuant to section 301.

13 “(B) The provisions of subparagraph (A) shall apply
14 to an individual described in subsection (d) or (e) of sec-
15 tion 301 if—

16 “(i) the interest in the trust or investment fund
17 is acquired, during the period to be covered by the
18 report, involuntarily (such as through inheritance) or
19 as a legal incident of marriage; and

20 “(ii) for an individual described in subsection
21 (d), the individual executes a written ethics agree-
22 ment containing a commitment to divest the interest
23 no later than 90 days after the date the report is
24 due.

1 Failure to divest within the time specified or within an
2 extension period granted by the supervising ethics office
3 for good cause shown shall result in an immediate require-
4 ment to report as specified in paragraph (1).

5 “(g) Political campaign funds, including campaign re-
6 ceipts and expenditures, need not be included in any re-
7 port filed pursuant to this title.

8 “(h) A report filed pursuant to subsection (a), (c),
9 or (d) of section 301 need not contain the information de-
10 scribed in subparagraphs (A), (B), and (C) of subsection
11 (a)(2) with respect to gifts and reimbursements received
12 in a period when the reporting individual was not an offi-
13 cer or employee of the Federal Government.

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

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

18 “(A) any retirement system under title 5,
19 United States Code (including the Thrift Sav-
20 ings Plan under subchapter III of chapter 84 of
21 such title); or

22 “(B) any other retirement system main-
23 tained by the United States for officers or em-
24 ployees of the United States, including the

1 President, or for members of the uniformed
2 services; or

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

5 **“SEC. 303. FILING OF REPORTS.**

6 “(a) Except as otherwise provided in this section, the
7 reports required under this title shall be filed by the re-
8 porting individual with the designated agency ethics offi-
9 cial at the agency by which he is employed (or in the case
10 of an individual described in section 301(d), was em-
11 ployed) or in which he will serve. The date any report is
12 received (and the date of receipt of any supplemental re-
13 port) shall be noted on such report by such official.

14 “(b) Reports required of members of the uniformed
15 services shall be filed with the Secretary concerned.

16 “(c) The Office of Government Ethics shall develop
17 and make available forms for reporting the information
18 required by this title.

19 **“SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

20 “(a) The Attorney General may bring a civil action
21 in any appropriate United States district court against
22 any individual who knowingly and willfully falsifies or who
23 knowingly and willfully fails to file or report any informa-
24 tion that such individual is required to report pursuant
25 to section 302. The court in which such action is brought

1 may assess against such individual a civil penalty in any
2 amount, not to exceed \$11,000, order the individual to file
3 or report any information required by section 302, or both.

4 “(b) The head of each agency, each Secretary con-
5 cerned, or the Director of the Office of Government Eth-
6 ics, as the case may be, shall refer to the Attorney General
7 the name of any individual which such official has reason-
8 able cause to believe has willfully failed to file a report
9 or has willfully falsified or willfully failed to file informa-
10 tion required to be reported.

11 “(c) The President, the Vice President, the Secretary
12 concerned, or the head of each agency may take any ap-
13 propriate personnel or other action in accordance with ap-
14 plicable law or regulation against any individual failing to
15 file a report or falsifying or failing to report information
16 required to be reported.

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

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

23 “(B) if a filing extension is granted to such in-
24 dividual under section 301(g), the last day of the fil-
25 ing extension period, shall, at the direction of and

1 pursuant to regulations issued by the Office of Gov-
2 ernment Ethics, pay a filing fee of \$500. All such
3 fees shall be deposited in the miscellaneous receipts
4 of the Treasury. The authority under this paragraph
5 to direct the payment of a filing fee may be dele-
6 gated by the Office of Government Ethics to other
7 agencies in the executive branch.

8 “(2) The Office of Government Ethics may waive the
9 filing fee under this subsection for good cause shown.

10 **“SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

11 “Any report filed with or transmitted to an agency
12 or the Office of Government Ethics pursuant to this title
13 shall be made available to the public (in the same manner
14 as described in section 105) and retained by such agency
15 or Office, as the case may be, for a period of 6 years after
16 receipt of the report. After such 6-year period the report
17 shall be destroyed unless needed in an ongoing investiga-
18 tion, except that in the case of an individual who filed the
19 report pursuant to section 301(b) and was not subse-
20 quently confirmed by the Senate, such reports shall be de-
21 stroyed 1 year after the individual is no longer under con-
22 sideration by the Senate, unless needed in an ongoing in-
23 vestigation.

1 **“SEC. 306. REVIEW OF REPORTS.**

2 “(a) Each designated agency ethics official or Sec-
3 retary concerned shall make provisions to ensure that each
4 report filed with him under this title is reviewed within
5 60 days after the date of such filing, except that the Direc-
6 tor of the Office of Government Ethics shall review only
7 those reports required to be transmitted to him under this
8 title within 60 days after the date of transmittal.

9 “(b)(1) If after reviewing any report under subsection
10 (a), the Director of the Office of Government Ethics, the
11 Secretary concerned, or the designated agency ethics offi-
12 cial, as the case may be, is of the opinion that on the basis
13 of information contained in such report the individual sub-
14 mitting such report is in compliance with applicable laws
15 and regulations, he shall state such opinion on the report,
16 and shall sign such report.

17 “(2) If the Director of the Office of Government Eth-
18 ics, the Secretary concerned, or the designated agency eth-
19 ics official after reviewing any report under subsection
20 (a)—

21 “(A) believes additional information is required
22 to be submitted to complete the report or to perform
23 a conflict of interest analysis, he shall notify the in-
24 dividual submitting such report what additional in-
25 formation is required and the time by which it must
26 be submitted, or

1 “(B) is of the opinion, on the basis of informa-
2 tion submitted, that the individual is not in compli-
3 ance with applicable laws and regulations, he shall
4 notify the individual, afford a reasonable opportunity
5 for a written or oral response, and after consider-
6 ation of such response, reach an opinion as to
7 whether or not, on the basis of information sub-
8 mitted, the individual is in compliance with such
9 laws and regulations.

10 “(3) If the Director of the Office of Government Eth-
11 ics, the Secretary concerned, or the designated agency eth-
12 ics official reaches an opinion under paragraph (2)(B)
13 that an individual is not in compliance with applicable
14 laws and regulations, the official shall notify the individual
15 of that opinion and, after an opportunity for personal con-
16 sultation (if practicable), determine and notify the indi-
17 vidual of which steps, if any, would in the opinion of such
18 official be appropriate for assuring compliance with such
19 laws and regulations and the date by which such steps
20 should be taken. Such steps may include, as appropriate—

21 “(A) divestiture,

22 “(B) restitution,

23 “(C) the establishment of a blind trust,

24 “(D) request for an exemption under section
25 208(b) of title 18, United States Code, or

1 “(E) voluntary request for transfer, reassign-
2 ment, limitation of duties, or resignation.

3 The use of any such steps shall be in accordance with such
4 rules or regulations as the Office of Government Ethics
5 may prescribe.

6 “(4) If steps for assuring compliance with applicable
7 laws and regulations are not taken by the date set under
8 paragraph (3) by an individual in a position in the execu-
9 tive branch, appointment to which requires the advice and
10 consent of the Senate, the matter shall be referred to the
11 President for appropriate action.

12 “(5) If steps for assuring compliance with applicable
13 laws and regulations are not taken by the date set under
14 paragraph (3) by a member of the Foreign Service or the
15 uniformed services, the Secretary concerned shall take ap-
16 propriate action.

17 “(6) If steps for assuring compliance with applicable
18 laws and regulations are not taken by the date set under
19 paragraph (3) by any other officer or employee, the matter
20 shall be referred to the head of the appropriate agency
21 for appropriate action.

22 “(7) The Office of Government Ethics may render
23 advisory opinions interpreting this title. Notwithstanding
24 any other provision of law, the individual to whom a public
25 advisory opinion is rendered in accordance with this para-

1 graph, and any other individual covered by this title who
2 is involved in a fact situation which is indistinguishable
3 in all material aspects, and who acts in good faith in ac-
4 cordance with the provisions and findings of such advisory
5 opinion shall not, as a result of such act, be subject to
6 any penalty or sanction provided by this title.

7 **“SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDI-**
8 **TIONAL REQUIREMENTS.**

9 “(a)(1) The Office of Government Ethics may require
10 officers and employees of the executive branch (including
11 special Government employees as defined in section 202
12 of title 18, United States Code) to file confidential finan-
13 cial disclosure reports, in such form as it may prescribe.
14 The information required to be reported under this sub-
15 section by the officers and employees of any department
16 or agency listed in section 301(e) shall be set forth in rules
17 or regulations prescribed by the Office of Government
18 Ethics, and may be less extensive than otherwise required
19 by this title, or more extensive when determined by the
20 Office of Government Ethics to be necessary and appro-
21 priate in light of sections 202 through 209 of title 18,
22 United States Code, regulations promulgated thereunder,
23 or the authorized activities of such officers or employees.
24 Any individual required to file a report pursuant to section
25 301 shall not be required to file a confidential report pur-

1 suant to this subsection, except with respect to informa-
2 tion which is more extensive than information otherwise
3 required by this title. Section 305 shall not apply with re-
4 spect to any such report.

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

8 “(3) Nothing in this subsection exempts any indi-
9 vidual otherwise covered by the requirement to file a public
10 financial disclosure report under this title from such re-
11 quirement.

12 “(b) The provisions of this title requiring the report-
13 ing of information shall supersede any general require-
14 ment under any other provision of law or regulation with
15 respect to the reporting of information required for pur-
16 poses of preventing conflicts of interest or apparent con-
17 flicts of interest. Such provisions of this title shall not su-
18 persede the requirements of section 7342 of title 5, United
19 States Code.

20 “(c) Nothing in this Act requiring reporting of infor-
21 mation shall be deemed to authorize the receipt of income,
22 gifts, or reimbursements; the holding of assets, liabilities,
23 or positions; or the participation in transactions that are
24 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 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 not later than
17 the date specified in the agreement by which action by
18 the individual must be taken, or not later than 3 months
19 after the date of the agreement, if no date for action is
20 so specified.

21 **“SEC. 311. ADMINISTRATION OF PROVISIONS.**

22 “‘The Office of Government Ethics shall issue regula-
23 tions, develop forms, and provide such guidance as is nec-
24 essary to implement and interpret this title.’”.

1 (b) EXEMPTION FROM PUBLIC ACCESS TO FINAN-
2 CIAL DISCLOSURES.—Section 105(a)(1) of such Act is
3 amended by inserting “the Office of the National Intel-
4 ligence Director,” before “the Central Intelligence Agen-
5 cy”.

6 (c) CONFORMING AMENDMENT.—Section 101(f) of
7 such Act is amended—

8 (1) in paragraph (12), by striking the period at
9 the end and inserting a semicolon; and

10 (2) by adding at the end the following:

11 “but do not include any officer or employee of any depart-
12 ment or agency listed in section 301(e).”.

13 **SEC. 5044. REDUCTION OF POSITIONS REQUIRING AP-**
14 **POINTMENT WITH SENATE CONFIRMATION.**

15 (a) DEFINITION.—In this section, the term “agency”
16 means an Executive agency, as defined under section 105
17 of title 5, United States Code.

18 (b) REDUCTION PLAN.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of this Act, the head of
21 each agency shall submit a Presidential appointment
22 reduction plan to—

23 (A) the President;

24 (B) the Committee on Governmental Af-
25 fairs of the Senate; and

1 (C) the Committee on Government Reform
2 of the House of Representatives.

3 (2) CONTENT.—The plan under this subsection
4 shall provide for the reduction of—

5 (A) the number of positions within that
6 agency that require an appointment by the
7 President, by and with the advice and consent
8 of the Senate; and

9 (B) the number of levels of such positions
10 within that agency.

11 **SEC. 5045. EFFECTIVE DATES.**

12 (a) SECTION 5043.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 the amendments made by section 5043 shall take ef-
15 fect on January 1 of the year following the year in
16 which occurs the date of enactment of this Act.

17 (2) LATER DATE.—If this Act is enacted on or
18 after July 1 of a year, the amendments made by sec-
19 tion 301 shall take effect on July 1 of the following
20 year.

21 (b) SECTION 5044.—Section 5044 shall take effect
22 on the date of enactment of this Act.

1 **CHAPTER 2—FEDERAL BUREAU OF**
2 **INVESTIGATION REVITALIZATION**

3 **SEC. 5051. MANDATORY SEPARATION AGE.**

4 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section
5 8335(b) of title 5, United States Code, is amended—

6 (1) by striking “(b)” and inserting “(b)(1)”;

7 and

8 (2) by adding at the end the following:

9 “(2) In the case of employees of the Federal Bureau
10 of Investigation, the second sentence of paragraph (1)
11 shall be applied by substituting ‘65 years of age’ for ‘60
12 years of age’. The authority to grant exemptions in ac-
13 cordance with the preceding sentence shall cease to be
14 available after December 31, 2009.”.

15 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—
16 Section 8425(b) of title 5, United States Code, is
17 amended—

18 (1) by striking “(b)” and inserting “(b)(1)”;

19 and

20 (2) by adding at the end the following:

21 “(2) In the case of employees of the Federal Bureau
22 of Investigation, the second sentence of paragraph (1)
23 shall be applied by substituting ‘65 years of age’ for ‘60
24 years of age’. The authority to grant exemptions in ac-

1 cordance with the preceding sentence shall cease to be
2 available after December 31, 2009.”.

3 **SEC. 5052. RETENTION AND RELOCATION BONUSES.**

4 (a) IN GENERAL.—Subchapter IV of chapter 57 of
5 title 5, United States Code, is amended by adding at the
6 end the following:

7 **“§ 5759. Retention and relocation bonuses for the**
8 **Federal Bureau of Investigation**

9 “(a) AUTHORITY.—The Director of the Federal Bu-
10 reau of Investigation, after consultation with the Director
11 of the Office of Personnel Management, may pay, on a
12 case-by-case basis, a bonus under this section to an em-
13 ployee of the Bureau if—

14 “(1)(A) the unusually high or unique qualifica-
15 tions of the employee or a special need of the Bu-
16 reau for the employee’s services makes it essential to
17 retain the employee; and

18 “(B) the Director of the Federal Bureau of In-
19 vestigation determines that, in the absence of such
20 a bonus, the employee would be likely to leave—

21 “(i) the Federal service; or

22 “(ii) for a different position in the Federal
23 service; or

24 “(2) the individual is transferred to a different
25 geographic area with a higher cost of living (as de-

1 terminated by the Director of the Federal Bureau of
2 Investigation).

3 “(b) SERVICE AGREEMENT.—Payment of a bonus
4 under this section is contingent upon the employee enter-
5 ing into a written service agreement with the Bureau to
6 complete a period of service, not to exceed 4 years, with
7 the Bureau. Such agreement shall include—

8 “(1) the period of service the individual shall be
9 required to complete in return for the bonus; and

10 “(2) the conditions under which the agreement
11 may be terminated before the agreed-upon service
12 period has been completed, and the effect of the ter-
13 mination.

14 “(c) LIMITATIONS ON AUTHORITY.—A bonus paid
15 under this section—

16 “(1) shall not exceed 50 percent of the annual
17 rate of basic pay of the employee as of the beginning
18 of the period of service (established under subsection
19 (b)) multiplied by the number of years (including a
20 fractional part of a year) in the required period of
21 service of the employee involved, but shall in no
22 event exceed 100 percent of the annual rate of basic
23 pay of the employee as of the beginning of the serv-
24 ice period; and

1 “(2) may not be paid to an individual who is
2 appointed to or who holds a position—

3 “(A) to which an individual is appointed by
4 the President, by and with the advice and con-
5 sent of the Senate; or

6 “(B) in the Senior Executive Service as a
7 noncareer appointee (as defined in section
8 3132(a)).

9 “(d) IMPACT ON BASIC PAY.—A retention bonus is
10 not part of the basic pay of an employee for any purpose.

11 “(e) TERMINATION OF AUTHORITY.—The authority
12 to grant bonuses under this section shall cease to be avail-
13 able after December 31, 2009.”.

14 (b) CLERICAL AMENDMENT.—The analysis for chap-
15 ter 57 of title 5, United States Code, is amended by add-
16 ing at the end the following:

“5759. Retention and relocation bonuses for the Federal Bureau of Investiga-
tion.”.

17 **SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE**
18 **SERVICE.**

19 (a) IN GENERAL.—Chapter 35 of title 5, United
20 States Code, is amended by adding at the end the fol-
21 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 “(g) LIMITATION ON DURATION OF SERVICE.—An
13 individual may not be reemployed under this section for
14 more than 180 days in connection with any particular
15 emergency unless, in the judgment of the Director, the
16 public interest so requires.”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
18 ter 35 of title 5, United States Code, is amended by add-
19 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.”.

1 **SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU**
2 **OF INVESTIGATION INTELLIGENCE DIREC-**
3 **TORATE.**

4 Section 5377(a)(2) of title 5, United States Code, is
5 amended—

6 (1) by striking “and” at the end of subpara-
7 graph (E);

8 (2) by striking the period at the end of sub-
9 paragraph (F) and inserting “; and”; and

10 (3) by inserting after subparagraph (F) the fol-
11 lowing:

12 “(G) a position at the Federal Bureau of
13 Investigation, the primary duties and respon-
14 sibilities of which relate to intelligence functions
15 (as determined by the Director of the Federal
16 Bureau of Investigation).”.

17 **CHAPTER 3—REPORTING REQUIREMENT**

18 **SEC. 5061. REPORTING REQUIREMENT.**

19 The President shall, within 6 months after the date
20 of enactment of this Act, submit to Congress a report
21 that—

22 (1) evaluates the hiring policies of the Federal
23 Government with respect to its foreign language
24 needs and the war on terrorism, including an anal-
25 ysis of the personnel requirements at the Federal
26 Bureau of Investigation, the Central Intelligence

1 Agency, the Department of Homeland Security, the
2 Department of State, the Department of Defense,
3 and all other Federal agencies the President identi-
4 fies as having responsibilities in the war on ter-
5 rorism;

6 (2) describes with respect to each agency identi-
7 fied under paragraph (1) the Federal Government’s
8 current workforce capabilities with respect to its for-
9 eign language needs and the war on terrorism;

10 (3) summarizes for each agency identified
11 under paragraph (1) any shortfall in the Federal
12 Government’s workforce capabilities relative to its
13 foreign language needs with respect to the war on
14 terrorism; and

15 (4) provides a specific plan to eliminate any
16 shortfalls identified under paragraph (3) and a cost
17 estimate, by agency, for eliminating those shortfalls.

18 **Subtitle F—Security Clearance**
19 **Modernization**

20 **SEC. 5071. DEFINITIONS.**

21 In this subtitle:

22 (1) The term “Director” means the National
23 Intelligence Director.

24 (2) The term “agency” means—

1 (A) an executive agency, as defined in sec-
2 tion 105 of title 5, United States Code;

3 (B) a military department, as defined in
4 section 102 of title 5, United States Code; and

5 (C) elements of the intelligence community,
6 as defined in section 3(4) of the National Secu-
7 rity Act of 1947 (50 U.S.C. 401a(4)).

8 (3) The term “authorized investigative agency”
9 means an agency authorized by law, regulation or di-
10 rection of the Director to conduct a counterintel-
11 ligence investigation or investigation of persons who
12 are proposed for access to classified information to
13 ascertain whether such persons satisfy the criteria
14 for obtaining and retaining access to such informa-
15 tion.

16 (4) The term “authorized adjudicative agency”
17 means an agency authorized by law, regulation or di-
18 rection of the Director to determine eligibility for ac-
19 cess to classified information in accordance with Ex-
20 ecutive Order 12968.

21 (5) The term “highly sensitive program”
22 means—

23 (A) a government program designated as a
24 Special Access Program (as defined by section
25 4.1(h) of Executive Order 12958); and

1 (B) a government program that applies re-
2 strictions required for—

3 (i) Restricted Data (as defined by sec-
4 tion 11 y. of the Atomic Energy Act of
5 1954 (42 U.S.C. 2014(y)); or

6 (ii) other information commonly re-
7 ferred to as “Sensitive Compartmented In-
8 formation”.

9 (6) The term “current investigation file”
10 means, with respect to a security clearance, a file on
11 an investigation or adjudication that has been con-
12 ducted during—

13 (A) the 5-year period beginning on the
14 date the security clearance was granted, in the
15 case of a Top Secret Clearance, or the date ac-
16 cess was granted to a highly sensitive program;

17 (B) the 10-year period beginning on the
18 date the security clearance was granted in the
19 case of a Secret Clearance; and

20 (C) the 15-year period beginning on the
21 date the security clearance was granted in the
22 case of a Confidential Clearance.

23 (7) The term “personnel security investigation”
24 means any investigation required for the purpose of
25 determining the eligibility of any military, civilian, or

1 government contractor personnel to access classified
2 information.

3 (8) The term “periodic reinvestigations”
4 means—

5 (A) investigations conducted for the pur-
6 pose of updating a previously completed back-
7 ground investigation—

8 (i) every five years in the case of a
9 Top Secret Clearance or access to a highly
10 sensitive program;

11 (ii) every 10 years in the case of a Se-
12 cret Clearance; and

13 (iii) every 15 years in the case of a
14 Confidential Clearance;

15 (B) on-going investigations to identify per-
16 sonnel security risks as they develop, pursuant
17 to section 5075(c).

18 (9) The term “appropriate committees of Con-
19 gress” means—

20 (A) the Permanent Select Committee on
21 Intelligence and the Committees on Armed
22 Services, Judiciary, and Government Reform of
23 the House of Representatives; and

1 (B) the Select Committee on Intelligence
2 and the Committees on Armed Services, Judici-
3 ary, and Governmental Affairs of the Senate.

4 **SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE**
5 **PROGRAMS OVERSIGHT AND ADMINISTRA-**
6 **TION.**

7 The Deputy National Intelligence Director for Com-
8 munity Management and Resources shall have responsi-
9 bility for the following:

10 (1) Directing day-to-day oversight of investiga-
11 tions and adjudications for personnel security clear-
12 ances and highly sensitive programs throughout the
13 Federal Government.

14 (2) Developing and implementing uniform and
15 consistent policies and procedures to ensure the ef-
16 fective, efficient, and timely completion of security
17 clearances and determinations for access to highly
18 sensitive programs, including the standardization of
19 security questionnaires, financial disclosure require-
20 ments for security clearance applicants, and poly-
21 graph policies and procedures.

22 (3) Serving as the final authority to designate
23 an authorized investigative agency or authorized ad-
24 judicative agency pursuant to section 5074(d).

1 (4) Ensuring reciprocal recognition of access to
2 classified information among agencies, including act-
3 ing as the final authority to arbitrate and resolve
4 disputes involving the reciprocity of security clear-
5 ances and access to highly sensitive programs.

6 (5) Ensuring, to the maximum extent prac-
7 ticable, that sufficient resources are available in each
8 agency to achieve clearance and investigative pro-
9 gram goals.

10 (6) Reviewing and coordinating the development
11 of tools and techniques for enhancing the conduct of
12 investigations and granting of clearances.

13 **SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND**
14 **ACCESS DETERMINATIONS.**

15 (a) **REQUIREMENT FOR RECIPROCITY.**—(1) All secu-
16 rity clearance background investigations and determina-
17 tions completed by an authorized investigative agency or
18 authorized adjudicative agency shall be accepted by all
19 agencies.

20 (2) All security clearance background investigations
21 initiated by an authorized investigative agency shall be
22 transferable to any other authorized investigative agency.

23 (b) **PROHIBITION ON ESTABLISHING ADDITIONAL.**—
24 (1) An authorized investigative agency or authorized adju-
25 dicative agency may not establish additional investigative

1 or adjudicative requirements (other than requirements for
2 the conduct of a polygraph examination) that exceed re-
3 quirements specified in Executive Orders establishing se-
4 curity requirements for access to classified information.

5 (2) Notwithstanding the paragraph (1), the Director
6 may establish additional requirements as needed for na-
7 tional security purposes.

8 (c) PROHIBITION ON DUPLICATIVE INVESTIGA-
9 TIONS.—An authorized investigative agency or authorized
10 adjudicative agency may not conduct an investigation for
11 purposes of determining whether to grant a security clear-
12 ance to an individual where a current investigation or
13 clearance of equal level already exists or has been granted
14 by another authorized adjudicative agency.

15 **SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE.**

16 (a) ESTABLISHMENT.—Not later than 12 months
17 after the date of the enactment of this Act, the Director
18 of the Office of Personnel Management, in cooperation
19 with the Director, shall establish, and begin operating and
20 maintaining, an integrated, secure, national database into
21 which appropriate data relevant to the granting, denial,
22 or revocation of a security clearance or access pertaining
23 to military, civilian, or government contractor personnel
24 shall be entered from all authorized investigative and adju-
25 dicative agencies.

1 (b) INTEGRATION.—The national database estab-
2 lished under subsection (a) shall function to integrate in-
3 formation from existing Federal clearance tracking sys-
4 tems from other authorized investigative and adjudicative
5 agencies into a single consolidated database.

6 (c) REQUIREMENT TO CHECK DATABASE.—Each au-
7 thorized investigative or adjudicative agency shall check
8 the national database established under subsection (a) to
9 determine whether an individual the agency has identified
10 as requiring a security clearance has already been granted
11 or denied a security clearance, or has had a security clear-
12 ance revoked, by any other authorized investigative or ad-
13 judicative agency.

14 (d) CERTIFICATION OF AUTHORIZED INVESTIGATIVE
15 AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.—
16 The Director shall evaluate the extent to which an agency
17 is submitting information to, and requesting information
18 from, the national database established under subsection
19 (a) as part of a determination of whether to certify the
20 agency as an authorized investigative agency or authorized
21 adjudicative agency.

22 (e) EXCLUSION OF CERTAIN INTELLIGENCE
23 OPERATIVES.—The Director may authorize an agency to
24 withhold information about certain individuals from the

1 database established under subsection (a) if the Director
2 determines it is necessary for national security purposes.

3 (f) COMPLIANCE.—The Director shall establish a re-
4 view procedure by which agencies can seek review of ac-
5 tions required under section 5073.

6 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated such sums as may be nec-
8 essary for fiscal year 2005 and each subsequent fiscal year
9 for the implementation, maintenance and operation of the
10 database established in subsection (a).

11 **SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEAR-**
12 **ANCE INVESTIGATIONS.**

13 (a) INVESTIGATIONS.—Not later than 12 months
14 after the date of the enactment of this Act, each author-
15 ized investigative agency that conducts personnel security
16 clearance investigations shall use, to the maximum extent
17 practicable, available information technology and data-
18 bases to expedite investigative processes and to verify
19 standard information submitted as part of an application
20 for a security clearance.

21 (b) INTERIM CLEARANCE.—If the application of an
22 applicant for an interim clearance has been processed
23 using the technology under subsection (a), the interim
24 clearances for the applicant at the secret, top secret, and
25 special access program levels may be granted before the

1 completion of the appropriate investigation. Any request
2 to process an interim clearance shall be given priority, and
3 the authority granting the interim clearance shall ensure
4 that final adjudication on the application is made within
5 90 days after the initial clearance is granted.

6 (c) ON-GOING MONITORING OF INDIVIDUALS WITH
7 SECURITY CLEARANCES.—(1) Authorized investigative
8 agencies and authorized adjudicative agencies shall estab-
9 lish procedures for the regular, ongoing verification of per-
10 sonnel with security clearances in effect for continued ac-
11 cess to classified information. Such procedures shall in-
12 clude the use of available technology to detect, on a regu-
13 larly recurring basis, any issues of concern that may arise
14 involving such personnel and such access.

15 (2) Such regularly recurring verification may be used
16 as a basis for terminating a security clearance or access
17 and shall be used in periodic reinvestigations to address
18 emerging threats and adverse events associated with indi-
19 viduals with security clearances in effect to the maximum
20 extent practicable.

21 (3) If the Director certifies that the national security
22 of the United States is not harmed by the discontinuation
23 of periodic reinvestigations, the regularly recurring ver-
24 ification under this section may replace periodic reinves-
25 tigation.

1 **SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECUR-**
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 of 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
3 include—

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 **CHAPTER 1—EMERGENCY PREPARED-**
18 **NESS FOR FISCAL AUTHORITIES**

19 **SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY**
20 **OF THE TREASURY.**

21 Subsection (d) of section 306 of title 31, United
22 States Code, is amended by inserting “or employee” after
23 “another officer”.

1 **SEC. 5082. TREASURY SUPPORT FOR FINANCIAL SERVICES**

2 **INDUSTRY PREPAREDNESS AND RESPONSE.**

3 (a) CONGRESSIONAL FINDING.—The Congress finds
4 that the Secretary of the Treasury—

5 (1) has successfully communicated and coordi-
6 nated with the private-sector financial services in-
7 dustry about counter-terrorist financing activities
8 and preparedness;

9 (2) has successfully reached out to State and
10 local governments and regional public-private part-
11 nerships, such as ChicagoFIRST, that protect em-
12 ployees and critical infrastructure by enhancing com-
13 munication and coordinating plans for disaster pre-
14 paredness and business continuity; and

15 (3) has set an example for the Department of
16 Homeland Security and other Federal agency part-
17 ners, whose active participation is vital to the overall
18 success of the activities described in paragraphs (1)
19 and (2).

20 (b) FURTHER EDUCATION AND PREPARATION EF-
21 FORTS.—It is the sense of Congress that the Secretary
22 of the Treasury, in consultation with the Secretary of
23 Homeland Security and other Federal agency partners,
24 should—

25 (1) furnish sufficient personnel and techno-
26 logical and financial resources to foster the forma-

1 tion of public-private sector coalitions, similar to
2 ChicagoFIRST, that, in collaboration with the De-
3 partment of Treasury, the Department of Homeland
4 Security, and other Federal agency partners, would
5 educate consumers and employees of the financial
6 services industry about domestic counter-terrorist fi-
7 nancing activities, including—

8 (A) how the public and private sector orga-
9 nizations involved in counter-terrorist financing
10 activities can help to combat terrorism and si-
11 multaneously protect and preserve the lives and
12 civil liberties of consumers and employees of the
13 financial services industry; and

14 (B) how consumers and employees of the
15 financial services industry can assist the public
16 and private sector organizations involved in
17 counter-terrorist financing activities; and

18 (2) submit annual reports to the Congress on
19 Federal efforts, in conjunction with public-private
20 sector coalitions, to educate consumers and employ-
21 ees of the financial services industry about domestic
22 counter-terrorist financing activities.

1 **CHAPTER 2—MARKET PREPAREDNESS**

2 **SEC. 5084. SHORT TITLE.**

3 This chapter may be cited as the “Emergency Securi-
4 ties Response Act of 2004”.

5 **SEC. 5085. EXTENSION OF EMERGENCY ORDER AUTHORITY**
6 **OF THE SECURITIES AND EXCHANGE COM-**
7 **MISSION.**

8 (a) EXTENSION OF AUTHORITY.—Paragraph (2) of
9 section 12(k) of the Securities Exchange Act of 1934 (15
10 U.S.C. 78l(k)(2)) is amended to read as follows:

11 “(2) EMERGENCY.—(A) The Commission, in an
12 emergency, may by order summarily take such ac-
13 tion to alter, supplement, suspend, or impose re-
14 quirements or restrictions with respect to any matter
15 or action subject to regulation by the Commission or
16 a self-regulatory organization under the securities
17 laws, as the Commission determines is necessary in
18 the public interest and for the protection of
19 investors—

20 “(i) to maintain or restore fair and orderly
21 securities markets (other than markets in ex-
22 empted securities);

23 “(ii) to ensure prompt, accurate, and safe
24 clearance and settlement of transactions in se-
25 curities (other than exempted securities); or

1 “(iii) to reduce, eliminate, or prevent the
2 substantial disruption by the emergency of (I)
3 securities markets (other than markets in ex-
4 empted securities), investment companies, or
5 any other significant portion or segment of such
6 markets, or (II) the transmission or processing
7 of securities transactions (other than trans-
8 actions in exempted securities).

9 “(B) An order of the Commission under this
10 paragraph (2) shall continue in effect for the period
11 specified by the Commission, and may be extended.
12 Except as provided in subparagraph (C), the Com-
13 mission’s action may not continue in effect for more
14 than 30 business days, including extensions.

15 “(C) An order of the Commission under this
16 paragraph (2) may be extended to continue in effect
17 for more than 30 business days if, at the time of the
18 extension, the Commission finds that the emergency
19 still exists and determines that the continuation of
20 the order beyond 30 business days is necessary in
21 the public interest and for the protection of investors
22 to attain an objective described in clause (i), (ii), or
23 (iii) of subparagraph (A). In no event shall an order
24 of the Commission under this paragraph (2) con-
25 tinue in effect for more than 90 calendar days.

1 “(D) If the actions described in subparagraph
2 (A) involve a security futures product, the Commis-
3 sion shall consult with and consider the views of the
4 Commodity Futures Trading Commission. In exer-
5 cising its authority under this paragraph, the Com-
6 mission shall not be required to comply with the pro-
7 visions of section 553 of title 5, United States Code,
8 or with the provisions of section 19(c) of this title.

9 “(E) Notwithstanding the exclusion of exempt-
10 ed securities (and markets therein) from the Com-
11 mission’s authority under subparagraph (A), the
12 Commission may use such authority to take action
13 to alter, supplement, suspend, or impose require-
14 ments or restrictions with respect to clearing agen-
15 cies for transactions in such exempted securities. In
16 taking any action under this subparagraph, the
17 Commission shall consult with and consider the
18 views of the Secretary of the Treasury.”.

19 (b) CONSULTATION; DEFINITION OF EMERGENCY.—
20 Section 12(k) of the Securities Exchange Act of 1934 (15
21 U.S.C. 78l(k)) is further amended by striking paragraph
22 (6) and inserting the following:

23 “(6) CONSULTATION.—Prior to taking any ac-
24 tion described in paragraph (1)(B), the Commission
25 shall consult with and consider the views of the Sec-

1 “(II) the transmission or proc-
2 essing of securities transactions.

3 “(B) SECURITIES LAWS.—Notwithstanding
4 section 3(a)(47), for purposes of this sub-
5 section, the term ‘securities laws’ does not in-
6 clude the Public Utility Holding Company Act
7 of 1935 (15 U.S.C. 79a et seq.).”.

8 **SEC. 5086. PARALLEL AUTHORITY OF THE SECRETARY OF**
9 **THE TREASURY WITH RESPECT TO GOVERN-**
10 **MENT SECURITIES.**

11 Section 15C of the Securities Exchange Act of 1934
12 (15 U.S.C. 78o–5) is amended by adding at the end the
13 following new subsection:

14 “(h) EMERGENCY AUTHORITY.—The Secretary may
15 by order take any action with respect to a matter or action
16 subject to regulation by the Secretary under this section,
17 or the rules of the Secretary thereunder, involving a gov-
18 ernment security or a market therein (or significant por-
19 tion or segment of that market), that the Commission may
20 take under section 12(k)(2) of this title with respect to
21 transactions in securities (other than exempted securities)
22 or a market therein (or significant portion or segment of
23 that market).”.

1 (3) examine the need to cover more financial
2 services entities than those covered by the Inter-
3 agency Paper; and

4 (4) recommend legislative and regulatory
5 changes that will—

6 (A) expedite the effective implementation
7 of the Interagency Paper by all covered finan-
8 cial services entities; and

9 (B) maximize the effective implementation
10 of business continuity planning by all partici-
11 pants in the financial services industry.

12 (c) CONFIDENTIALITY.—Any information provided to
13 the Federal Reserve Board, the Comptroller of the Cur-
14 rency, or the Securities and Exchange Commission for the
15 purposes of the preparation and submission of the report
16 required by subsection (a) shall be treated as privileged
17 and confidential. For purposes of section 552 of title 5,
18 United States Code, this subsection shall be considered a
19 statute described in subsection (b)(3)(B) of such section
20 552.

21 (d) DEFINITION.—The Interagency Paper on Sound
22 Practices to Strengthen the Resilience of the U.S. Finan-
23 cial System is the interagency paper prepared by the
24 Board of Governors of the Federal Reserve System, the
25 Comptroller of the Currency, and the Securities and Ex-

1 change Commission that was announced in the Federal
2 Register on April 8, 2003.

3 **SEC. 5088. PRIVATE SECTOR PREPAREDNESS.**

4 It is the sense of the Congress that the insurance in-
5 dustry and credit-rating agencies, where relevant, should
6 carefully consider a company's compliance with standards
7 for private sector disaster and emergency preparedness in
8 assessing insurability and creditworthiness, to ensure that
9 private sector investment in disaster and emergency pre-
10 paredness is appropriately encouraged.

11 **SEC. 5089. REPORT ON PUBLIC/PRIVATE PARTNERSHIPS.**

12 Before the end of the 6-month period beginning on
13 the date of the enactment of this Act, the Secretary of
14 the Treasury shall submit a report to the Committee on
15 Financial Services of the House of Representatives and
16 the Committee on Banking, Housing, and Urban Affairs
17 of the Senate containing—

18 (1) information on the efforts the Department
19 of the Treasury has made to encourage the forma-
20 tion of public/private partnerships to protect critical
21 financial infrastructure and the type of support that
22 the Department has provided to these partnerships;
23 and

1 (2) recommendations for administrative or leg-
2 islative action regarding these partnerships as the
3 Secretary may determine to be appropriate.

4 **Subtitle H—Other Matters**

5 **Chapter 1—Privacy Matters**

6 **SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING**
7 **TAKE INTO CONSIDERATION IMPACTS ON IN-**
8 **DIVIDUAL PRIVACY.**

9 (a) **SHORT TITLE.**—This section may be cited as the
10 “Federal Agency Protection of Privacy Act of 2004”.

11 (b) **IN GENERAL.**—Title 5, United States Code, is
12 amended by adding after section 553 the following new
13 section:

14 **“§ 553a. Privacy impact assessment in rulemaking**

15 **“(a) INITIAL PRIVACY IMPACT ASSESSMENT.—**

16 **“(1) IN GENERAL.—**Whenever an agency is re-
17 quired by section 553 of this title, or any other law,
18 to publish a general notice of proposed rulemaking
19 for a proposed rule, or publishes a notice of pro-
20 posed rulemaking for an interpretative rule involving
21 the internal revenue laws of the United States, and
22 such rule or proposed rulemaking pertains to the
23 collection, maintenance, use, or disclosure of person-
24 ally identifiable information from 10 or more indi-
25 viduals, other than agencies, instrumentalities, or

1 employees of the Federal government, the agency
2 shall prepare and make available for public comment
3 an initial privacy impact assessment that describes
4 the impact of the proposed rule on the privacy of in-
5 dividuals. Such assessment or a summary thereof
6 shall be signed by the senior agency official with pri-
7 mary responsibility for privacy policy and be pub-
8 lished in the Federal Register at the time of the
9 publication of a general notice of proposed rule-
10 making for the rule.

11 “(2) CONTENTS.—Each initial privacy impact
12 assessment required under this subsection shall con-
13 tain the following:

14 “(A) A description and analysis of the ex-
15 tent to which the proposed rule will impact the
16 privacy interests of individuals, including the
17 extent to which the proposed rule—

18 “(i) provides notice of the collection of
19 personally identifiable information, and
20 specifies what personally identifiable infor-
21 mation is to be collected and how it is to
22 be collected, maintained, used, and dis-
23 closed;

24 “(ii) allows access to such information
25 by the person to whom the personally iden-

1 tifiable information pertains and provides
2 an opportunity to correct inaccuracies;

3 “(iii) prevents such information,
4 which is collected for one purpose, from
5 being used for another purpose; and

6 “(iv) provides security for such infor-
7 mation.

8 “(B) A description of any significant alter-
9 natives to the proposed rule which accomplish
10 the stated objectives of applicable statutes and
11 which minimize any significant privacy impact
12 of the proposed rule on individuals.

13 “(b) FINAL PRIVACY IMPACT ASSESSMENT.—

14 “(1) IN GENERAL.—Whenever an agency pro-
15 mulgates a final rule under section 553 of this title,
16 after being required by that section or any other law
17 to publish a general notice of proposed rulemaking,
18 or promulgates a final interpretative rule involving
19 the internal revenue laws of the United States, and
20 such rule or proposed rulemaking pertains to the
21 collection, maintenance, use, or disclosure of person-
22 ally identifiable information from 10 or more indi-
23 viduals, other than agencies, instrumentalities, or
24 employees of the Federal government, the agency
25 shall prepare a final privacy impact assessment,

1 signed by the senior agency official with primary re-
2 sponsibility for privacy policy.

3 “(2) CONTENTS.—Each final privacy impact as-
4 sessment required under this subsection shall con-
5 tain the following:

6 “(A) A description and analysis of the ex-
7 tent to which the final rule will impact the pri-
8 vacy interests of individuals, including the ex-
9 tent to which such rule—

10 “(i) provides notice of the collection of
11 personally identifiable information, and
12 specifies what personally identifiable infor-
13 mation is to be collected and how it is to
14 be collected, maintained, used, and dis-
15 closed;

16 “(ii) allows access to such information
17 by the person to whom the personally iden-
18 tifiable information pertains and provides
19 an opportunity to correct inaccuracies;

20 “(iii) prevents such information,
21 which is collected for one purpose, from
22 being used for another purpose; and

23 “(iv) provides security for such infor-
24 mation.

1 “(B) A summary of any significant issues
2 raised by the public comments in response to
3 the initial privacy impact assessment, a sum-
4 mary of the analysis of the agency of such
5 issues, and a statement of any changes made in
6 such rule as a result of such issues.

7 “(C) A description of the steps the agency
8 has taken to minimize the significant privacy
9 impact on individuals consistent with the stated
10 objectives of applicable statutes, including a
11 statement of the factual, policy, and legal rea-
12 sons for selecting the alternative adopted in the
13 final rule and why each one of the other signifi-
14 cant alternatives to the rule considered by the
15 agency which affect the privacy interests of in-
16 dividuals was rejected.

17 “(3) AVAILABILITY TO PUBLIC.—The agency
18 shall make copies of the final privacy impact assess-
19 ment available to members of the public and shall
20 publish in the Federal Register such assessment or
21 a summary thereof.

22 “(c) WAIVERS.—

23 “(1) EMERGENCIES.—An agency head may
24 waive or delay the completion of some or all of the
25 requirements of subsections (a) and (b) to the same

1 extent as the agency head may, under section 608,
2 waive or delay the completion of some or all of the
3 requirements of sections 603 and 604, respectively.

4 “(2) NATIONAL SECURITY.—An agency head
5 may, for national security reasons, or to protect
6 from disclosure classified information, confidential
7 commercial information, or information the disclo-
8 sure of which may adversely affect a law enforce-
9 ment effort, waive or delay the completion of some
10 or all of the following requirements:

11 “(A) The requirement of subsection (a)(1)
12 to make an assessment available for public com-
13 ment.

14 “(B) The requirement of subsection (a)(1)
15 to have an assessment or summary thereof pub-
16 lished in the Federal Register.

17 “(C) The requirements of subsection
18 (b)(3).

19 “(d) PROCEDURES FOR GATHERING COMMENTS.—
20 When any rule is promulgated which may have a signifi-
21 cant privacy impact on individuals, or a privacy impact
22 on a substantial number of individuals, the head of the
23 agency promulgating the rule or the official of the agency
24 with statutory responsibility for the promulgation of the
25 rule shall assure that individuals have been given an op-

1 portunity to participate in the rulemaking for the rule
2 through techniques such as—

3 “(1) the inclusion in an advance notice of pro-
4 posed rulemaking, if issued, of a statement that the
5 proposed rule may have a significant privacy impact
6 on individuals, or a privacy impact on a substantial
7 number of individuals;

8 “(2) the publication of a general notice of pro-
9 posed rulemaking in publications of national circula-
10 tion likely to be obtained by individuals;

11 “(3) the direct notification of interested individ-
12 uals;

13 “(4) the conduct of open conferences or public
14 hearings concerning the rule for individuals, includ-
15 ing soliciting and receiving comments over computer
16 networks; and

17 “(5) the adoption or modification of agency
18 procedural rules to reduce the cost or complexity of
19 participation in the rulemaking by individuals.

20 “(e) PERIODIC REVIEW OF RULES.—

21 “(1) IN GENERAL.—Each agency shall carry
22 out a periodic review of the rules promulgated by the
23 agency that have a significant privacy impact on in-
24 dividuals, or a privacy impact on a substantial num-
25 ber of individuals. Under such periodic review, the

1 agency shall determine, for each such rule, whether
2 the rule can be amended or rescinded in a manner
3 that minimizes any such impact while remaining in
4 accordance with applicable statutes. For each such
5 determination, the agency shall consider the fol-
6 lowing factors:

7 “(A) The continued need for the rule.

8 “(B) The nature of complaints or com-
9 ments received from the public concerning the
10 rule.

11 “(C) The complexity of the rule.

12 “(D) The extent to which the rule over-
13 laps, duplicates, or conflicts with other Federal
14 rules, and, to the extent feasible, with State and
15 local governmental rules.

16 “(E) The length of time since the rule was
17 last reviewed under this subsection.

18 “(F) The degree to which technology, eco-
19 nomic conditions, or other factors have changed
20 in the area affected by the rule since the rule
21 was last reviewed under this subsection.

22 “(2) PLAN REQUIRED.—Each agency shall
23 carry out the periodic review required by paragraph
24 (1) in accordance with a plan published by such
25 agency in the Federal Register. Each such plan shall

1 provide for the review under this subsection of each
2 rule promulgated by the agency not later than 10
3 years after the date on which such rule was pub-
4 lished as the final rule and, thereafter, not later
5 than 10 years after the date on which such rule was
6 last reviewed under this subsection. The agency may
7 amend such plan at any time by publishing the revi-
8 sion in the Federal Register.

9 “(3) ANNUAL PUBLICATION.—Each year, each
10 agency shall publish in the Federal Register a list of
11 the rules to be reviewed by such agency under this
12 subsection during the following year. The list shall
13 include a brief description of each such rule and the
14 need for and legal basis of such rule and shall invite
15 public comment upon the determination to be made
16 under this subsection with respect to such rule.

17 “(f) JUDICIAL REVIEW.—

18 “(1) IN GENERAL.—For any rule subject to this
19 section, an individual who is adversely affected or
20 aggrieved by final agency action is entitled to judi-
21 cial review of agency compliance with the require-
22 ments of subsections (b) and (c) in accordance with
23 chapter 7. Agency compliance with subsection (d)
24 shall be judicially reviewable in connection with judi-
25 cial review of subsection (b).

1 “(2) JURISDICTION.—Each court having juris-
2 diction to review such rule for compliance with sec-
3 tion 553, or under any other provision of law, shall
4 have jurisdiction to review any claims of noncompli-
5 ance with subsections (b) and (c) in accordance with
6 chapter 7. Agency compliance with subsection (d)
7 shall be judicially reviewable in connection with judi-
8 cial review of subsection (b).

9 “(3) LIMITATIONS.—

10 “(A) An individual may seek such review
11 during the period beginning on the date of final
12 agency action and ending 1 year later, except
13 that where a provision of law requires that an
14 action challenging a final agency action be com-
15 menced before the expiration of 1 year, such
16 lesser period shall apply to an action for judicial
17 review under this subsection.

18 “(B) In the case where an agency delays
19 the issuance of a final privacy impact assess-
20 ment pursuant to subsection (c), an action for
21 judicial review under this section shall be filed
22 not later than—

23 “(i) 1 year after the date the assess-
24 ment is made available to the public; or

1 “(ii) where a provision of law requires
2 that an action challenging a final agency
3 regulation be commenced before the expi-
4 ration of the 1-year period, the number of
5 days specified in such provision of law that
6 is after the date the assessment is made
7 available to the public.

8 “(4) RELIEF.—In granting any relief in an ac-
9 tion under this subsection, the court shall order the
10 agency to take corrective action consistent with this
11 section and chapter 7, including, but not limited
12 to—

13 “(A) remanding the rule to the agency;
14 and

15 “(B) deferring the enforcement of the rule
16 against individuals, unless the court finds that
17 continued enforcement of the rule is in the pub-
18 lic interest.

19 “(5) RULE OF CONSTRUCTION.—Nothing in
20 this subsection shall be construed to limit the au-
21 thority of any court to stay the effective date of any
22 rule or provision thereof under any other provision
23 of law or to grant any other relief in addition to the
24 requirements of this subsection.

1 “(6) RECORD OF AGENCY ACTION.—In an ac-
2 tion for the judicial review of a rule, the privacy im-
3 pact assessment for such rule, including an assess-
4 ment prepared or corrected pursuant to paragraph
5 (4), shall constitute part of the entire record of
6 agency action in connection with such review.

7 “(7) EXCLUSIVITY.—Compliance or noncompli-
8 ance by an agency with the provisions of this section
9 shall be subject to judicial review only in accordance
10 with this subsection.

11 “(8) SAVINGS CLAUSE.—Nothing in this sub-
12 section bars judicial review of any other impact
13 statement or similar assessment required by any
14 other law if judicial review of such statement or as-
15 sessment is otherwise permitted by law.

16 “(g) DEFINITION.—For purposes of this section, the
17 term ‘personally identifiable information’ means informa-
18 tion that can be used to identify an individual, including
19 such individual’s name, address, telephone number, photo-
20 graph, social security number or other identifying infor-
21 mation. It includes information about such individual’s
22 medical or financial condition.”.

23 (c) PERIODIC REVIEW TRANSITION PROVISIONS.—

24 (1) INITIAL PLAN.—For each agency, the plan
25 required by subsection (e) of section 553a of title 5,

1 United States Code (as added by subsection (a)),
2 shall be published not later than 180 days after the
3 date of the enactment of this Act.

4 (2) In the case of a rule promulgated by an
5 agency before the date of the enactment of this Act,
6 such plan shall provide for the periodic review of
7 such rule before the expiration of the 10-year period
8 beginning on the date of the enactment of this Act.
9 For any such rule, the head of the agency may pro-
10 vide for a 1-year extension of such period if the head
11 of the agency, before the expiration of the period,
12 certifies in a statement published in the Federal
13 Register that reviewing such rule before the expira-
14 tion of the period is not feasible. The head of the
15 agency may provide for additional 1-year extensions
16 of the period pursuant to the preceding sentence,
17 but in no event may the period exceed 15 years.

18 (d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B)
19 of title 5, United States Code, is amended—

20 (1) by redesignating clauses (iii) and (iv) as
21 clauses (iv) and (v), respectively; and

22 (2) by inserting after clause (ii) the following
23 new clause:

24 “(iii) the agency’s actions relevant to section
25 553a;”.

1 (e) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 5 of title 5, United States
3 Code, is amended by adding after the item relating to sec-
4 tion 553 the following new item:

553a. Privacy impact assessment in rulemaking.”.

5 **SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH**
6 **LAW ENFORCEMENT OR ANTI-TERRORISM**
7 **FUNCTIONS.**

8 (a) IN GENERAL.—There shall be within each Fed-
9 eral agency with law enforcement or anti-terrorism func-
10 tions a chief privacy officer, who shall have primary re-
11 sponsibility within that agency for privacy policy. The
12 agency chief privacy officer shall be designated by the
13 head of the agency.

14 (b) RESPONSIBILITIES.—The responsibilities of each
15 agency chief privacy officer shall include—

16 (1) ensuring that the use of technologies sus-
17 tains, and does not erode, privacy protections relat-
18 ing to the use, collection, and disclosure of person-
19 ally identifiable information;

20 (2) ensuring that personally identifiable infor-
21 mation contained in systems of records is handled in
22 full compliance with fair information practices as set
23 out in section 552a of title 5, United States Code;

24 (3) evaluating legislative and regulatory pro-
25 posals involving collection, use, and disclosure of

1 personally identifiable information by the Federal
2 Government;

3 (4) conducting a privacy impact assessment of
4 proposed rules of the agency on the privacy of per-
5 sonally identifiable information, including the type of
6 personally identifiable information collected and the
7 number of people affected;

8 (5) preparing and submitting a report to Con-
9 gress on an annual basis on activities of the agency
10 that affect privacy, including complaints of privacy
11 violations, implementation of section 552a of title 5,
12 United States Code, internal controls, and other rel-
13 evant matters;

14 (6) ensuring that the agency protects personally
15 identifiable information and information systems
16 from unauthorized access, use, disclosure, disrup-
17 tion, modification, or destruction in order to
18 provide—

19 (A) integrity, which means guarding
20 against improper information modification or
21 destruction, and includes ensuring information
22 nonrepudiation and authenticity;

23 (B) confidentially, which means preserving
24 authorized restrictions on access and disclosure,

1 including means for protecting personal privacy
2 and proprietary information;

3 (C) availability, which means ensuring
4 timely and reliable access to and use of that in-
5 formation; and

6 (D) authentication, which means utilizing
7 digital credentials to assure the identity of
8 users and validate their access; and

9 (7) advising the head of the agency and the Di-
10 rector of the Office of Management and Budget on
11 information security and privacy issues pertaining to
12 Federal Government information systems.

13 **CHAPTER 2—MUTUAL AID AND**
14 **LITIGATION MANAGEMENT**

15 **SEC. 5101. SHORT TITLE.**

16 This chapter may be cited as the “Mutual Aid and
17 Litigation Management Authorization Act of 2004”.

18 **SEC. 5102. MUTUAL AID AUTHORIZED.**

19 (a) AUTHORIZATION TO ENTER INTO AGREE-
20 MENTS.—

21 (1) IN GENERAL.—The authorized representa-
22 tive of a State, locality, or the Federal Government
23 may enter into an interstate mutual aid agreement
24 or a mutual aid agreement with the Federal Govern-
25 ment on behalf of the State, locality, or Federal

1 Government under which, at the request of any
2 party to the agreement, the other party to the agree-
3 ment may—

4 (A) provide law enforcement, fire, rescue,
5 emergency health and medical services, trans-
6 portation, communications, public works and
7 engineering, mass care, and resource support in
8 an emergency or public service event occurring
9 in the jurisdiction of the requesting party;

10 (B) provide other services to prepare for,
11 mitigate, manage, respond to, or recover from
12 an emergency or public service event occurring
13 in the jurisdiction of the requesting party; and

14 (C) participate in training events occurring
15 in the jurisdiction of the requesting party.

16 (b) LIABILITY AND ACTIONS AT LAW.—

17 (1) LIABILITY.—A responding party or its offi-
18 cers or employees shall be liable on account of any
19 act or omission occurring while providing assistance
20 or participating in a training event in the jurisdic-
21 tion of a requesting party under a mutual aid agree-
22 ment (including any act or omission arising from the
23 maintenance or use of any equipment, facilities, or
24 supplies in connection therewith), but only to the ex-
25 tent permitted under and in accordance with the

1 laws and procedures of the State of the responding
2 party and subject to any litigation management
3 agreement entered into pursuant to section 5103.

4 (2) JURISDICTION OF COURTS.—

5 (A) IN GENERAL.—Subject to subpara-
6 graph (B) and any litigation management
7 agreement entered into pursuant to section
8 5103, any action brought against a responding
9 party or its officers or employees on account of
10 an act or omission described in subsection
11 (b)(1) may be brought only under the laws and
12 procedures of the State of the responding party
13 and only in the State courts or United States
14 District Courts located therein.

15 (B) UNITED STATES AS PARTY.—If the
16 United States is the party against whom an ac-
17 tion described in paragraph (1) is brought, the
18 action may be brought only in a United States
19 District Court.

20 (c) WORKERS' COMPENSATION AND DEATH BENE-
21 FITS.—

22 (1) PAYMENT OF BENEFITS.—A responding
23 party shall provide for the payment of workers' com-
24 pensation and death benefits with respect to officers
25 or employees of the party who sustain injuries or are

1 killed while providing assistance or participating in
2 a training event under a mutual aid agreement in
3 the same manner and on the same terms as if the
4 injury or death were sustained within the jurisdic-
5 tion of the responding party.

6 (2) LIABILITY FOR BENEFITS.—No party shall
7 be liable under the law of any State other than its
8 own (or, in the case of the Federal Government,
9 under any law other than Federal law) for the pay-
10 ment of workers' compensation and death benefits
11 with respect to injured officers or employees of the
12 party who sustain injuries or are killed while pro-
13 viding assistance or participating in a training event
14 under a mutual aid agreement.

15 (d) LICENSES AND PERMITS.—Whenever any person
16 holds a license, certificate, or other permit issued by any
17 responding party evidencing the meeting of qualifications
18 for professional, mechanical, or other skills, such person
19 will be deemed licensed, certified, or permitted by the re-
20 questing party to provide assistance involving such skill
21 under a mutual aid agreement.

22 (e) SCOPE.—Except to the extent provided in this
23 section, the rights and responsibilities of the parties to a
24 mutual aid agreement shall be as described in the mutual
25 aid agreement.

1 (f) EFFECT ON OTHER AGREEMENTS.—Nothing in
2 this section precludes any party from entering into supple-
3 mentary mutual aid agreements with fewer than all the
4 parties, or with another, or affects any other agreements
5 already in force among any parties to such an agreement,
6 including the Emergency Management Assistance Com-
7 pact (EMAC) under Public Law 104–321.

8 (g) FEDERAL GOVERNMENT.—Nothing in this sec-
9 tion may be construed to limit any other expressed or im-
10 plied authority of any entity of the Federal Government
11 to enter into mutual aid agreements.

12 (h) CONSISTENCY WITH STATE LAW.—A party may
13 enter into a mutual aid agreement under this chapter only
14 insofar as the agreement is in accord with State law.

15 **SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

16 (a) AUTHORIZATION TO ENTER INTO LITIGATION
17 MANAGEMENT AGREEMENTS.—The authorized represent-
18 ative of a State or locality may enter into a litigation man-
19 agement agreement on behalf of the State or locality. Such
20 litigation management agreements may provide that all
21 claims against such Emergency Response Providers aris-
22 ing out of, relating to, or resulting from an act of ter-
23 rorism when Emergency Response Providers from more
24 than 1 State have acted in defense against, in response

1 to, or recovery from such act shall be governed by the fol-
2 lowing provisions.

3 (b) FEDERAL CAUSE OF ACTION.—

4 (1) IN GENERAL.—There shall exist a Federal
5 cause of action for claims against Emergency Re-
6 sponse Providers arising out of, relating to, or re-
7 sulting from an act of terrorism when Emergency
8 Response Providers from more than 1 State have
9 acted in defense against, in response to, or recovery
10 from such act. As determined by the parties to a liti-
11 gation management agreement, the substantive law
12 for decision in any such action shall be—

13 (A) derived from the law, including choice
14 of law principles, of the State in which such
15 acts of terrorism occurred, unless such law is
16 inconsistent with or preempted by Federal law;
17 or

18 (B) derived from the choice of law prin-
19 ciples agreed to by the parties to a litigation
20 management agreement as described in the liti-
21 gation management agreement, unless such
22 principles are inconsistent with or preempted by
23 Federal law.

24 (2) JURISDICTION.—Such appropriate district
25 court of the United States shall have original and

1 exclusive jurisdiction over all actions for any claim
2 against Emergency Response Providers for loss of
3 property, personal injury, or death arising out of, re-
4 lating to, or resulting from an act of terrorism when
5 Emergency Response Providers from more than 1
6 State have acted in defense against, in response to,
7 or recovery from an act of terrorism.

8 (3) SPECIAL RULES.—In an action brought for
9 damages that is governed by a litigation manage-
10 ment agreement, the following provisions apply:

11 (A) PUNITIVE DAMAGES.—No punitive
12 damages intended to punish or deter, exemplary
13 damages, or other damages not intended to
14 compensate a plaintiff for actual losses may be
15 awarded, nor shall any party be liable for inter-
16 est prior to the judgment.

17 (B) COLLATERAL SOURCES.—Any recovery
18 by a plaintiff in an action governed by a litiga-
19 tion management agreement shall be reduced by
20 the amount of collateral source compensation, if
21 any, that the plaintiff has received or is entitled
22 to receive as a result of such acts of terrorism.

23 (4) EXCLUSIONS.—Nothing in this section shall
24 in any way limit the ability of any person to seek

1 any form of recovery from any person, government,
2 or other entity that—

3 (A) attempts to commit, knowingly partici-
4 pates in, aids and abets, or commits any act of
5 terrorism, or any criminal act related to or re-
6 sulting from such act of terrorism; or

7 (B) participates in a conspiracy to commit
8 any such act of terrorism or any such criminal
9 act.

10 **SEC. 5104. ADDITIONAL PROVISIONS.**

11 (a) NO ABROGATION OF OTHER IMMUNITIES.—
12 Nothing in this chapter shall abrogate any constitutional,
13 statutory, or common law immunities that any party may
14 have.

15 (b) EXCEPTION FOR CERTAIN FEDERAL LAW EN-
16 FORCEMENT ACTIVITIES.—A mutual aid agreement or a
17 litigation management agreement may not apply to law
18 enforcement security operations at special events of na-
19 tional significance under section 3056(e) of title 18,
20 United States Code, or to other law enforcement functions
21 of the United States Secret Service.

22 (c) SECRET SERVICE.—Section 3056 of title 18,
23 United States Code, is amended by adding at the end the
24 following new subsection:

1 “(g) The Secret Service shall be maintained as a dis-
2 tinct entity within the Department of Homeland Security
3 and shall not be merged with any other department func-
4 tion. All personnel and operational elements of the United
5 States Secret Service shall report to the Director of the
6 Secret Service, who shall report directly to the Secretary
7 of Homeland Security without being required to report
8 through any other official of the Department.”.

9 **SEC. 5105. DEFINITIONS.**

10 For purposes of this chapter, the following definitions
11 apply:

12 (1) **AUTHORIZED REPRESENTATIVE.**—The term
13 “authorized representative” means—

14 (A) in the case of the Federal Government,
15 any individual designated by the President with
16 respect to the executive branch, the Chief Jus-
17 tice of the United States with respect to the ju-
18 dicial branch, or the President pro Tempore of
19 the Senate and Speaker of the House of Rep-
20 resentatives with respect to the Congress, or
21 their designees, to enter into a mutual aid
22 agreement;

23 (B) in the case of a locality, the official
24 designated by law to declare an emergency in
25 and for the locality, or the official’s designee;

1 (C) in the case of a State, the Governor or
2 the Governor’s designee.

3 (2) EMERGENCY.—The term “emergency”
4 means a major disaster or emergency declared by
5 the President, or a State of Emergency declared by
6 an authorized representative of a State or locality, in
7 response to which assistance may be provided under
8 a mutual aid agreement.

9 (3) EMERGENCY RESPONSE PROVIDER.—The
10 term “Emergency Response Provider” means any
11 party to a litigation management agreement that
12 meets the definition of “emergency response pro-
13 viders” under section 2 of the Homeland Security
14 Act of 2002 (6 U.S.C. 101), as amended by this Act,
15 except that the term does not include any Federal
16 personnel, agency, or authority.

17 (4) EMPLOYEE.—The term “employee” means,
18 with respect to a party to a mutual aid agreement,
19 the employees of the party, including its agents or
20 authorized volunteers, who are committed to provide
21 assistance under the agreement.

22 (5) LITIGATION MANAGEMENT AGREEMENT.—
23 The term “litigation management agreement” means
24 an agreement entered into pursuant to the authority
25 granted under section 5103.

1 (6) LOCALITY.—The term “locality” means a
2 county, city, or town.

3 (7) MUTUAL AID AGREEMENT.—The term “mu-
4 tual aid agreement” means an agreement entered
5 into pursuant to the authority granted under section
6 5102.

7 (8) PUBLIC SERVICE EVENT.—The term “pub-
8 lic service event” means any undeclared emergency,
9 incident, or situation in preparation for or response
10 to which assistance may be provided under a mutual
11 aid agreement.

12 (9) REQUESTING PARTY.—The term “request-
13 ing party” means, with respect to a mutual aid
14 agreement, the party in whose jurisdiction assistance
15 is provided, or a training event is held, under the
16 agreement.

17 (10) RESPONDING PARTY.—The term “respond-
18 ing party” means, with respect to a mutual aid
19 agreement, the party providing assistance, or partici-
20 pating in a training event, under the agreement, but
21 does not include the requesting party.

22 (11) STATE.—The term “State” includes each
23 of the several States of the United States, the Dis-
24 trict of Columbia, the Commonwealth of Puerto
25 Rico, the Virgin Islands, Guam, American Samoa,

1 and the Commonwealth of the Northern Mariana Is-
2 lands, and any other territory or possession of the
3 United States, and any political subdivision of any
4 such place.

5 (12) **TERRORISM.**—The term “terrorism”
6 means any activity that meets the definition of “ter-
7 rorism” under section 2 of the Homeland Security
8 Act of 2002 (6 U.S.C. 101), as amended by this Act.

9 (13) **TRAINING EVENT.**—The term “training
10 event” means an emergency and public service
11 event-related exercise, test, or other activity using
12 equipment and personnel to prepare for or simulate
13 performance of any aspect of the giving or receiving
14 of assistance during emergencies or public service
15 events, but does not include an actual emergency or
16 public service event.

17 **Chapter 3—Miscellaneous Matters**

18 **SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMU-**
19 **NICATIONS INTEROPERABILITY.**

20 (a) **COORDINATION OF PUBLIC SAFETY INTEROPER-**
21 **ABLE COMMUNICATIONS PROGRAMS.**—

22 (1) **PROGRAM.**—The Secretary of Homeland Se-
23 curity, in consultation with the Secretary of Com-
24 merce and the Chairman of the Federal Communica-
25 tions Commission, shall establish a program to en-

1 hance public safety interoperable communications at
2 all levels of government. Such program shall—

3 (A) establish a comprehensive national ap-
4 proach to achieving public safety interoperable
5 communications;

6 (B) coordinate with other Federal agencies
7 in carrying out subparagraph (A);

8 (C) develop, in consultation with other ap-
9 propriate Federal agencies and State and local
10 authorities, appropriate minimum capabilities
11 for communications interoperability for Federal,
12 State, and local public safety agencies;

13 (D) accelerate, in consultation with other
14 Federal agencies, including the National Insti-
15 tute of Standards and Technology, the private
16 sector, and nationally recognized standards or-
17 ganizations as appropriate, the development of
18 national voluntary consensus standards for pub-
19 lic safety interoperable communications;

20 (E) encourage the development and imple-
21 mentation of flexible and open architectures in-
22 corporating, where possible, technologies that
23 currently are commercially available, with ap-
24 propriate levels of security, for short-term and

1 long-term solutions to public safety communica-
2 tions interoperability;

3 (F) assist other Federal agencies in identi-
4 fying priorities for research, development, and
5 testing and evaluation with regard to public
6 safety interoperable communications;

7 (G) identify priorities within the Depart-
8 ment of Homeland Security for research, devel-
9 opment, and testing and evaluation with regard
10 to public safety interoperable communications;

11 (H) establish coordinated guidance for
12 Federal grant programs for public safety inter-
13 operable communications;

14 (I) provide technical assistance to State
15 and local public safety agencies regarding plan-
16 ning, acquisition strategies, interoperability ar-
17 chitectures, training, and other functions nec-
18 essary to achieve public safety communications
19 interoperability;

20 (J) develop and disseminate best practices
21 to improve public safety communications inter-
22 operability; and

23 (K) develop appropriate performance meas-
24 ures and milestones to systematically measure
25 the Nation's progress towards achieving public

1 safety communications interoperability, includ-
2 ing the development of national voluntary con-
3 sensus standards.

4 (2) OFFICE FOR INTEROPERABILITY AND COM-
5 PATIBILITY.—

6 (A) ESTABLISHMENT OF OFFICE.—The
7 Secretary may establish an Office for Interoper-
8 ability and Compatibility to carry out this sub-
9 section.

10 (B) FUNCTIONS.—If the Secretary estab-
11 lishes such office, the Secretary shall, through
12 such office—

13 (i) carry out Department of Home-
14 land Security responsibilities and authori-
15 ties relating to the SAFECOM Program;
16 and

17 (ii) carry out subsection (c) (relating
18 to rapid interoperable communications ca-
19 pabilities for high risk jurisdictions).

20 (3) APPLICABILITY OF FEDERAL ADVISORY
21 COMMITTEE ACT.—The Federal Advisory Committee
22 Act (5 U.S.C. App.) shall not apply to advisory
23 groups established and maintained by the Secretary
24 for purposes of carrying out this subsection.

1 (b) REPORT.—Not later than 120 days after the date
2 of the enactment of this Act, the Secretary shall report
3 to the Congress on Department of Homeland Security
4 plans for accelerating the development of national vol-
5 untary consensus standards for public safety interoperable
6 communications, a schedule of milestones for such devel-
7 opment, and achievements of such development.

8 (c) RAPID INTEROPERABLE COMMUNICATIONS CAPA-
9 BILITIES FOR HIGH RISK JURISDICTIONS.—The Sec-
10 retary, in consultation with other relevant Federal, State,
11 and local government agencies, shall provide technical,
12 training, and other assistance as appropriate to support
13 the rapid establishment of consistent, secure, and effective
14 interoperable communications capabilities for emergency
15 response providers in jurisdictions determined by the Sec-
16 retary to be at consistently high levels of risk of terrorist
17 attack.

18 (d) DEFINITIONS.—In this section:

19 (1) INTEROPERABLE COMMUNICATIONS.—The
20 term “interoperable communications” means the
21 ability of emergency response providers and relevant
22 Federal, State, and local government agencies to
23 communicate with each other as necessary, through
24 a dedicated public safety network utilizing informa-
25 tion technology systems and radio communications

1 systems, and to exchange voice, data, or video with
2 one another on demand, in real time, as necessary.

3 (2) EMERGENCY RESPONSE PROVIDERS.—The
4 term “emergency response providers” has the mean-
5 ing that term has under section 2 of the Homeland
6 Security Act of 2002 (6 U.S.C. 101), as amended by
7 this Act.

8 (e) CLARIFICATION OF RESPONSIBILITY FOR INTER-
9 OPERABLE COMMUNICATIONS.—

10 (1) UNDER SECRETARY FOR EMERGENCY PRE-
11 PAREDNESS AND RESPONSE.—Section 502(7) of the
12 Homeland Security Act of 2002 (6 U.S.C. 312(7))
13 is amended—

14 (A) by striking “developing comprehensive
15 programs for developing interoperative commu-
16 nications technology, and”; and

17 (B) by striking “such” and inserting
18 “interoperable communications”.

19 (2) OFFICE FOR DOMESTIC PREPAREDNESS.—
20 Section 430(e) of such Act (6 U.S.C. 238(e)) is
21 amended—

22 (A) in paragraph (7) by striking “and”
23 after the semicolon;

24 (B) in paragraph (8) by striking the period
25 and inserting “; and”; and

1 (C) by adding at the end the following:

2 “(9) helping to ensure the acquisition of inter-
3 operable communication technology by State and
4 local governments and emergency response pro-
5 viders.”.

6 **SEC. 5132. SENSE OF CONGRESS REGARDING THE INCI-**
7 **DENT COMMAND SYSTEM.**

8 (a) FINDINGS.—The Congress finds that—

9 (1) in Homeland Security Presidential Direc-
10 tive–5, the President directed the Secretary of
11 Homeland Security to develop an incident command
12 system to be known as the National Incident Man-
13 agement System (NIMS), and directed all Federal
14 agencies to make the adoption of NIMS a condition
15 for the receipt of Federal emergency preparedness
16 assistance by States, territories, tribes, and local
17 governments beginning in fiscal year 2005;

18 (2) in March 2004, the Secretary of Homeland
19 Security established NIMS, which provides a unified
20 structural framework for Federal, State, territorial,
21 tribal, and local governments to ensure coordination
22 of command, operations, planning, logistics, finance,
23 and administration during emergencies involving
24 multiple jurisdictions or agencies; and

1 (3) the National Commission on Terrorist At-
2 tacks Upon the United States strongly supports the
3 adoption of NIMS by emergency response agencies
4 nationwide, and the decision by the President to con-
5 dition Federal emergency preparedness assistance
6 upon the adoption of NIMS.

7 (b) SENSE OF CONGRESS.—It is the sense of the
8 Congress that all levels of government should adopt
9 NIMS, and that the regular use of and training in NIMS
10 by States, territories, tribes, and local governments should
11 be a condition for receiving Federal preparedness assist-
12 ance.

13 **SEC. 5133. SENSE OF CONGRESS REGARDING UNITED**
14 **STATES NORTHERN COMMAND PLANS AND**
15 **STRATEGIES.**

16 It is the sense of Congress that the Secretary of De-
17 fense should regularly assess the adequacy of United
18 States Northern Command's plans and strategies with a
19 view to ensuring that the United States Northern Com-
20 mand is prepared to respond effectively to all military and
21 paramilitary threats within the United States.