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(Original Signature of Member)

108TH CONGRESS
2^D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. HASTERT (for himself, [see attached list of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “9/11 Recommendations
5 Implementation Act”.



1 **SEC. 2. TABLE OF CONTENTS.**

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

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

Sec. 1001. Short title.

Subtitle A—Establishment of National Intelligence Director

Sec. 1011. Reorganization and improvement of management of intelligence community.

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.

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.

Subtitle D—Improvement of Human Intelligence (HUMINT)

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

Sec. 1042. Improvement of human intelligence capacity.

Subtitle E—Improvement of Education for the Intelligence Community

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.

Sec. 1055. Advancement of foreign languages critical to the intelligence community.

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

Sec. 1057. Codification of establishment of the National Virtual Translation Center.

Sec. 1058. Report on recruitment and retention of qualified instructors of the Defense Language Institute.

Subtitle F—Additional Improvements of Intelligence Activities

Sec. 1061. Permanent extension of Central Intelligence Agency Voluntary Separation Incentive Program.

Sec. 1062. National Security Agency Emerging Technologies Panel.

Subtitle G—Conforming and Other Amendments

Sec. 1071. Conforming amendments relating to roles of National Intelligence Director and Director of the Central Intelligence Agency.

Sec. 1072. Other conforming amendments

Sec. 1073. Elements of intelligence community under National Security Act of 1947.



- Sec. 1074. Redesignation of National Foreign Intelligence Program as National Intelligence Program.
- Sec. 1075. Repeal of superseded authorities.
- Sec. 1076. Clerical amendments to National Security Act of 1947.
- Sec. 1077. Conforming amendments relating to prohibiting dual service of the Director of the Central Intelligence Agency.
- Sec. 1078. Access to Inspector General protections.
- Sec. 1079. General references.
- Sec. 1080. Application of other laws.

Subtitle H—Transfer, Termination, Transition and Other Provisions

- Sec. 1091. Transfer of community management staff.
- Sec. 1092. Transfer of terrorist threat integration center.
- Sec. 1093. Termination of positions of Assistant Directors of Central Intelligence.
- Sec. 1094. Implementation plan.
- Sec. 1095. Transitional authorities.
- Sec. 1096. Effective dates.

Subtitle I—Grand Jury Information Sharing

- Sec. 1101. Grand jury information sharing.

Subtitle J—Other Matters

- Sec. 1111. Interoperable law enforcement and intelligence data system.
- Sec. 1112. Improvement of intelligence capabilities of the Federal Bureau of Investigation.

TITLE II—TERRORISM PREVENTION AND PROSECUTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

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

Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

- Sec. 2021. Short title.
- Sec. 2022. Hoaxes and recovery costs.
- Sec. 2023. Obstruction of justice and false statements in terrorism cases.
- Sec. 2024. Clarification of definition.

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

- Sec. 2041. Short title.
- Sec. 2042. Receiving military-type training from a foreign terrorist organization.
- Sec. 2043. Providing material support to terrorism.
- Sec. 2044. Financing of terrorism.

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

- Sec. 2051. Short title.
- Sec. 2052. Weapons of mass destruction.
- Sec. 2053. Participation in nuclear and weapons of mass destruction threats to the United States.

Subtitle E—Money Laundering and Terrorist Financing

CHAPTER 1—FUNDING TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

- Sec. 2101. Additional authorization for FinCEN.
- Sec. 2102. Money laundering and financial crimes strategy reauthorization.



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

SUBCHAPTER A—MONEY LAUNDERING ABATEMENT AND FINANCIAL
ANTITERRORISM TECHNICAL CORRECTIONS

- Sec. 2111. Short title.
Sec. 2112. Technical corrections to Public Law 107–56.
Sec. 2113. Technical corrections to other provisions of law.
Sec. 2114. Repeal of review.
Sec. 2115. Effective date.

SUBCHAPTER B—ADDITIONAL ENFORCEMENT TOOLS

- Sec. 2121. Bureau of Engraving and Printing security printing.
Sec. 2122. Conduct in aid of counterfeiting.

Subtitle F—Criminal History Background Checks

- Sec. 2141. Short title.
Sec. 2142. Criminal history information checks.

Subtitle G—Protection of United States Aviation System from Terrorist
Attacks

- Sec. 2171. Provision for the use of biometric or other technology.
Sec. 2172. Transportation security strategic planning.
Sec. 2173. Next generation airline passenger prescreening.
Sec. 2174. Deployment and use of explosive detection equipment at airport
screening checkpoints.
Sec. 2175. Pilot program to evaluate use of blast-resistant cargo and bag-
gage containers.
Sec. 2176. Air cargo screening technology.
Sec. 2177. Airport checkpoint screening explosive detection.
Sec. 2178. Next generation security checkpoint.
Sec. 2179. Penalty for failure to secure cockpit door.
Sec. 2180. Federal air marshal anonymity.
Sec. 2181. Federal law enforcement in-flight counterterrorism training.
Sec. 2182. Federal flight deck officer weapon carriage pilot program.
Sec. 2183. Registered traveler program.
Sec. 2184. Wireless communication.
Sec. 2185. Secondary flight deck barriers.
Sec. 2186. Extension.
Sec. 2187. Perimeter Security.
Sec. 2188. Definitions.

Subtitle H—Other Matters

- Sec. 2191. Grand jury information sharing.
Sec. 2192. Interoperable law enforcement and intelligence data system.
Sec. 2193. Improvement of intelligence capabilities of the Federal Bureau
of Investigation.

TITLE III—BORDER SECURITY AND TERRORIST TRAVEL

Subtitle A—Immigration Reform in the National Interest

CHAPTER 1—GENERAL PROVISIONS

- Sec. 3001. Eliminating the “Western Hemisphere” exception for citizens.
Sec. 3002. Modification of waiver authority with respect to documentation
requirements for nationals of foreign contiguous territories and
adjacent islands.
Sec. 3003. Increase in full-time border patrol agents.
Sec. 3004. Increase in full-time immigration and customs enforcement in-
vestigators.



- Sec. 3005. Alien identification standards.
- Sec. 3006. Expedited removal.
- Sec. 3007. Preventing terrorists from obtaining asylum.
- Sec. 3008. Revocation of visas and other travel documentation.
- Sec. 3009. Judicial review of orders of removal.

CHAPTER 2—DEPORTATION OF TERRORISTS AND SUPPORTERS OF
TERRORISM

- Sec. 3031. Expanded inapplicability of restriction on removal.
- Sec. 3032. Exception to restriction on removal for terrorists and criminals.
- Sec. 3033. Additional removal authorities.

Subtitle B—Identity Management Security

CHAPTER 1—IMPROVED SECURITY FOR DRIVERS' LICENSES AND
PERSONAL IDENTIFICATION CARDS

- Sec. 3051. Definitions.
- Sec. 3052. Minimum document requirements and issuance standards for Federal recognition.
- Sec. 3053. Linking of databases.
- Sec. 3054. Trafficking in authentication features for use in false identification documents.
- Sec. 3055. Grants to States.
- Sec. 3056. Authority.

CHAPTER 2—IMPROVED SECURITY FOR BIRTH CERTIFICATES

- Sec. 3061. Definitions.
- Sec. 3062. Applicability of minimum standards to local governments.
- Sec. 3063. Minimum standards for Federal recognition.
- Sec. 3064. Establishment of electronic birth and death registration systems.
- Sec. 3065. Electronic verification of vital events.
- Sec. 3066. Grants to States.
- Sec. 3067. Authority.

CHAPTER 3—MEASURES TO ENHANCE PRIVACY AND INTEGRITY OF
SOCIAL SECURITY ACCOUNT NUMBERS

- Sec. 3071. Prohibition of the display of social security account numbers on driver's licenses or motor vehicle registrations.
- Sec. 3072. Independent verification of birth records provided in support of applications for social security account numbers.
- Sec. 3073. Enumeration at birth.
- Sec. 3074. Study relating to use of photographic identification in connection with applications for benefits, social security account numbers, and social security cards.
- Sec. 3075. Restrictions on issuance of multiple replacement social security cards.
- Sec. 3076. Study relating to modification of the social security account numbering system to show work authorization status.

Subtitle C—Targeting Terrorist Travel

- Sec. 3081. Studies on machine-readable passports and travel history database.
- Sec. 3082. Expanded preinspection at foreign airports.
- Sec. 3083. Immigration security initiative.
- Sec. 3084. Responsibilities and functions of consular officers.
- Sec. 3085. Increase in penalties for fraud and related activity.
- Sec. 3086. Criminal penalty for false claim to citizenship.



6

- Sec. 3087. Antiterrorism assistance training of the Department of State.
- Sec. 3088. International agreements to track and curtail terrorist travel through the use of fraudulently obtained documents.
- Sec. 3089. International standards for translation of names into the Roman alphabet for international travel documents and name-based watchlist systems.
- Sec. 3090. Biometric entry and exit data system.
- Sec. 3091. Enhanced responsibilities of the Coordinator for Counterterrorism.
- Sec. 3092. Establishment of Office of Visa and Passport Security in the Department of State.

Subtitle D—Terrorist Travel

- Sec. 3101. Information sharing and coordination.
- Sec. 3102. Terrorist travel program.
- Sec. 3103. Training program.
- Sec. 3104. Technology acquisition and dissemination plan.

Subtitle E—Maritime Security Requirements

- Sec. 3111. Deadlines for implementation of maritime security requirements.

**TITLE IV—INTERNATIONAL COOPERATION AND
COORDINATION**

Subtitle A—Attack Terrorists and Their Organizations

CHAPTER 1—PROVISIONS RELATING TO TERRORIST SANCTUARIES

- Sec. 4001. United States policy on terrorist sanctuaries.
- Sec. 4002. Reports on terrorist sanctuaries.
- Sec. 4003. Amendments to existing law to include terrorist sanctuaries.

CHAPTER 2—OTHER PROVISIONS

- Sec. 4011. Appointments to fill vacancies in Arms Control and Non-proliferation Advisory Board.
- Sec. 4012. Review of United States policy on proliferation of weapons of mass destruction and control of strategic weapons.
- Sec. 4013. International agreements to interdict acts of international terrorism.
- Sec. 4014. Effective Coalition approach toward detention and humane treatment of captured terrorists.
- Sec. 4015. Sense of Congress and report regarding counter-drug efforts in Afghanistan.

Subtitle B—Prevent the Continued Growth of Terrorism

CHAPTER 1—UNITED STATES PUBLIC DIPLOMACY

- Sec. 4021. Annual review and assessment of public diplomacy strategy.
- Sec. 4022. Public diplomacy training.
- Sec. 4023. Promoting direct exchanges with Muslim countries.
- Sec. 4024. Public diplomacy required for promotion in Foreign Service.

CHAPTER 2—UNITED STATES MULTILATERAL DIPLOMACY

- Sec. 4031. Purpose.
- Sec. 4032. Support and expansion of democracy caucus.
- Sec. 4033. Leadership and membership of international organizations.
- Sec. 4034. Increased training in multilateral diplomacy.
- Sec. 4035. Implementation and establishment of Office on Multilateral Negotiations.



CHAPTER 3—OTHER PROVISIONS

- Sec. 4041. Pilot program to provide grants to American-sponsored schools in predominantly Muslim countries to provide scholarships.
- Sec. 4042. Enhancing free and independent media.
- Sec. 4043. Combating biased or false foreign media coverage of the United States.
- Sec. 4044. Report on broadcast outreach strategy.
- Sec. 4045. Office relocation.
- Sec. 4046. Strengthening the Community of Democracies for Muslim countries.

Subtitle C—Reform of Designation of Foreign Terrorist Organizations

- Sec. 4051. Designation of foreign terrorist organizations.
- Sec. 4052. Inclusion in annual Department of State country reports on terrorism of information on terrorist groups that seek weapons of mass destruction and groups that have been designated as foreign terrorist organizations.

Subtitle D—Afghanistan Freedom Support Act Amendments of 2004

- Sec. 4061. Short title.
- Sec. 4062. Coordination of assistance for Afghanistan.
- Sec. 4063. General provisions relating to the Afghanistan Freedom Support Act of 2002.
- Sec. 4064. Rule of law and related issues.
- Sec. 4065. Monitoring of assistance.
- Sec. 4066. United States policy to support disarmament of private militias and to support expansion of international peacekeeping and security operations in Afghanistan.
- Sec. 4067. Efforts to expand international peacekeeping and security operations in Afghanistan.
- Sec. 4068. Provisions relating to counternarcotics efforts in Afghanistan.
- Sec. 4069. Additional amendments to the Afghanistan Freedom Support Act of 2002.
- Sec. 4070. Repeal.

Subtitle E—Provisions Relating to Saudi Arabia and Pakistan

- Sec. 4081. New United States strategy for relationship with Saudi Arabia.
- Sec. 4082. United States commitment to the future of Pakistan.
- Sec. 4083. Extension of Pakistan waivers.

Subtitle F—Oversight Provisions

- Sec. 4091. Case-Zablocki Act requirements.

Subtitle G—Additional Protections of United States Aviation System from Terrorist Attacks

- Sec. 4101. International agreements to allow maximum deployment of Federal flight deck officers.
- Sec. 4102. Federal air marshal training.
- Sec. 4103. Man-portable air defense systems (MANPADS).

Subtitle H—Improving International Standards and Cooperation to Fight Terrorist Financing

- Sec. 4111. Sense of the Congress regarding success in multilateral organizations.
- Sec. 4112. Expanded reporting requirement for the Secretary of the Treasury.
- Sec. 4113. International Terrorist Finance Coordinating Council.
- Sec. 4114. Definitions.



TITLE V—GOVERNMENT RESTRUCTURING

Subtitle A—Faster and Smarter Funding for First Responders

- Sec. 5001. Short title.
- Sec. 5002. Findings.
- Sec. 5003. Faster and smarter funding for first responders.
- Sec. 5004. Modification of homeland security advisory system.
- Sec. 5005. Coordination of industry efforts.
- Sec. 5006. Superseded provision.
- Sec. 5007. Sense of Congress regarding interoperable communications.
- Sec. 5008. Sense of Congress regarding citizen corps councils.
- Sec. 5009. Study regarding nationwide emergency notification system.
- Sec. 5010. Required coordination.

Subtitle B—Government Reorganization Authority

- Sec. 5021. Authorization of intelligence community reorganization plans.

Subtitle C—Restructuring Relating to the Department of Homeland Security and Congressional Oversight

- Sec. 5025. Responsibilities of Counternarcotics Office.
- Sec. 5026. Use of counternarcotics enforcement activities in certain employee performance appraisals.
- Sec. 5027. Sense of the House of Representatives on addressing homeland security for the American people.

Subtitle D—Improvements to Information Security

- Sec. 5031. Amendments to Clinger-Cohen provisions to enhance agency planning for information security needs.

Subtitle E—Personnel Management Improvements

CHAPTER 1—APPOINTMENTS PROCESS REFORM

- Sec. 5041. Appointments to national security positions.
- Sec. 5042. Presidential inaugural transitions.
- Sec. 5043. Public financial disclosure for the intelligence community.
- Sec. 5044. Reduction of positions requiring appointment with Senate confirmation.
- Sec. 5045. Effective dates.

CHAPTER 2—FEDERAL BUREAU OF INVESTIGATION REVITALIZATION

- Sec. 5051. Mandatory separation age.
- Sec. 5052. Retention and relocation bonuses.
- Sec. 5053. Federal Bureau of Investigation Reserve Service.
- Sec. 5054. Critical positions in the Federal Bureau of Investigation intelligence directorate.

CHAPTER 3—MANAGEMENT AUTHORITY

- Sec. 5061. Management authority.

Subtitle F—Security Clearance Modernization

- Sec. 5071. Definitions.
- Sec. 5072. Security clearance and investigative programs oversight and administration.
- Sec. 5073. Reciprocity of security clearance and access determinations.
- Sec. 5074. Establishment of national database .
- Sec. 5075. Use of available technology in clearance investigations.
- Sec. 5076. Reduction in length of personnel security clearance process.
- Sec. 5077. Security clearances for presidential transition.
- Sec. 5078. Reports.



Subtitle G—Emergency Financial Preparedness

- Sec. 5081. Delegation authority of the Secretary of the Treasury.
- Sec. 5082. Extension of emergency order authority of the securities and exchange commission.
- Sec. 5083. Parallel authority of the Secretary of the Treasury with respect to government securities.

Subtitle H—Other Matters

CHAPTER 1—PRIVACY MATTERS

- Sec. 5091. Requirement that agency rulemaking take into consideration impacts on individual privacy.
- Sec. 5092. Chief privacy officers for agencies with law enforcement or anti-terrorism functions.

CHAPTER 2—MUTUAL AID AND LITIGATION MANAGEMENT

- Sec. 5101. Short title.
- Sec. 5102. Mutual aid authorized.
- Sec. 5103. Litigation management agreements.
- Sec. 5104. Additional provisions.
- Sec. 5105. Definitions.

CHAPTER 3—MISCELLANEOUS MATTERS

- Sec. 5131. Enhancement of public safety communications interoperability.
- Sec. 5132. Sense of Congress regarding the incident command system.
- Sec. 5133. Sense of Congress regarding United States Northern Command plans and strategies.

1 **TITLE I—REFORM OF THE**
 2 **INTELLIGENCE COMMUNITY**

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

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

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

8 **SEC. 1011. REORGANIZATION AND IMPROVEMENT OF**
 9 **MANAGEMENT OF INTELLIGENCE COMMU-**
 10 **NITY.**

11 (a) IN GENERAL.—Title I of the National Security Act of
12 1947 (50 U.S.C. 402 et seq.) is amended by striking sections
13 102 through 104 and inserting the following new sections:

14 “NATIONAL INTELLIGENCE DIRECTOR
 15 “SEC. 102. (a) NATIONAL INTELLIGENCE DIRECTOR.—(1)
 16 There is a National Intelligence Director who shall be ap-
 17 pointed by the President, by and with the advice and consent
 18 of the Senate.

19 “(2) The National Intelligence Director shall not be lo-
20 cated within the Executive Office of the President.



1 “(b) PRINCIPAL RESPONSIBILITY.—Subject to the author-
2 ity, direction, and control of the President, the National Intel-
3 ligence Director shall—

4 “(1) serve as head of the intelligence community;

5 “(2) act as the principal adviser to the President, to
6 the National Security Council, and the Homeland Security
7 Council for intelligence matters related to the national se-
8 curity; and

9 “(3) through the heads of the departments containing
10 elements of the intelligence community, and the Central In-
11 telligence Agency, manage and oversee the execution of the
12 National Intelligence Program and direct the National In-
13 telligence Program.

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

19 “RESPONSIBILITIES AND AUTHORITIES OF THE NATIONAL
20 INTELLIGENCE DIRECTOR

21 “SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1)
22 Under the direction of the President, the National Intelligence
23 Director shall be responsible for ensuring that national intel-
24 ligence is provided—

25 “(A) to the President;

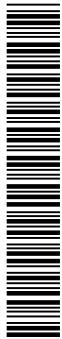
26 “(B) to the heads of departments and agencies of the
27 executive branch;

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

30 “(D) where appropriate, to the Senate and House of
31 Representatives and the committees thereof; and

32 “(E) to such other persons as the National Intel-
33 ligence Director determines to be appropriate.

34 “(2) Such national intelligence should be timely, objective,
35 independent of political considerations, and based upon all
36 sources available to the intelligence community and other ap-
37 propriate entities.



1 “(b) ACCESS TO INTELLIGENCE.—To the extent approved
2 by the President, the National Intelligence Director shall have
3 access to all national intelligence and intelligence related to the
4 national security which is collected by any Federal department,
5 agency, or other entity, except as otherwise provided by law or,
6 as appropriate, under guidelines agreed upon by the Attorney
7 General and the National Intelligence Director.

8 “(c) BUDGET AUTHORITIES.—(1)(A) The National Intel-
9 ligence Director shall develop and present to the President on
10 an annual basis a budget for intelligence and intelligence-re-
11 lated activities of the United States.

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

19 “(2)(A) The National Intelligence Director shall partici-
20 pate in the development by the Secretary of Defense of the an-
21 nual budgets for the Joint Military Intelligence Program and
22 for Tactical Intelligence and Related Activities.

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

27 “(3) In carrying out paragraphs (1) and (2), the National
28 Intelligence Director may, as appropriate, obtain the advice of
29 the Joint Intelligence Community Council.

30 “(4) The National Intelligence Director shall ensure the
31 effective execution of the annual budget for intelligence and in-
32 telligence-related activities.

33 “(5)(A) The National Intelligence Director shall facilitate
34 the management and execution of funds appropriated for the
35 National Intelligence Program.

36 “(B) Notwithstanding any other provision of law, in re-
37 ceiving funds pursuant to relevant appropriations Acts for the



1 National Intelligence Program, the Office of Management and
2 Budget shall apportion funds appropriated for the National In-
3 telligence Program to the National Intelligence Director for al-
4 location to the elements of the intelligence community through
5 the host executive departments that manage programs and ac-
6 tivities that are part of the National Intelligence Program.

7 “(C) The National Intelligence Director shall monitor the
8 implementation and execution of the National Intelligence Pro-
9 gram by the heads of the elements of the intelligence commu-
10 nity that manage programs and activities that are part of the
11 National Intelligence Program, which may include audits and
12 evaluations, as necessary and feasible.

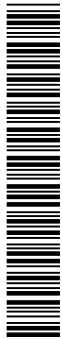
13 “(6) Apportionment and allotment of funds under this
14 subsection shall be subject to chapter 13 and section 1517 of
15 title 31, United States Code, and the Congressional Budget
16 and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.).

17 “(7)(A) The National Intelligence Director shall provide a
18 quarterly report, beginning April 1, 2005, and ending April 1,
19 2007, to the President and the Congress regarding implementa-
20 tion of this section.

21 “(B) The National Intelligence Director shall report to the
22 President and the Congress not later than 5 days after learning
23 of any instance in which a departmental comptroller acts in a
24 manner inconsistent with the law (including permanent stat-
25 utes, authorization Acts, and appropriations Acts), or the direc-
26 tion of the National Intelligence Director, in carrying out the
27 National Intelligence Program.

28 “(d) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN
29 REPROGRAMMING.—(1) No funds made available under the Na-
30 tional Intelligence Program may be transferred or repro-
31 grammed without the prior approval of the National Intel-
32 ligence Director, except in accordance with procedures pre-
33 scribed by the National Intelligence Director.

34 “(2) The Secretary of Defense shall consult with the Na-
35 tional Intelligence Director before transferring or reprogram-
36 ming funds made available under the Joint Military Intelligence
37 Program.



1 “(e) TRANSFER OF FUNDS OR PERSONNEL WITHIN NA-
2 TIONAL INTELLIGENCE PROGRAM.—(1) In addition to any
3 other authorities available under law for such purposes, the Na-
4 tional Intelligence Director, with the approval of the Director
5 of the Office of Management and Budget—

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

9 “(B) in accordance with procedures to be developed by
10 the National Intelligence Director and the heads of the de-
11 partments and agencies concerned, may transfer personnel
12 authorized for an element of the intelligence community to
13 another such element for periods up to one year.

14 “(2) The amounts available for transfer in the National
15 Intelligence Program in any given fiscal year, and the terms
16 and conditions governing such transfers, are subject to the pro-
17 visions of annual appropriations Acts and this subsection.

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

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

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

24 “(iii) the transfer does not involve a transfer of funds
25 to the Reserve for Contingencies of the Central Intelligence
26 Agency;

27 “(iv) in the case of a transfer of funds, the transfer
28 results in a cumulative transfer of funds out of any depart-
29 ment or agency, as appropriate, funded in the National In-
30 telligence Program in a single fiscal year—

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

32 “(II) that is less than 5 percent of amounts avail-
33 able to a department or agency under the National In-
34 telligence Program; and

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

36 “(B) A transfer may be made without regard to a limita-
37 tion set forth in clause (iv) or (v) of subparagraph (A) if the



1 transfer has the concurrence of the head of the department or
2 agency involved. The authority to provide such concurrence
3 may only be delegated by the head of the department or agency
4 involved to the deputy of such officer.

5 “(4) Funds transferred under this subsection shall remain
6 available for the same period as the appropriations account to
7 which transferred.

8 “(5) Any transfer of funds under this subsection shall be
9 carried out in accordance with existing procedures applicable to
10 reprogramming notifications for the appropriate congressional
11 committees. Any proposed transfer for which notice is given to
12 the appropriate congressional committees shall be accompanied
13 by a report explaining the nature of the proposed transfer and
14 how it satisfies the requirements of this subsection. In addition,
15 the congressional intelligence committees shall be promptly no-
16 tified of any transfer of funds made pursuant to this subsection
17 in any case in which the transfer would not have otherwise re-
18 quired reprogramming notification under procedures in effect
19 as of the date of the enactment of this subsection.

20 “(6)(A) The National Intelligence Director shall promptly
21 submit to—

22 “(i) the congressional intelligence committees,

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

27 “(iii) in the case of the transfer of personnel to or
28 from the Department of Justice, to the Committees on the
29 Judiciary of the Senate and the House of Representatives,
30 a report on any transfer of personnel made pursuant to this
31 subsection.

32 “(B) The Director shall include in any such report an ex-
33 planation of the nature of the transfer and how it satisfies the
34 requirements of this subsection.

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



1 “(i) develop collection objectives, priorities, and guid-
2 ance for the intelligence community to ensure timely and
3 effective collection, processing, analysis, and dissemination
4 (including access by users to collected data consistent with
5 applicable law and, as appropriate, the guidelines referred
6 to in subsection (b) and analytic products generated by or
7 within the intelligence community) of national intelligence;

8 “(ii) determine and establish requirements and prior-
9 ities for, and manage and direct the tasking of, collection,
10 analysis, production, and dissemination of national intel-
11 ligence by elements of the intelligence community,
12 including—

13 “(I) approving requirements for collection and
14 analysis, and

15 “(II) resolving conflicts in collection requirements
16 and in the tasking of national collection assets of the
17 elements of the intelligence community; and

18 “(iii) provide advisory tasking to intelligence elements
19 of those agencies and departments not within the National
20 Intelligence Program.

21 “(B) The authority of the National Intelligence Director
22 under subparagraph (A) shall not apply—

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

24 “(ii) with respect to clause (ii) of subparagraph (A),
25 insofar as the Secretary of Defense exercises tasking au-
26 thority under plans or arrangements agreed upon by the
27 Secretary of Defense and the National Intelligence Direc-
28 tor; or

29 “(iii) to the direct dissemination of information to
30 State government and local government officials and pri-
31 vate sector entities pursuant to sections 201 and 892 of the
32 Homeland Security Act of 2002 (6 U.S.C. 121, 482).

33 “(2) The National Intelligence Director shall oversee the
34 National Counterterrorism Center and may establish such other
35 national intelligence centers as the Director determines nec-
36 essary.



1 “(3)(A) The National Intelligence Director shall prescribe
2 community-wide personnel policies that—

3 “(i) facilitate assignments across community elements
4 and to the intelligence centers;

5 “(ii) establish overarching standards for intelligence
6 education and training; and

7 “(iii) promote the most effective analysis and collec-
8 tion of intelligence by ensuring a diverse workforce, includ-
9 ing the recruitment and training of women, minorities, and
10 individuals with diverse, ethnic, and linguistic backgrounds.

11 “(B) In developing the policies prescribed under subpara-
12 graph (A), the National Intelligence Director shall consult with
13 the heads of the departments containing the elements of the in-
14 telligence community.

15 “(C) Policies prescribed under subparagraph (A) shall not
16 be inconsistent with the personnel policies otherwise applicable
17 to members of the uniformed services.

18 “(4) The National Intelligence Director shall ensure com-
19 pliance with the Constitution and laws of the United States by
20 the Central Intelligence Agency and shall ensure such compli-
21 ance by other elements of the intelligence community through
22 the host executive departments that manage the programs and
23 activities that are part of the National Intelligence Program.

24 “(5) The National Intelligence Director shall ensure the
25 elimination of waste and unnecessary duplication within the in-
26 telligence community.

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

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

33 “(g) INTELLIGENCE INFORMATION SHARING.—(1) The
34 National Intelligence Director shall have principal authority to
35 ensure maximum availability of and access to intelligence infor-
36 mation within the intelligence community consistent with na-



1 tional security requirements. The National Intelligence Director
2 shall—

3 “(A) establish uniform security standards and proce-
4 dures;

5 “(B) establish common information technology stand-
6 ards, protocols, and interfaces;

7 “(C) ensure development of information technology
8 systems that include multi-level security and intelligence in-
9 tegration capabilities; and

10 “(D) establish policies and procedures to resolve con-
11 flicts between the need to share intelligence information
12 and the need to protect intelligence sources and methods.

13 “(2) The President shall ensure that the National Intel-
14 ligence Director has all necessary support and authorities to
15 fully and effectively implement paragraph (1).

16 “(3) Except as otherwise directed by the President or with
17 the specific written agreement of the head of the department
18 or agency in question, a Federal agency or official shall not be
19 considered to have met any obligation to provide any informa-
20 tion, report, assessment, or other material (including
21 unevaluated intelligence information) to that department or
22 agency solely by virtue of having provided that information, re-
23 port, assessment, or other material to the National Intelligence
24 Director or the National Counterterrorism Center.

25 “(4) Not later than February 1 of each year, the National
26 Intelligence Director shall submit to the President and to the
27 Congress an annual report that identifies any statute, regula-
28 tion, policy, or practice that the Director believes impedes the
29 ability of the Director to fully and effectively implement para-
30 graph (1).

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

35 “(2) The National Intelligence Director shall ensure that
36 intelligence analysis generally receives the highest priority when



1 distributing resources within the intelligence community and
2 shall carry out duties under this subsection in a manner that—

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

4 “(B) ensures competitive analysis;

5 “(C) ensures that differences in judgment are fully
6 considered and brought to the attention of policymakers;
7 and

8 “(D) builds relationships between intelligence collec-
9 tors and analysts to facilitate greater understanding of the
10 needs of analysts.

11 “(i) PROTECTION OF INTELLIGENCE SOURCES AND
12 METHODS.—(1) In order to protect intelligence sources and
13 methods from unauthorized disclosure and, consistent with that
14 protection, to maximize the dissemination of intelligence, the
15 National Intelligence Director shall establish and implement
16 guidelines for the intelligence community for the following pur-
17 poses:

18 “(A) Classification of information.

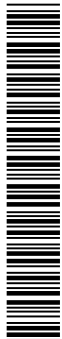
19 “(B) Access to and dissemination of intelligence, both
20 in final form and in the form when initially gathered.

21 “(C) Preparation of intelligence products in such a
22 way that source information is removed to allow for dis-
23 semination at the lowest level of classification possible or
24 in unclassified form to the extent practicable.

25 “(2) The Director may only delegate a duty or authority
26 given the Director under this subsection to the Deputy Na-
27 tional Intelligence Director.

28 “(j) UNIFORM PROCEDURES FOR SENSITIVE COMPART-
29 MENTED INFORMATION.—The President, acting through the
30 National Intelligence Director, shall—

31 “(1) establish uniform standards and procedures for
32 the grant of access to sensitive compartmented information
33 to any officer or employee of any agency or department of
34 the United States and to employees of contractors of those
35 agencies or departments;



1 “(2) ensure the consistent implementation of those
2 standards and procedures throughout such agencies and
3 departments;

4 “(3) ensure that security clearances granted by indi-
5 vidual elements of the intelligence community are recog-
6 nized by all elements of the intelligence community, and
7 under contracts entered into by those agencies; and

8 “(4) ensure that the process for investigation and ad-
9 judication of an application for access to sensitive compart-
10 mented information is performed in the most expeditious
11 manner possible consistent with applicable standards for
12 national security.

13 “(k) COORDINATION WITH FOREIGN GOVERNMENTS.—
14 Under the direction of the President and in a manner con-
15 sistent with section 207 of the Foreign Service Act of 1980 (22
16 U.S.C. 3927), the National Intelligence Director shall oversee
17 the coordination of the relationships between elements of the
18 intelligence community and the intelligence or security services
19 of foreign governments on all matters involving intelligence re-
20 lated to the national security or involving intelligence acquired
21 through clandestine means.

22 “(l) ENHANCED PERSONNEL MANAGEMENT.—(1)(A) The
23 National Intelligence Director shall, under regulations pre-
24 scribed by the Director, provide incentives for personnel of ele-
25 ments of the intelligence community to serve—

26 “(i) on the staff of the National Intelligence Director;

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

28 “(iii) on the staff of the National Counterterrorism
29 Center; and

30 “(iv) in other positions in support of the intelligence
31 community management functions of the Director.

32 “(B) Incentives under subparagraph (A) may include fi-
33 nancial incentives, bonuses, and such other awards and incen-
34 tives as the Director considers appropriate.

35 “(2)(A) Notwithstanding any other provision of law, the
36 personnel of an element of the intelligence community who are
37 assigned or detailed under paragraph (1)(A) to service under



1 the National Intelligence Director shall be promoted at rates
2 equivalent to or better than personnel of such element who are
3 not so assigned or detailed.

4 “(B) The Director may prescribe regulations to carry out
5 this section.

6 “(3)(A) The National Intelligence Director shall prescribe
7 mechanisms to facilitate the rotation of personnel of the intel-
8 ligence community through various elements of the intelligence
9 community in the course of their careers in order to facilitate
10 the widest possible understanding by such personnel of the va-
11 riety of intelligence requirements, methods, users, and capabili-
12 ties.

13 “(B) The mechanisms prescribed under subparagraph (A)
14 may include the following:

15 “(i) The establishment of special occupational cat-
16 egories involving service, over the course of a career, in
17 more than one element of the intelligence community.

18 “(ii) The provision of rewards for service in positions
19 undertaking analysis and planning of operations involving
20 two or more elements of the intelligence community.

21 “(iii) The establishment of requirements for education,
22 training, service, and evaluation that involve service in
23 more than one element of the intelligence community.

24 “(C) It is the sense of Congress that the mechanisms pre-
25 scribed under this subsection should, to the extent practical,
26 seek to duplicate for civilian personnel within the intelligence
27 community the joint officer management policies established by
28 chapter 38 of title 10, United States Code, and the other
29 amendments made by title IV of the Goldwater–Nichols De-
30 partment of Defense Reorganization Act of 1986 (Public Law
31 99–433).

32 “(4)(A) This subsection shall not apply with respect to
33 personnel of the elements of the intelligence community who
34 are members of the uniformed services or law enforcement offi-
35 cers (as that term is defined in section 5541(3) of title 5,
36 United States Code).



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

6 “(m) ADDITIONAL AUTHORITY WITH RESPECT TO PER-
7 SONNEL.—(1) In addition to the authorities under subsection
8 (f)(3), the National Intelligence Director may exercise with re-
9 spect to the personnel of the Office of the National Intelligence
10 Director any authority of the Director of the Central Intel-
11 ligence Agency with respect to the personnel of the Central In-
12 telligence Agency under the Central Intelligence Agency Act of
13 1949 (50 U.S.C. 403a et seq.), and other applicable provisions
14 of law, as of the date of the enactment of this subsection to
15 the same extent, and subject to the same conditions and limita-
16 tions, that the Director of the Central Intelligence Agency may
17 exercise such authority with respect to personnel of the Central
18 Intelligence Agency.

19 “(2) Employees and applicants for employment of the Of-
20 fice of the National Intelligence Director shall have the same
21 rights and protections under the Office of the National Intel-
22 ligence Director as employees of the Central Intelligence Agen-
23 cy have under the Central Intelligence Agency Act of 1949, and
24 other applicable provisions of law, as of the date of the enact-
25 ment of this subsection.

26 “(n) ACQUISITION AUTHORITIES.—(1) In carrying out the
27 responsibilities and authorities under this section, the National
28 Intelligence Director may exercise the acquisition authorities
29 referred to in the Central Intelligence Agency Act of 1949 (50
30 U.S.C. 403a et seq.).

31 “(2) For the purpose of the exercise of any authority re-
32 ferred to in paragraph (1), a reference to the head of an agen-
33 cy shall be deemed to be a reference to the National Intel-
34 ligence Director or the Deputy National Intelligence Director.

35 “(3)(A) Any determination or decision to be made under
36 an authority referred to in paragraph (1) by the head of an
37 agency may be made with respect to individual purchases and



1 contracts or with respect to classes of purchases or contracts,
2 and shall be final.

3 “(B) Except as provided in subparagraph (C), the Na-
4 tional Intelligence Director or the Deputy National Intelligence
5 Director may, in such official’s discretion, delegate to any offi-
6 cer or other official of the Office of the National Intelligence
7 Director any authority to make a determination or decision as
8 the head of the agency under an authority referred to in para-
9 graph (1).

10 “(C) The limitations and conditions set forth in section
11 3(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C.
12 403c(d)) shall apply to the exercise by the National Intelligence
13 Director of an authority referred to in paragraph (1).

14 “(D) Each determination or decision required by an au-
15 thority referred to in the second sentence of section 3(d) of the
16 Central Intelligence Agency Act of 1949 shall be based upon
17 written findings made by the official making such determina-
18 tion or decision, which findings shall be final and shall be avail-
19 able within the Office of the National Intelligence Director for
20 a period of at least six years following the date of such deter-
21 mination or decision.

22 “(o) CONSIDERATION OF VIEWS OF ELEMENTS OF THE
23 INTELLIGENCE COMMUNITY.—In carrying out the duties and
24 responsibilities under this section, the National Intelligence Di-
25 rector shall take into account the views of a head of a depart-
26 ment containing an element of the intelligence community and
27 of the Director of the Central Intelligence Agency.

28 “OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

29 “SEC. 103. (a) ESTABLISHMENT OF OFFICE; FUNC-
30 TION.—(1) There is an Office of the National Intelligence Di-
31 rector. The Office of the National Intelligence Director shall
32 not be located within the Executive Office of the President.

33 “(2) The function of the Office is to assist the National
34 Intelligence Director in carrying out the duties and responsibil-
35 ities of the Director under this Act and to carry out such other
36 duties as may be prescribed by the President or by law.



1 “(3) Any authority, power, or function vested by law in
2 any officer, employee, or part of the Office of the National In-
3 telligence Director is vested in, or may be exercised by, the Na-
4 tional Intelligence Director.

5 “(4) Exemptions, exceptions, and exclusions for the Cen-
6 tral Intelligence Agency or for personnel, resources, or activities
7 of such Agency from otherwise applicable laws, other than the
8 exception contained in section 104A(c)(1) shall apply in the
9 same manner to the Office of the National Intelligence Director
10 and the personnel, resources, or activities of such Office.

11 “(b) OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—
12 (1) The Office of the National Intelligence Director is com-
13 posed of the following:

14 “(A) The National Intelligence Director.

15 “(B) The Deputy National Intelligence Director.

16 “(C) The Deputy National Intelligence Director for
17 Operations.

18 “(D) The Deputy National Intelligence Director for
19 Community Management and Resources.

20 “(E) The Associate National Intelligence Director for
21 Military Support.

22 “(F) The Associate National Intelligence Director for
23 Domestic Security.

24 “(G) The Associate National Intelligence Director for
25 Diplomatic Affairs.

26 “(H) The National Intelligence Council.

27 “(I) The General Counsel to the National Intelligence
28 Director.

29 “(J) Such other offices and officials as may be estab-
30 lished by law or the National Intelligence Director may es-
31 tablish or designate in the Office.

32 “(2) To assist the National Intelligence Director in ful-
33 filling the duties and responsibilities of the Director, the Direc-
34 tor shall employ and utilize in the Office of the National Intel-
35 ligence Director a staff having expertise in matters relating to
36 such duties and responsibilities and may establish permanent



1 positions and appropriate rates of pay with respect to such
2 staff.

3 “(c) DEPUTY NATIONAL INTELLIGENCE DIRECTOR.—(1)
4 There is a Deputy National Intelligence Director who shall be
5 appointed by the President, by and with the advice and consent
6 of the Senate.

7 “(2) The Deputy National Intelligence Director shall as-
8 sist the National Intelligence Director in carrying out the re-
9 sponsibilities of the National Intelligence Director under this
10 Act.

11 “(3) The Deputy National Intelligence Director shall act
12 for, and exercise the powers of, the National Intelligence Direc-
13 tor during the absence or disability of the National Intelligence
14 Director or during a vacancy in the position of the National In-
15 telligence Director.

16 “(4) The Deputy National Intelligence Director takes
17 precedence in the Office of the National Intelligence Director
18 immediately after the National Intelligence Director.

19 “(d) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR
20 OPERATIONS.—(1) There is a Deputy National Intelligence Di-
21 rector for Operations.

22 “(2) The Deputy National Intelligence Director for Oper-
23 ations shall—

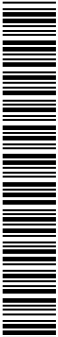
24 “(A) assist the National Intelligence Director in all as-
25 pects of intelligence operations, including intelligence
26 tasking, requirements, collection, and analysis;

27 “(B) assist the National Intelligence Director in over-
28 seeing the national intelligence centers; and

29 “(C) perform such other duties and exercise such pow-
30 ers as National Intelligence Director may prescribe.

31 “(e) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR
32 COMMUNITY MANAGEMENT AND RESOURCES.—(1) There is a
33 Deputy National Intelligence Director for Community Manage-
34 ment and Resources.

35 “(2) The Deputy National Intelligence Director for Com-
36 munity Management and Resources shall—



1 “(A) assist the National Intelligence Director in all as-
2 pects of management and resources, including administra-
3 tion, budgeting, information security, personnel, training,
4 and programmatic functions; and

5 “(B) perform such other duties and exercise such pow-
6 ers as the National Intelligence Director may prescribe.

7 “(f) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR
8 MILITARY SUPPORT.—(1) There is an Associate National Intel-
9 ligence Director for Military Support who shall be appointed by
10 the National Intelligence Director, in consultation with the Sec-
11 retary of Defense.

12 “(2) The Associate National Intelligence Director for Mili-
13 tary Support shall—

14 “(A) ensure that the intelligence needs of the Depart-
15 ment of Defense are met; and

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

18 “(g) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR
19 DOMESTIC SECURITY.—(1) There is an Associate National In-
20 telligence Director for Domestic Security who shall be ap-
21 pointed by the National Intelligence Director in consultation
22 with the Attorney General and the Secretary of Homeland Se-
23 curity.

24 “(2) The Associate National Intelligence Director for Do-
25 mestic Security shall—

26 “(A) ensure that the intelligence needs of the Depart-
27 ment of Justice, the Department of Homeland Security,
28 and other relevant executive departments and agencies are
29 met; and

30 “(B) perform such other duties and exercise such pow-
31 ers as the National Intelligence Director may prescribe, ex-
32 cept that the National Intelligence Director may not make
33 such officer responsible for disseminating any domestic or
34 homeland security information to State government or local
35 government officials or any private sector entity.

36 “(h) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR
37 DIPLOMATIC AFFAIRS.—(1) There is an Associate National In-



1 intelligence Director for Diplomatic Affairs who shall be ap-
2 pointed by the National Intelligence Director in consultation
3 with the Secretary of State.

4 “(2) The Associate National Intelligence Director for Dip-
5 lomatic Affairs shall—

6 “(A) ensure that the intelligence needs of the Depart-
7 ment of State are met; and

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

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

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

16 “(A) The National Intelligence Director.

17 “(B) The Deputy National Intelligence Director.

18 “(3) It is the sense of Congress that, under ordinary cir-
19 cumstances, it is desirable that one of the individuals serving
20 in the positions specified in paragraph (2)—

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

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

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

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

30 “(B) shall not exercise, by reason of the officer’s sta-
31 tus as a commissioned officer, any supervision or control
32 with respect to any of the military or civilian personnel of
33 the Department of Defense except as otherwise authorized
34 by law; and

35 “(C) shall not be counted against the numbers and
36 percentages of commissioned officers of the rank and grade



1 of such officer authorized for the military department of
2 that officer.

3 “(5) Except as provided in subparagraph (A) or (B) of
4 paragraph (4), the appointment of an officer of the Armed
5 Forces to a position specified in paragraph (2) shall not affect
6 the status, position, rank, or grade of such officer in the Armed
7 Forces, or any emolument, perquisite, right, privilege, or ben-
8 efit incident to or arising out of such status, position, rank, or
9 grade.

10 “(6) A commissioned officer of the Armed Forces on active
11 duty who is appointed to a position specified in paragraph (2),
12 while serving in such position and while remaining on active
13 duty, shall continue to receive military pay and allowances and
14 shall not receive the pay prescribed for such position. Funds
15 from which such pay and allowances are paid shall be reim-
16 bursed from funds available to the National Intelligence Direc-
17 tor.

18 “(j) NATIONAL INTELLIGENCE COUNCIL.—(1) Within the
19 Office of the Deputy National Intelligence Director for Oper-
20 ations, there is a National Intelligence Council.

21 “(2)(A) The National Intelligence Council shall be com-
22 posed of senior analysts within the intelligence community and
23 substantive experts from the public and private sector, who
24 shall be appointed by and report to the Deputy National Intel-
25 ligence Director for Operations.

26 “(B) The Director shall prescribe appropriate security re-
27 quirements for personnel appointed from the private sector as
28 a condition of service on the Council, or as contractors of the
29 Council or employees of such contractors, to ensure the protec-
30 tion of intelligence sources and methods while avoiding, wher-
31 ever possible, unduly intrusive requirements which the Director
32 considers to be unnecessary for this purpose.

33 “(3) The National Intelligence Council shall—

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



1 “(B) evaluate community-wide collection and produc-
2 tion of intelligence by the intelligence community and the
3 requirements and resources of such collection and produc-
4 tion; and

5 “(C) otherwise assist the National Intelligence Direc-
6 tor in carrying out the responsibility of the National Intel-
7 ligence Director to provide national intelligence.

8 “(4) Within their respective areas of expertise and under
9 the direction of the Deputy National Intelligence Director for
10 Operations, the members of the National Intelligence Council
11 shall constitute the senior intelligence advisers of the intel-
12 ligence community for purposes of representing the views of the
13 intelligence community within the United States Government.

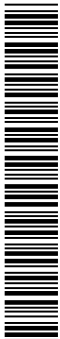
14 “(5) Subject to the direction and control of the Deputy
15 National Intelligence Director for Operations, the National In-
16 telligence Council may carry out its responsibilities under this
17 section by contract, including contracts for substantive experts
18 necessary to assist the Council with particular assessments
19 under this subsection.

20 “(6) The Deputy National Intelligence Director for Oper-
21 ations shall make available to the National Intelligence Council
22 such personnel as may be necessary to permit the Council to
23 carry out its responsibilities under this section.

24 “(7) The heads of the elements of the intelligence commu-
25 nity shall, as appropriate, furnish such support to the National
26 Intelligence Council, including the preparation of intelligence
27 analyses, as may be required by the National Intelligence Di-
28 rector.

29 “(k) GENERAL COUNSEL TO THE NATIONAL INTEL-
30 LIGENCE DIRECTOR.—(1) There is a General Counsel to the
31 National Intelligence Director.

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



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

4 “(4) The General Counsel to the National Intelligence Di-
5 rector shall perform such functions as the National Intelligence
6 Director may prescribe.

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

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

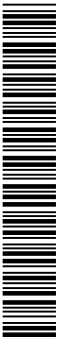
16 “(3) The Intelligence Community Information Technology
17 Officer shall—

18 “(A) assist the Deputy National Intelligence Director
19 for Community Management and Resources in developing
20 and implementing an integrated information technology
21 network;

22 “(B) develop an enterprise architecture for the intel-
23 ligence community and assist the Deputy National Intel-
24 ligence Director for Community Management and Re-
25 sources in ensuring that elements of the intelligence com-
26 munity comply with such architecture;

27 “(C) have procurement approval authority over all en-
28 terprise architecture-related information technology items
29 funded in the National Intelligence Program;

30 “(D) ensure that all such elements have the most di-
31 rect and continuous electronic access to all information (in-
32 cluding unevaluated intelligence consistent with existing
33 laws and the guidelines referred to in section 102A(b)) nec-
34 essary for appropriately cleared analysts to conduct com-
35 prehensive all-source analysis and for appropriately cleared
36 policymakers to perform their duties—



1 “(i) directly, in the case of the elements of the in-
2 telligence community within the National Intelligence
3 Program, and

4 “(ii) in conjunction with the Secretary of Defense
5 and other applicable heads of departments with intel-
6 ligence elements outside the National Intelligence Pro-
7 gram;

8 “(E) review and provide recommendations to the Dep-
9 uty National Intelligence Director for Community Manage-
10 ment and Resources on National Intelligence Program
11 budget requests for information technology and national se-
12 curity systems;

13 “(F) assist the Deputy National Intelligence Director
14 for Community Management and Resources in promul-
15 gating and enforcing standards on information technology
16 and national security systems that apply throughout the
17 elements of the intelligence community;

18 “(G) ensure that within and between the elements of
19 the National Intelligence Program, duplicative and unnec-
20 essary information technology and national security sys-
21 tems are eliminated; and

22 “(H) pursuant to the direction of the National Intel-
23 ligence Director, consult with the Director of the Office of
24 Management and Budget to ensure that the Office of the
25 National Intelligence Director coordinates and complies
26 with national security requirements consistent with applica-
27 ble law, Executive orders, and guidance; and

28 “(I) perform such other duties with respect to the in-
29 formation systems and information technology of the Office
30 of the National Intelligence Director as may be prescribed
31 by the Deputy National Intelligence Director for Commu-
32 nity Management and Resources or specified by law.

33 “CENTRAL INTELLIGENCE AGENCY

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

36 “(b) FUNCTION.—The function of the Central Intelligence
37 Agency is to assist the Director of the Central Intelligence



1 Agency in carrying out the responsibilities specified in section
2 104A(c).

3 “DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

4 “SEC. 104A. (a) DIRECTOR OF CENTRAL INTELLIGENCE
5 AGENCY.—There is a Director of the Central Intelligence Agen-
6 cy who shall be appointed by the President, by and with the
7 advice and consent of the Senate. The Director shall be under
8 the authority, direction, and control of the National Intelligence
9 Director, except as otherwise determined by the President.

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

13 “(1) carry out the responsibilities specified in sub-
14 section (c); and

15 “(2) serve as the head of the Central Intelligence
16 Agency.

17 “(c) RESPONSIBILITIES.—The Director of the Central In-
18 telligence Agency shall—

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

23 “(2) provide overall direction for the collection of na-
24 tional intelligence through human sources by elements of
25 the intelligence community authorized to undertake such
26 collection and, in coordination with other agencies of the
27 Government which are authorized to undertake such collec-
28 tion, ensure that the most effective use is made of re-
29 sources and that the risks to the United States and those
30 involved in such collection are minimized;

31 “(3) correlate and evaluate intelligence related to the
32 national security and provide appropriate dissemination of
33 such intelligence;

34 “(4) perform such additional services as are of com-
35 mon concern to the elements of the intelligence community,
36 which services the National Intelligence Director deter-
37 mines can be more efficiently accomplished centrally; and



1 “(5) perform such other functions and duties related
2 to intelligence affecting the national security as the Presi-
3 dent or the National Intelligence Director may direct.

4 “(d) DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE
5 AGENCY.—There is a Deputy Director of the Central Intel-
6 ligence Agency who shall be appointed by the President. The
7 Deputy Director shall perform such functions as the Director
8 may prescribe and shall perform the duties of the Director dur-
9 ing the Director’s absence or disability or during a vacancy in
10 the position of the Director of the Central Intelligence Agency.

11 “(e) TERMINATION OF EMPLOYMENT OF CIA EMPLOY-
12 EES.—(1) Notwithstanding the provisions of any other law, the
13 Director of the Central Intelligence Agency may, in the discre-
14 tion of the Director, terminate the employment of any officer
15 or employee of the Central Intelligence Agency whenever the
16 Director considers the termination of employment of such offi-
17 cer or employee necessary or advisable in the interests of the
18 United States.

19 “(2) Any termination of employment of an officer or em-
20 ployee under paragraph (1) shall not affect the right of the of-
21 ficer or employee to seek or accept employment in any other
22 department, agency, or element of the United States Govern-
23 ment if declared eligible for such employment by the Office of
24 Personnel Management.”.

25 (b) FIRST DIRECTOR.—(1) When the Senate receives the
26 nomination of a person for the initial appointment by the Presi-
27 dent for the position of National Intelligence Director, it shall
28 consider and dispose of such nomination within a period of 30
29 legislative days.

30 (2) If the Senate does not dispose of such nomination re-
31 ferred to in paragraph (1) within such period—

32 (A) Senate confirmation is not required; and

33 (B) the appointment of such nominee as National In-
34 telligence Director takes effect upon administration of the
35 oath of office.

36 (3) For the purposes of this subsection, the term “legisla-
37 tive day” means a day on which the Senate is in session.



1 **SEC. 1012. REVISED DEFINITION OF NATIONAL INTEL-**
2 **LIGENCE.**

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

5 “(5) The terms ‘national intelligence’ and ‘intelligence
6 related to national security’ refer to all intelligence, regard-
7 less of the source from which derived and including infor-
8 mation gathered within or outside the United States,
9 that—

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

13 “(B) that involves—

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

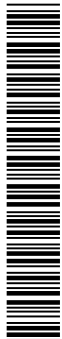
16 “(ii) the development, proliferation, or use of
17 weapons of mass destruction; or

18 “(iii) any other matter bearing on United
19 States national or homeland security.”.

20 **SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL CO-**
21 **ORDINATION BETWEEN DEPARTMENT OF**
22 **DEFENSE AND CENTRAL INTELLIGENCE**
23 **AGENCY.**

24 (a) DEVELOPMENT OF PROCEDURES.—The National Intel-
25 ligence Director, in consultation with the Secretary of Defense
26 and the Director of the Central Intelligence Agency, shall de-
27 velop joint procedures to be used by the Department of Defense
28 and the Central Intelligence Agency to improve the coordina-
29 tion and deconfliction of operations that involve elements of
30 both the Armed Forces and the Central Intelligence Agency
31 consistent with national security and the protection of human
32 intelligence sources and methods. Those procedures shall, at a
33 minimum, provide the following:

34 (1) Methods by which the Director of the Central In-
35 telligence Agency and the Secretary of Defense can improve
36 communication and coordination in the planning, execution,
37 and sustainment of operations, including, as a minimum—



1 (A) information exchange between senior officials
2 of the Central Intelligence Agency and senior officers
3 and officials of the Department of Defense when plan-
4 ning for such an operation commences by either organi-
5 zation; and

6 (B) exchange of information between the Secretary
7 and the Director of the Central Intelligence Agency to
8 ensure that senior operational officials in both the De-
9 partment of Defense and the Central Intelligence Agen-
10 cy have knowledge of the existence of the ongoing oper-
11 ations of the other.

12 (2) When appropriate, in cases where the Department
13 of Defense and the Central Intelligence Agency are con-
14 ducting separate missions in the same geographical area,
15 mutual agreement on the tactical and strategic objectives
16 for the region and a clear delineation of operational respon-
17 sibilities to prevent conflict and duplication of effort.

18 (b) IMPLEMENTATION REPORT.—Not later than 180 days
19 after the date of the enactment of the Act, the National Intel-
20 ligence Director shall submit to the congressional defense com-
21 mittees (as defined in section 101 of title 10, United States
22 Code) and the congressional intelligence committees (as defined
23 in section 3(7) of the National Security Act of 1947 (50 U.S.C.
24 401a(7))) a report describing the procedures established pursu-
25 ant to subsection (a) and the status of the implementation of
26 those procedures.

27 **SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIREC-**
28 **TOR IN APPOINTMENT OF CERTAIN OFFI-**
29 **CIALS RESPONSIBLE FOR INTELLIGENCE-**
30 **RELATED ACTIVITIES.**

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

34 “(a) RECOMMENDATION OF NID IN CERTAIN APPOINT-
35 MENTS.—(1) In the event of a vacancy in a position referred
36 to in paragraph (2), the National Intelligence Director shall



1 recommend to the President an individual for nomination to fill
2 the vacancy.

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

4 “(A) The Deputy National Intelligence Director.

5 “(B) The Director of the Central Intelligence Agency.

6 “(b) CONCURRENCE OF NID IN APPOINTMENTS TO POSI-
7 TIONS IN THE INTELLIGENCE COMMUNITY.—(1) In the event
8 of a vacancy in a position referred to in paragraph (2), the
9 head of the department or agency having jurisdiction over the
10 position shall obtain the concurrence of the National Intel-
11 ligence Director before appointing an individual to fill the va-
12 cancy or recommending to the President an individual to be
13 nominated to fill the vacancy. If the Director does not concur
14 in the recommendation, the head of the department or agency
15 concerned may not fill the vacancy or make the recommenda-
16 tion to the President (as the case may be).

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

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

19 “(B) The Director of the National Reconnaissance Of-
20 fice.

21 “(C) The Director of the National Geospatial-Intel-
22 ligence Agency.

23 “(c) CONSULTATION WITH NATIONAL INTELLIGENCE DI-
24 RECTOR IN CERTAIN POSITIONS.—(1) In the event of a va-
25 cancy in a position referred to in paragraph (2), the head of
26 the department or agency having jurisdiction over the position
27 shall consult with the National Intelligence Director before ap-
28 pointing an individual to fill the vacancy or recommending to
29 the President an individual to be nominated to fill the vacancy.

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

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

32 “(B) The Assistant Secretary of State for Intelligence
33 and Research.

34 “(C) The Director of the Office of Intelligence of the
35 Department of Energy.

36 “(D) The Director of the Office of Counterintelligence
37 of the Department of Energy.



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

3 “(F) The Executive Assistant Director for Intelligence
4 of the Federal Bureau of Investigation.

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

7 “(H) The Deputy Assistant Commandant of the Coast
8 Guard for Intelligence.

9 **SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL IN-**
10 **TELLIGENCE DIRECTOR.**

11 (a) INITIAL APPOINTMENT OF THE NATIONAL INTEL-
12 LIGENCE DIRECTOR.—Notwithstanding section 102(a)(1) of
13 the National Security Act of 1947, as added by section
14 1011(a), the individual serving as the Director of Central Intel-
15 ligence on the date immediately preceding the date of the en-
16 actment of this Act may, at the discretion of the President, be-
17 come the National Intelligence Director as of the date of the
18 enactment of this Act.

19 (b) GENERAL REFERENCES.—(1) Any reference to the Di-
20 rector of Central Intelligence in the Director’s capacity as the
21 head of the intelligence community in any law, regulation, doc-
22 ument, paper, or other record of the United States shall be
23 deemed to be a reference to the National Intelligence Director.

24 (2) Any reference to the Director of Central Intelligence
25 in the Director’s capacity as the head of the Central Intel-
26 ligence Agency in any law, regulation, document, paper, or
27 other record of the United States shall be deemed to be a ref-
28 erence to the Director of the Central Intelligence Agency.

29 (3) Any reference to the Deputy Director of Central Intel-
30 ligence in the Deputy Director’s capacity as deputy to the head
31 of the intelligence community in any law, regulation, document,
32 paper, or other record of the United States shall be deemed to
33 be a reference to the Deputy National Intelligence Director.

34 (4) Any reference to the Deputy Director of Central Intel-
35 ligence for Community Management in any law, regulation,
36 document, paper, or other record of the United States shall be



1 deemed to be a reference to the Deputy National Intelligence
2 Director for Community Management and Resources.

3 **SEC. 1016. EXECUTIVE SCHEDULE MATTERS.**

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

7 “National Intelligence Director.”.

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

11 “Deputy National Intelligence Director.

12 “Director of the National Counterterrorism Center.”.

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

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

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

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

23 “NATIONAL COUNTERTERRORISM CENTER

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

27 “(b) DIRECTOR OF NATIONAL COUNTERTERRORISM CEN-
28 TER.—There is a Director of the National Counterterrorism
29 Center, who shall be the head of the National Counterterrorism
30 Center, who shall be appointed by National Intelligence Direc-
31 tor.

32 “(c) SUPERVISION.—The Director of the National
33 Counterterrorism Center shall report to the National Intel-
34 ligence Director on—

35 “(1) the budget and programs of the National
36 Counterterrorism Center;



1 “(2) the activities of the Directorate of Intelligence of
2 the National Counterterrorism Center under subsection (h);

3 “(3) the conduct of intelligence operations imple-
4 mented by other elements of the intelligence community;
5 and

6 “(4) the planning and progress of joint
7 counterterrorism operations (other than intelligence oper-
8 ations).

9 The National Intelligence Director shall carry out this section
10 through the Deputy National Intelligence Director for Oper-
11 ations.

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

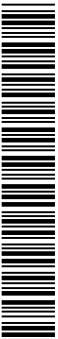
14 “(1) To serve as the primary organization in the
15 United States Government for analyzing and integrating all
16 intelligence possessed or acquired by the United States
17 Government pertaining to terrorism and counterterrorism,
18 excepting intelligence pertaining exclusively to domestic
19 counterterrorism.

20 “(2) To conduct strategic operational planning for
21 counterterrorism activities, integrating all instruments of
22 national power, including diplomatic, financial, military, in-
23 telligence, homeland security, and law enforcement activi-
24 ties within and among agencies.

25 “(3) To support operational responsibilities assigned
26 to lead agencies for counterterrorism activities by ensuring
27 that such agencies have access to and receive intelligence
28 needed to accomplish their assigned activities.

29 “(4) To ensure that agencies, as appropriate, have ac-
30 cess to and receive all-source intelligence support needed to
31 execute their counterterrorism plans or perform inde-
32 pendent, alternative analysis.

33 “(e) DOMESTIC COUNTERTERRORISM INTELLIGENCE.—(1)
34 The Center may, consistent with applicable law, the direction
35 of the President, and the guidelines referred to in section
36 102A(b), receive intelligence pertaining exclusively to domestic
37 counterterrorism from any Federal, State, or local government



1 or other source necessary to fulfill its responsibilities and retain
2 and disseminate such intelligence.

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

7 “(f) DUTIES AND RESPONSIBILITIES OF DIRECTOR.—The
8 Director of the National Counterterrorism Center shall—

9 “(1) serve as the principal adviser to the National In-
10 telligence Director on intelligence operations relating to
11 counterterrorism;

12 “(2) provide strategic guidance and plans for the civil-
13 ian and military counterterrorism efforts of the United
14 States Government and for the effective integration of
15 counterterrorism intelligence and operations across agency
16 boundaries, both inside and outside the United States;

17 “(3) advise the National Intelligence Director on the
18 extent to which the counterterrorism program recommenda-
19 tions and budget proposals of the departments, agencies,
20 and elements of the United States Government conform to
21 the priorities established by the President;

22 “(4) disseminate terrorism information, including cur-
23 rent terrorism threat analysis, to the President, the Vice
24 President, the Secretaries of State, Defense, and Homeland
25 Security, the Attorney General, the Director of the Central
26 Intelligence Agency, and other officials of the executive
27 branch as appropriate, and to the appropriate committees
28 of Congress;

29 “(5) support the Department of Justice and the De-
30 partment of Homeland Security, and other appropriate
31 agencies, in fulfillment of their responsibilities to dissemi-
32 nate terrorism information, consistent with applicable law,
33 Executive Orders and other Presidential guidance, to State
34 and local government officials, and other entities, and co-
35 ordinate dissemination of terrorism information to foreign
36 governments as approved by the National Intelligence Di-
37 rector;



1 “(6) consistent with priorities approved by the Presi-
2 dent, assist the National Intelligence Director in estab-
3 lishing requirements for the intelligence community for the
4 collection of terrorism information; and

5 “(7) perform such other duties as the National Intel-
6 ligence Director may prescribe or are prescribed by law.

7 “(g) LIMITATION.—The Director of the National
8 Counterterrorism Center may not direct the execution of
9 counterterrorism operations.

10 “(h) RESOLUTION OF DISPUTES.—The National Intel-
11 ligence Director shall resolve disagreements between the Na-
12 tional Counterterrorism Center and the head of a department,
13 agency, or element of the United States Government on des-
14 ignations, assignments, plans, or responsibilities. The head of
15 such a department, agency, or element may appeal the resolu-
16 tion of the disagreement by the National Intelligence Director
17 to the President.

18 “(i) DIRECTORATE OF INTELLIGENCE.—The Director of
19 the National Counterterrorism Center shall establish and main-
20 tain within the National Counterterrorism Center a Directorate
21 of Intelligence which shall have primary responsibility within
22 the United States Government for analysis of terrorism and
23 terrorist organizations (except for purely domestic terrorism
24 and domestic terrorist organizations) from all sources of intel-
25 ligence, whether collected inside or outside the United States.

26 “(j) DIRECTORATE OF STRATEGIC PLANNING.—The Di-
27 rector of the National Counterterrorism Center shall establish
28 and maintain within the National Counterterrorism Center a
29 Directorate of Strategic Planning which shall provide strategic
30 guidance and plans for counterterrorism operations conducted
31 by the United States Government.”.

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

“Sec. 119. National Counterterrorism Center.”.



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

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

6 (2) The Civil Liberties Protection Officer shall report di-
7 rectly to the National Intelligence Director.

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

10 (1) ensure that the protection of civil liberties and pri-
11 vacy is appropriately incorporated in the policies and proce-
12 dures developed for and implemented by the Office of the
13 National Intelligence Director and the elements of the in-
14 telligence community within the National Intelligence Pro-
15 gram;

16 (2) oversee compliance by the Office and the National
17 Intelligence Director with requirements under the Constitu-
18 tion and all laws, regulations, Executive orders, and imple-
19 menting guidelines relating to civil liberties and privacy;

20 (3) review and assess complaints and other informa-
21 tion indicating possible abuses of civil liberties and privacy
22 in the administration of the programs and operations of the
23 Office and the National Intelligence Director and, as ap-
24 propriate, investigate any such complaint or information;

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

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

33 (6) conduct privacy impact assessments when appro-
34 priate or as required by law; and

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



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

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

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

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

12 (b) FUNCTIONS.—(1) The Joint Intelligence Community
13 Council shall provide advice to the National Intelligence Direc-
14 tor as appropriate.

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

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

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

23 (2) The Secretary of State.

24 (3) The Secretary of the Treasury.

25 (4) The Secretary of Defense.

26 (5) The Attorney General.

27 (6) The Secretary of Energy.

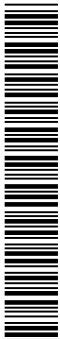
28 (7) The Secretary of Homeland Security.

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

31 **Subtitle D—Improvement of Human** 32 **Intelligence (HUMINT)**

33 **SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY** 34 **CRITICAL COMPONENT OF THE INTEL-** 35 **LIGENCE COMMUNITY.**

36 It is a sense of Congress that—



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

4 (2) during an extended period of unprecedented invest-
5 ment and improvements in technical collection means, the
6 human intelligence capabilities of the United States have
7 not received the necessary and commensurate priorities;

8 (3) human intelligence is becoming an increasingly im-
9 portant capability to provide information on the asym-
10 metric threats to the national security of the United States;

11 (4) the continued development and improvement of a
12 robust and empowered and flexible human intelligence work
13 force is critical to identifying, understanding, and coun-
14 tering the plans and intentions of the adversaries of the
15 United States; and

16 (5) an increased emphasis on, and resources applied
17 to, enhancing the depth and breadth of human intelligence
18 capabilities of the United States intelligence community
19 must be among the top priorities of the National Intel-
20 ligence Director.

21 **SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE**
22 **CAPACITY.**

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

29 **Subtitle E—Improvement of Edu-**
30 **cation for the Intelligence Commu-**
31 **nity**

32 **SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-**
33 **QUIREMENTS UNDER NATIONAL SECURITY**
34 **EDUCATION PROGRAM.**

35 (a) IN GENERAL.—(1) Subsection (b)(2) of section 802 of
36 the David L. Boren National Security Education Act of 1991
37 (50 U.S.C. 1902) is amended to read as follows:



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

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

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

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

20 “(3) Each such recipient shall work in a specified national
21 security position for a period specified by the Secretary, which
22 period shall include—

23 “(A) in the case of a recipient of a scholarship, one
24 year of service for each year, or portion thereof, for which
25 such scholarship assistance was provided, and

26 “(B) in the case of a recipient of a fellowship, not less
27 than one nor more than three years for each year, or por-
28 tion thereof, for which such fellowship assistance was pro-
29 vided.

30 “(4) Recipients shall seek specified national security posi-
31 tions as follows:

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

34 “(B) In the Department of State or in the Depart-
35 ment of Homeland Security, if the recipient demonstrates
36 to the Secretary that no position is available in the Depart-



1 ment of Defense or in any element of the intelligence com-
2 munity.

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

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

18 (c) APPLICABILITY.—(1) The amendments made by sub-
19 section (a) shall apply with respect to service agreements en-
20 tered into under the David L. Boren National Security Edu-
21 cation Act of 1991 on or after the date of the enactment of
22 this Act.

23 (2) The amendments made by subsection (a) shall not af-
24 fect the force, validity, or terms of any service agreement en-
25 tered into under the David L. Boren National Security Edu-
26 cation Act of 1991 before the date of the enactment of this Act
27 that is in force as of that date.

28 **SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAG-**
29 **SHIP LANGUAGE INITIATIVE.**

30 (a) INCREASE IN ANNUAL AUTHORIZATION OF APPRO-
31 PRIATIONS.—(1) Title VIII of the Intelligence Authorization
32 Act for Fiscal Year 1992 (Public Law 102–183; 105 Stat.
33 1271), as amended by section 311(c) of the Intelligence Au-
34 thorization Act for Fiscal Year 1994 (Public Law 103–178;
35 107 Stat. 2037) and by section 333(b) of the Intelligence Au-
36 thorization Act for Fiscal Year 2003 (Public Law 107–306;
37 116 Stat. 2397), is amended in subsection (a) of section 811



1 by striking “there is authorized to be appropriated to the Sec-
2 retary for each fiscal year, beginning with fiscal year 2003,
3 \$10,000,000,” and inserting “there is authorized to be appro-
4 priated to the Secretary for each of fiscal years 2003 and 2004,
5 \$10,000,000, and for fiscal year 2005 and each subsequent fis-
6 cal year, \$12,000,000.”.

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

10 (b) REQUIREMENT FOR EMPLOYMENT AGREEMENTS.—(1)
11 Section 802(i) of the David L. Boren National Security Edu-
12 cation Act of 1991 (50 U.S.C. 1902(i)) is amended by adding
13 at the end the following new paragraph:

14 “(5)(A) In the case of an undergraduate or graduate stu-
15 dent that participates in training in programs under paragraph
16 (1), the student shall enter into an agreement described in sub-
17 section (b), other than such a student who has entered into
18 such an agreement pursuant to subparagraph (A)(ii) or (B)(ii)
19 of section 802(a)(1).

20 “(B) In the case of an employee of an agency or depart-
21 ment of the Federal Government that participates in training
22 in programs under paragraph (1), the employee shall agree in
23 writing—

24 “(i) to continue in the service of the agency or depart-
25 ment of the Federal Government employing the employee
26 for the period of such training;

27 “(ii) to continue in the service of such agency or de-
28 partment employing the employee following completion of
29 such training for a period of two years for each year, or
30 part of the year, of such training;

31 “(iii) to reimburse the United States for the total cost
32 of such training (excluding the employee’s pay and allow-
33 ances) provided to the employee if, before the completion
34 by the employee of the training, the employment of the em-
35 ployee by the agency or department is terminated due to
36 misconduct by the employee or by the employee voluntarily;
37 and



1 “(iv) to reimburse the United States if, after com-
2 pleting such training, the employment of the employee by
3 the agency or department is terminated either by the agen-
4 cy or department due to misconduct by the employee or by
5 the employee voluntarily, before the completion by the em-
6 ployee of the period of service required in clause (ii), in an
7 amount that bears the same ratio to the total cost of the
8 training (excluding the employee’s pay and allowances) pro-
9 vided to the employee as the unserved portion of such pe-
10 riod of service bears to the total period of service under
11 clause (ii).

12 “(C) Subject to subparagraph (D), the obligation to reim-
13 burse the United States under an agreement under subpara-
14 graph (A) is for all purposes a debt owing the United States.

15 “(D) The head of an element of the intelligence commu-
16 nity may release an employee, in whole or in part, from the ob-
17 ligation to reimburse the United States under an agreement
18 under subparagraph (A) when, in the discretion of the head of
19 the element, the head of the element determines that equity or
20 the interests of the United States so require.”.

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

24 (c) INCREASE IN THE NUMBER OF PARTICIPATING EDU-
25 CATIONAL INSTITUTIONS.—The Secretary of Defense shall take
26 such steps as the Secretary determines will increase the num-
27 ber of qualified educational institutions that receive grants
28 under the National Flagship Language Initiative to establish,
29 operate, or improve activities designed to train students in pro-
30 grams in a range of disciplines to achieve advanced levels of
31 proficiency in those foreign languages that the Secretary identi-
32 fies as being the most critical in the interests of the national
33 security of the United States.

34 (d) CLARIFICATION OF AUTHORITY TO SUPPORT STUDIES
35 ABROAD.—Educational institutions that receive grants under
36 the National Flagship Language Initiative may support stu-
37 dents who pursue total immersion foreign language studies



1 overseas of foreign languages that are critical to the national
2 security of the United States.

3 **SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PRO-**
4 **GRAM FOR ENGLISH LANGUAGE STUDIES**
5 **FOR HERITAGE COMMUNITY CITIZENS OF**
6 **THE UNITED STATES WITHIN THE NATIONAL**
7 **SECURITY EDUCATION PROGRAM.**

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

13 (A) by striking “and” at the end of subparagraph (C);

14 (B) by striking the period at the end of subparagraph
15 (D) and inserting “; and”; and

16 (C) by adding at the end the following new subpara-
17 graph:

18 “(E) awarding scholarships to students who—

19 “(i) are United States citizens who—

20 “(I) are native speakers (commonly re-
21 ferred to as heritage community residents) of a
22 foreign language that is identified as critical to
23 the national security interests of the United
24 States who should be actively recruited for em-
25 ployment by Federal security agencies with a
26 need for linguists; and

27 “(II) are not proficient at a professional
28 level in the English language with respect to
29 reading, writing, and interpersonal skills re-
30 quired to carry out the national security inter-
31 ests of the United States, as determined by the
32 Secretary,

33 to enable such students to pursue English language
34 studies at an institution of higher education of the
35 United States to attain proficiency in those skills;
36 and

37 “(ii) enter into an agreement to work in a na-
38 tional security position or work in the field of edu-



1 cation in the area of study for which the scholar-
2 ship was awarded in a similar manner (as deter-
3 mined by the Secretary) as agreements entered into
4 pursuant to subsection (b)(2)(A).”.

5 (2) The matter following subsection (a)(2) of such section
6 is amended—

7 (A) in the first sentence, by inserting “or for the
8 scholarship program under paragraph (1)(E)” after “under
9 paragraph (1)(D) for the National Flagship Language Ini-
10 tiative described in subsection (i)”; and

11 (B) by adding at the end the following: “For the au-
12 thorization of appropriations for the scholarship program
13 under paragraph (1)(E), see section 812.”.

14 (3) Section 803(d)(4)(E) of such Act (50 U.S.C.
15 1903(d)(4)(E)) is amended by inserting before the period the
16 following: “and section 802(a)(1)(E) (relating to scholarship
17 programs for advanced English language studies by heritage
18 community residents)”.

19 (b) FUNDING.—The David L. Boren National Security
20 Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended
21 by adding at the end the following new section:

22 **“SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR**
23 **CERTAIN HERITAGE COMMUNITY RESI-**
24 **DENTS.**

25 “There is authorized to be appropriated to the Secretary
26 for each fiscal year, beginning with fiscal year 2005,
27 \$4,000,000, to carry out the scholarship programs for English
28 language studies by certain heritage community residents under
29 section 802(a)(1)(E).

30 **SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LAN-**
31 **GUAGE AND EDUCATION FOR THE INTEL-**
32 **LIGENCE COMMUNITY; REPORTS.**

33 (a) SENSE OF CONGRESS.—It is the sense of Congress
34 that there should be within the Office of the National Intel-
35 ligence Director a senior official responsible to assist the Na-
36 tional Intelligence Director in carrying out the Director’s re-
37 sponsibilities for establishing policies and procedure for foreign



1 language education and training of the intelligence community.

2 The duties of such official should include the following:

3 (1) Overseeing and coordinating requirements for for-
4 eign language education and training of the intelligence
5 community.

6 (2) Establishing policy, standards, and priorities relat-
7 ing to such requirements.

8 (3) Identifying languages that are critical to the capa-
9 bility of the intelligence community to carry out national
10 security activities of the United States.

11 (4) Monitoring the allocation of resources for foreign
12 language education and training in order to ensure the re-
13 quirements of the intelligence community with respect to
14 foreign language proficiency are met.

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

18 (1) A report that identifies—

19 (A) skills and processes involved in learning a for-
20 eign language; and

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

23 (2)(A) A report that identifies foreign language herit-
24 age communities, particularly such communities that in-
25 clude speakers of languages that are critical to the national
26 security of the United States.

27 (B) For purposes of subparagraph (A), the term “for-
28 eign language heritage community” means a community of
29 residents or citizens of the United States—

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

32 (ii) who should be actively recruited for employ-
33 ment by Federal security agencies with a need for lin-
34 guists.

35 (3) A report on—

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



1 community agree to repay employees of the intelligence
2 community for any student loan taken out by that em-
3 ployee for the study of foreign languages critical for the
4 national security of the United States; and

5 (B) the effectiveness of such a program in recruit-
6 ing and retaining highly qualified personnel in the in-
7 telligence community.

8 **SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES**
9 **CRITICAL TO THE INTELLIGENCE COMMU-**
10 **NITY.**

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

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

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

17 and

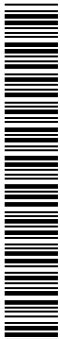
18 (2) by adding at the end the following new subtitles:

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

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

23 “SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—The
24 Secretary of Defense and the National Intelligence Director
25 may jointly establish a program to advance foreign languages
26 skills in languages that are critical to the capability of the in-
27 telligence community to carry out national security activities of
28 the United States (hereinafter in this subtitle referred to as the
29 ‘Foreign Languages Program’).

30 “(b) IDENTIFICATION OF REQUISITE ACTIONS.—In order
31 to carry out the Foreign Languages Program, the Secretary of
32 Defense and the National Intelligence Director shall jointly de-
33 termine actions required to improve the education of personnel
34 in the intelligence community in foreign languages that are
35 critical to the capability of the intelligence community to carry



1 out national security activities of the United States to meet the
2 long-term intelligence needs of the United States.

3 “EDUCATION PARTNERSHIPS

4 “SEC. 1012. (a) IN GENERAL.—In carrying out the For-
5 eign Languages Program, the head of a department or agency
6 containing an element of an intelligence community entity may
7 enter into one or more education partnership agreements with
8 educational institutions in the United States in order to en-
9 courage and enhance the study of foreign languages that are
10 critical to the capability of the intelligence community to carry
11 out national security activities of the United States in edu-
12 cational institutions.

13 “(b) ASSISTANCE PROVIDED UNDER EDUCATIONAL PART-
14 NERSHIP AGREEMENTS.—Under an educational partnership
15 agreement entered into with an educational institution pursu-
16 ant to this section, the head of an element of an intelligence
17 community entity may provide the following assistance to the
18 educational institution:

19 “(1) The loan of equipment and instructional mate-
20 rials of the element of the intelligence community entity to
21 the educational institution for any purpose and duration
22 that the head determines to be appropriate.

23 “(2) Notwithstanding any other provision of law relat-
24 ing to transfers of surplus property, the transfer to the
25 educational institution of any computer equipment, or other
26 equipment, that is—

27 “(A) commonly used by educational institutions;

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

29 “(C) determined by the head of the element to be
30 appropriate for support of such agreement.

31 “(3) The provision of dedicated personnel to the edu-
32 cational institution—

33 “(A) to teach courses in foreign languages that
34 are critical to the capability of the intelligence commu-
35 nity to carry out national security activities of the
36 United States; or



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

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

6 “(5) Cooperation with the educational institution in
7 developing a program under which students receive aca-
8 demic credit at the educational institution for work on re-
9 search projects of the element of the intelligence commu-
10 nity entity.

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

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

16 “VOLUNTARY SERVICES

17 “SEC. 1013. (a) AUTHORITY TO ACCEPT SERVICES.—Not-
18 withstanding section 1342 of title 31, United States Code, and
19 subject to subsection (b), the Foreign Languages Program
20 under section 1011 shall include authority for the head of an
21 element of an intelligence community entity to accept from any
22 individual who is dedicated personnel (as defined in section
23 1016(3)) voluntary services in support of the activities author-
24 ized by this subtitle.

25 “(b) REQUIREMENTS AND LIMITATIONS.—(1) In accepting
26 voluntary services from an individual under subsection (a), the
27 head of the element shall—

28 “(A) supervise the individual to the same extent as the
29 head of the element would supervise a compensated em-
30 ployee of that element providing similar services; and

31 “(B) ensure that the individual is licensed, privileged,
32 has appropriate educational or experiential credentials, or
33 is otherwise qualified under applicable law or regulations to
34 provide such services.

35 “(2) In accepting voluntary services from an individual
36 under subsection (a), the head of an element of the intelligence
37 community entity may not—



1 “(A) place the individual in a policymaking position,
2 or other position performing inherently government func-
3 tions; or

4 “(B) compensate the individual for the provision of
5 such services.

6 “(c) AUTHORITY TO RECRUIT AND TRAIN INDIVIDUALS
7 PROVIDING SERVICES.—The head of an element of an intel-
8 ligence community entity may recruit and train individuals to
9 provide voluntary services accepted under subsection (a).

10 “(d) STATUS OF INDIVIDUALS PROVIDING SERVICES.—(1)
11 Subject to paragraph (2), while providing voluntary services ac-
12 cepted under subsection (a) or receiving training under sub-
13 section (c), an individual shall be considered to be an employee
14 of the Federal Government only for purposes of the following
15 provisions of law:

16 “(A) Section 552a of title 5, United States Code (re-
17 lating to maintenance of records on individuals).

18 “(B) Chapter 11 of title 18, United States Code (re-
19 lating to conflicts of interest).

20 “(2)(A) With respect to voluntary services accepted under
21 paragraph (1) provided by an individual that are within the
22 scope of the services so accepted, the individual is deemed to
23 be a volunteer of a governmental entity or nonprofit institution
24 for purposes of the Volunteer Protection Act of 1997 (42
25 U.S.C. 14501 et seq.).

26 “(B) In the case of any claim against such an individual
27 with respect to the provision of such services, section 4(d) of
28 such Act (42 U.S.C. 14503(d)) shall not apply.

29 “(3) Acceptance of voluntary services under this section
30 shall have no bearing on the issuance or renewal of a security
31 clearance.

32 “(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—(1)
33 The head of an element of the intelligence community entity
34 may reimburse an individual for incidental expenses incurred
35 by the individual in providing voluntary services accepted under
36 subsection (a). The head of an element of the intelligence com-



1 community entity shall determine which expenses are eligible for re-
2 imbursement under this subsection.

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

5 “(f) AUTHORITY TO INSTALL EQUIPMENT.—(1) The head
6 of an element of the intelligence community may install tele-
7 phone lines and any necessary telecommunication equipment in
8 the private residences of individuals who provide voluntary
9 services accepted under subsection (a).

10 “(2) The head of an element of the intelligence community
11 may pay the charges incurred for the use of equipment in-
12 stalled under paragraph (1) for authorized purposes.

13 “(3) Notwithstanding section 1348 of title 31, United
14 States Code, the head of an element of the intelligence commu-
15 nity entity may use appropriated funds or nonappropriated
16 funds of the element in carrying out this subsection.

17 “REGULATIONS

18 “SEC. 1014. (a) IN GENERAL.—The Secretary of Defense
19 and the National Intelligence Director jointly shall promulgate
20 regulations necessary to carry out the Foreign Languages Pro-
21 gram authorized under this subtitle.

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

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

28 “(2) Procedures and requirements relating to the in-
29 stallation of equipment under section 1013(g).

30 “DEFINITIONS

31 “SEC. 1015. In this subtitle:

32 “(1) The term ‘intelligence community entity’ means
33 an agency, office, bureau, or element referred to in sub-
34 paragraphs (B) through (K) of section 3(4).

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



1 “(A) a local educational agency (as that term is
2 defined in section 9101(26) of the Elementary and Sec-
3 ondary Education Act of 1965 (20 U.S.C. 7801(26))),

4 “(B) an institution of higher education (as defined
5 in section 102 of the Higher Education Act of 1965
6 (20 U.S.C. 1002) other than institutions referred to in
7 subsection (a)(1)(C) of such section), or

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

13 “(3) The term ‘dedicated personnel’ means employees
14 of the intelligence community and private citizens (includ-
15 ing former civilian employees of the Federal Government
16 who have been voluntarily separated, and members of the
17 United States Armed Forces who have been honorably dis-
18 charged or generally discharged under honorable cir-
19 cumstances, and rehired on a voluntary basis specifically to
20 perform the activities authorized under this subtitle).

21 **“Subtitle C—Additional Education** 22 **Provisions**

23 “ASSIGNMENT OF INTELLIGENCE COMMUNITY PERSONNEL AS
24 LANGUAGE STUDENTS

25 “SEC. 1021. (a) IN GENERAL.—(1) The National Intel-
26 ligence Director, acting through the heads of the elements of
27 the intelligence community, may provide for the assignment of
28 military and civilian personnel described in paragraph (2) as
29 students at accredited professional, technical, or other institu-
30 tions of higher education for training at the graduate or under-
31 graduate level in foreign languages required for the conduct of
32 duties and responsibilities of such positions.

33 “(2) Personnel referred to in paragraph (1) are personnel
34 of the elements of the intelligence community who serve in anal-
35 ysts positions in such elements and who require foreign lan-



1 guage expertise required for the conduct of duties and respon-
2 sibilities of such positions.

3 “(b) AUTHORITY FOR REIMBURSEMENT OF COSTS OF
4 TUITION AND TRAINING.—(1) The Director may reimburse an
5 employee assigned under subsection (a) for the total cost of the
6 training described in subsection (a), including costs of edu-
7 cational and supplementary reading materials.

8 “(2) The authority under paragraph (1) shall apply to em-
9 ployees who are assigned on a full-time or part-time basis.

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

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

17 (b) CLERICAL AMENDMENT.—The table of contents for
18 the National Security Act of 1947 is amended by striking the
19 item relating to section 1001 and inserting the following new
20 items:

“Subtitle A—Science and Technology

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

“Subtitle B—Foreign Languages Program

“Sec. 1011. Program on advancement of foreign languages critical to the
intelligence community.

“Sec. 1012. Education partnerships.

“Sec. 1013. Voluntary services.

“Sec. 1014. Regulations.

“Sec. 1015. Definitions.

“Subtitle C—Additional Education Provisions

“Sec. 1021. Assignment of intelligence community personnel as language
students.”.

21 **SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-**
22 **SERVE CORPS.**

23 (a) PILOT PROJECT.—The National Intelligence Director
24 shall conduct a pilot project to establish a Civilian Linguist Re-
25 serve Corps comprised of United States citizens with advanced
26 levels of proficiency in foreign languages who would be avail-
27 able upon a call of the President to perform such service or du-



1 ties with respect to such foreign languages in the Federal Gov-
2 ernment as the President may specify.

3 (b) CONDUCT OF PROJECT.—Taking into account the
4 findings and recommendations contained in the report required
5 under section 325 of the Intelligence Authorization Act for Fis-
6 cal Year 2003 (Public Law 107–306; 116 Stat. 2393), in con-
7 ducting the pilot project under subsection (a) the National In-
8 telligence Director shall—

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

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

15 (3) implement a call for the performance of such serv-
16 ices and duties.

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

19 (d) AUTHORITY TO ENTER INTO CONTRACTS.—The Na-
20 tional Intelligence Director may enter into contracts with ap-
21 propriate agencies or entities to carry out the pilot project
22 under subsection (a).

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

26 (2) Each report required under paragraph (1) shall con-
27 tain information on the operation of the pilot project, the suc-
28 cess of the pilot project in carrying out the objectives of the
29 establishment of a Civilian Linguist Reserve Corps, and rec-
30 ommendations for the continuation or expansion of the pilot
31 project.

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

34 (f) AUTHORIZATION OF APPROPRIATIONS.—There are au-
35 thorized to be appropriated to the National Intelligence Direc-
36 tor such sums as are necessary for each of fiscal years 2005,



1 2006, and 2007 in order to carry out the pilot project under
2 subsection (a).

3 **SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE**
4 **NATIONAL VIRTUAL TRANSLATION CENTER.**

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

9 “NATIONAL VIRTUAL TRANSLATION CENTER

10 “SEC. 120. (a) IN GENERAL.—There is an element of the
11 intelligence community known as the National Virtual Trans-
12 lation Center under the direction of the National Intelligence
13 Director.

14 “(b) FUNCTION.—The National Virtual Translation Cen-
15 ter shall provide for timely and accurate translations of foreign
16 intelligence for all other elements of the intelligence community.

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

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

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

23 “(3) use remote-connection capacities.

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

27 “(1) has been certified as a secure facility by an agen-
28 cy or department of the United States; and

29 “(2) the National Intelligence Director determines to
30 be appropriate for such purpose.”.

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

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



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

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

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

18 (2) DEFINITION.—In this subsection, the term “appro-
19 priate congressional committees” means the following:

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

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

25 **Subtitle F—Additional Improvements**
26 **of Intelligence Activities**

27 **SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTEL-**
28 **LIGENCE AGENCY VOLUNTARY SEPARATION**
29 **INCENTIVE PROGRAM.**

30 (a) EXTENSION OF PROGRAM.—Section 2 of the Central
31 Intelligence Agency Voluntary Separation Pay Act (50 U.S.C.
32 403–4 note) is amended—

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

34 (2) by redesignating subsections (g) and (h) as sub-
35 sections (f) and (g), respectively.



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

4 (2) Section 4(a)(2)(B)(ii) of the Federal Workforce Re-
5 structuring Act of 1994 (5 U.S.C. 8331 note) is amended by
6 striking “, or section 2 of the Central Intelligence Agency Vol-
7 untary Separation Pay Act (Public Law 103–36; 107 Stat.
8 104)”.

9 **SEC. 1062. NATIONAL SECURITY AGENCY EMERGING**
10 **TECHNOLOGIES PANEL.**

11 The National Security Agency Act of 1959 (50 U.S.C. 402
12 note) is amended by adding at the end the following new sec-
13 tion:

14 “SEC. 19. (a) There is established the National Security
15 Agency Emerging Technologies Panel. The panel is a standing
16 panel of the National Security Agency. The panel shall be ap-
17 pointed by, and shall report directly to, the Director.

18 “(b) The National Security Agency Emerging Tech-
19 nologies Panel shall study and assess, and periodically advise
20 the Director on, the research, development, and application of
21 existing and emerging science and technology advances, ad-
22 vances on encryption, and other topics.

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

26 **Subtitle G—Conforming and Other**
27 **Amendments**

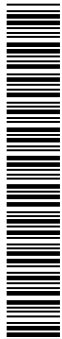
28 **SEC. 1071. CONFORMING AMENDMENTS RELATING TO**
29 **ROLES OF NATIONAL INTELLIGENCE DIREC-**
30 **TOR AND DIRECTOR OF THE CENTRAL IN-**
31 **TELLIGENCE AGENCY.**

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

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



- 1 (B) Section 101(h)(2)(A) (50 U.S.C. 402(h)(2)(A)).
2 (C) Section 101(h)(5) (50 U.S.C. 402(h)(5)).
3 (D) Section 101(i)(2)(A) (50 U.S.C. 402(i)(2)(A)).
4 (E) Section 101(j) (50 U.S.C. 402(j)).
5 (F) Section 105(a) (50 U.S.C. 403–5(a)).
6 (G) Section 105(b)(6)(A) (50 U.S.C. 403–5(b)(6)(A)).
7 (H) Section 105B(a)(1) (50 U.S.C. 403–5b(a)(1)).
8 (I) Section 105B(b) (50 U.S.C. 403–5b(b)), the first
9 place it appears.
10 (J) Section 110(b) (50 U.S.C. 404e(b)).
11 (K) Section 110(c) (50 U.S.C. 404e(c)).
12 (L) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).
13 (M) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).
14 (N) Section 113(b)(2)(A) (50 U.S.C. 404h(b)(2)(A)).
15 (O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
16 (P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
17 (R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
18 (S) Section 115(b) (50 U.S.C. 404j(b)).
19 (T) Section 115(c)(1)(B) (50 U.S.C. 404j(c)(1)(B)).
20 (U) Section 116(a) (50 U.S.C. 404k(a)).
21 (V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
22 (W) Section 303(a) (50 U.S.C. 405(a)), both places it
23 appears.
24 (X) Section 501(d) (50 U.S.C. 413(d)).
25 (Y) Section 502(a) (50 U.S.C. 413a(a)).
26 (Z) Section 502(c) (50 U.S.C. 413a(c)).
27 (AA) Section 503(b) (50 U.S.C. 413b(b)).
28 (BB) Section 504(a)(3)(C) (50 U.S.C. 414(a)(3)(C)).
29 (CC) Section 504(d)(2) (50 U.S.C. 414(d)(2)).
30 (DD) Section 506A(a)(1) (50 U.S.C. 415a–1(a)(1)).
31 (EE) Section 603(a) (50 U.S.C. 423(a)).
32 (FF) Section 702(a)(1) (50 U.S.C. 432(a)(1)).
33 (GG) Section 702(a)(6)(B)(viii) (50 U.S.C.
34 432(a)(6)(B)(viii)).
35 (HH) Section 702(b)(1) (50 U.S.C. 432(b)(1)), both
36 places it appears.
37 (II) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).



1 (JJ) Section 703(a)(6)(B)(viii) (50 U.S.C.
2 432a(a)(6)(B)(viii)).

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

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

6 (MM) Section 704(f)(2)(H) (50 U.S.C.
7 432b(f)(2)(H)).

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

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

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

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

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

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

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

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

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

19 (C) Section 105B(b) (50 U.S.C. 403–5b(b)), the sec-
20 ond place it appears.

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

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

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

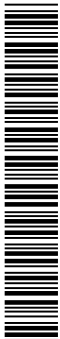
26 (C) Section 1001(b) (50 U.S.C. 441g(b)).

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

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

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

32 (4) Section 114A of that Act (50 U.S.C. 404i–1) is
33 amended by striking “Director of Central Intelligence” and in-
34 serting “National Intelligence Director, the Director of the
35 Central Intelligence Agency”



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

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

5 (A) in subsection (a), by striking “Operational files of
6 the Central Intelligence Agency may be exempted by the
7 Director of Central Intelligence” and inserting “The Direc-
8 tor of the Central Intelligence Agency, with the coordina-
9 tion of the National Intelligence Director, may exempt
10 operational files of the Central Intelligence Agency”; and

11 (B) in subsection (g)(1), by striking “Director of Cen-
12 tral Intelligence” and inserting “Director of the Central In-
13 telligence Agency and the National Intelligence Director”.

14 (7) The heading for section 114 of that Act (50 U.S.C.
15 404i) is amended to read as follows:

16 “ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL
17 INTELLIGENCE DIRECTOR”.

18 (b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1)
19 The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a
20 et seq.) is amended by striking “Director of Central Intel-
21 ligence” each place it appears in the following provisions and
22 inserting “National Intelligence Director”:

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

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

26 (2) That Act is further amended by striking “of Central
27 Intelligence” in each of the following provisions:

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

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

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

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

32 (3) That Act is further amended by striking “Director of
33 Central Intelligence” each place it appears in the following pro-
34 visions and inserting “Director of the Central Intelligence
35 Agency”:

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

37 (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)), both
2 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 Retirement
7 Act (50 U.S.C. 2001) is amended by striking paragraph
8 (2) and inserting the following new paragraph (2):

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

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

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

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

22 (f) CLASSIFIED INFORMATION PROCEDURES ACT.—Sec-
23 tion 9(a) of the Classified Information Procedures Act (5
24 U.S.C. App.) is amended by striking “Director of Central Intel-
25 ligence” and inserting “National Intelligence Director”.

26 (g) INTELLIGENCE AUTHORIZATION ACTS.—

27 (1) PUBLIC LAW 103–359.—Section 811(c)(6)(C) of the
28 Counterintelligence and Security Enhancements Act of
29 1994 (title VIII of Public Law 103–359) is amended by
30 striking “Director of Central Intelligence” and inserting
31 “National Intelligence Director”.

32 (2) PUBLIC LAW 107–306.—(A) The Intelligence Au-
33 thorization Act for Fiscal Year 2003 (Public Law 107–
34 306) is amended by striking “Director of Central Intel-
35 ligence, acting as the head of the intelligence community,”
36 each place it appears in the following provisions and insert-
37 ing “National Intelligence Director”:



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

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

3 (B) That Act is further amended by striking “Director
4 of Central Intelligence” each place it appears in the fol-
5 lowing provisions and inserting “National Intelligence Di-
6 rector”:

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

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

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

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

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

13 (C) Section 341 of that Act (50 U.S.C. 404n–1) is
14 amended by striking “Director of Central Intelligence, act-
15 ing as the head of the intelligence community, shall estab-
16 lish in the Central Intelligence Agency” and inserting “Na-
17 tional Intelligence Director shall establish within the Cen-
18 tral Intelligence Agency”.

19 (D) Section 352(b) of that Act (50 U.S.C. 404–3
20 note) is amended by striking “Director” and inserting “Na-
21 tional Intelligence Director”.

22 (3) PUBLIC LAW 108–177.—(A) The Intelligence Au-
23 thorization Act for Fiscal Year 2004 (Public Law 108–
24 177) is amended by striking “Director of Central Intel-
25 ligence” each place it appears in the following provisions
26 and inserting “National Intelligence Director”:

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

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

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

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

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

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

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

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



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

4 **SEC. 1072. OTHER CONFORMING AMENDMENTS**

5 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section
6 101(j) of the National Security Act of 1947 (50 U.S.C. 402(j))
7 is amended by striking “Deputy Director of Central Intel-
8 ligence” and inserting “Deputy National Intelligence Director”.

9 (2) Section 112(d)(1) of that Act (50 U.S.C. 404g(d)(1))
10 is amended by striking “section 103(c)(6) of this Act” and in-
11 sserting “section 102A(g) of this Act”.

12 (3) Section 116(b) of that Act (50 U.S.C. 404k(b)) is
13 amended by striking “to the Deputy Director of Central Intel-
14 ligence, or with respect to employees of the Central Intelligence
15 Agency, the Director may delegate such authority to the Dep-
16 uty Director for Operations” and inserting “to the Deputy Na-
17 tional Intelligence Director, or with respect to employees of the
18 Central Intelligence Agency, to the Director of the Central In-
19 telligence Agency”.

20 (4) Section 506A(b)(1) of that Act (50 U.S.C. 415a-
21 1(b)(1)) is amended by striking “Office of the Deputy Director
22 of Central Intelligence” and inserting “Office of the National
23 Intelligence Director”.

24 (5) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is
25 amended by striking “Office of the Director of Central Intel-
26 ligence” and inserting “Office of the National Intelligence Di-
27 rector”.

28 (6) Section 1001(b) of that Act (50 U.S.C. 441g(b)) is
29 amended by striking “Assistant Director of Central Intelligence
30 for Administration” and inserting “Office of the National Intel-
31 ligence Director”.

32 (b) CENTRAL INTELLIGENCE ACT OF 1949.—Section 6 of
33 the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g)
34 is amended by striking “section 103(c)(7) of the National Secu-
35 rity Act of 1947 (50 U.S.C. 403-3(c)(7))” and inserting “sec-
36 tion 102A(g) of the National Security Act of 1947”.



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

9 (d) INTELLIGENCE AUTHORIZATION ACTS.—

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

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

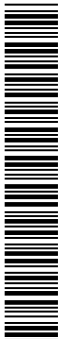
19 (i) in subsection (c), by striking “Office of the Di-
20 rector of Central Intelligence” and inserting “Office of
21 the National Intelligence Director”; and

22 (ii) in subsection (l), by striking “Office of the Di-
23 rector of Central Intelligence” and inserting “Office of
24 the National Intelligence Director”.

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

28 (A) in subsection (g), by striking “Assistant Direc-
29 tor of Central Intelligence for Analysis and Produc-
30 tion” and inserting “Deputy National Intelligence Di-
31 rector”; and

32 (B) in subsection (h)(2)(C), by striking “Assistant
33 Director” and inserting “Deputy National Intelligence
34 Director”.



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

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

5 “(4) The term ‘intelligence community’ includes the
6 following:

7 “(A) The Office of the National Intelligence Direc-
8 tor.

9 “(B) The Central Intelligence Agency.

10 “(C) The National Security Agency.

11 “(D) The Defense Intelligence Agency.

12 “(E) The National Geospatial-Intelligence Agency.

13 “(F) The National Reconnaissance Office.

14 “(G) Other offices within the Department of De-
15 fense for the collection of specialized national intel-
16 ligence through reconnaissance programs.

17 “(H) The intelligence elements of the Army, the
18 Navy, the Air Force, the Marine Corps, the Federal
19 Bureau of Investigation, and the Department of En-
20 ergy.

21 “(I) The Bureau of Intelligence and Research of
22 the Department of State.

23 “(J) The Office of Intelligence and Analysis of the
24 Department of the Treasury.

25 “(K) The elements of the Department of Home-
26 land Security concerned with the analysis of intel-
27 ligence information, including the Office of Intelligence
28 of the Coast Guard.

29 “(L) Such other elements of any other department
30 or agency as may be designated by the President, or
31 designated jointly by the National Intelligence Director
32 and the head of the department or agency concerned,
33 as an element of the intelligence community.”.



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

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

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

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

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

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

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

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

23 **SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECU-**
24 **RITY ACT OF 1947.**

25 The table of contents for the National Security Act of
26 1947 is amended—

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

“Sec. 102. National Intelligence Director.

“Sec. 102A. Responsibilities and authorities of National Intelligence Direc-
tor.

“Sec. 103. Office of the National Intelligence Director.

“Sec. 104. Central Intelligence Agency.

“Sec. 104A. Director of the Central Intelligence Agency.”; and

29 (2) by striking the item relating to section 114 and in-
30 sserting the following new item:

“Sec. 114. Additional annual reports from the National Intelligence Direc-
tor.”;

31 and



1 (3) by striking the item relating to section 506 and in-
2 serting the following new item:

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

3 **SEC. 1077. CONFORMING AMENDMENTS RELATING TO**
4 **PROHIBITING DUAL SERVICE OF THE DIREC-**
5 **TOR OF THE CENTRAL INTELLIGENCE AGEN-**
6 **CY.**

7 Section 1 of the Central Intelligence Agency Act of 1949
8 (50 U.S.C. 403a) is amended—

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

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

13 “(2) ‘Director’ means the Director of the Central Intel-
14 ligence Agency; and”.

15 **SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTEC-**
16 **TIONS.**

17 Section 17(a)(1) of the Central Intelligence Agency Act of
18 1949 (50 U.S.C. 403q(a)(1)) is amended by inserting before
19 the semicolon at the end the following: “and to programs and
20 operations of the Office of the National Intelligence Director”.

21 **SEC. 1079. GENERAL REFERENCES.**

22 (a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF
23 INTELLIGENCE COMMUNITY.—Any reference to the Director of
24 Central Intelligence or the Director of the Central Intelligence
25 Agency in the Director’s capacity as the head of the intelligence
26 community in any law, regulation, document, paper, or other
27 record of the United States shall be deemed to be a reference
28 to the National Intelligence Director.

29 (b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF
30 CIA.—Any reference to the Director of Central Intelligence or
31 the Director of the Central Intelligence Agency in the Direc-
32 tor’s capacity as the head of the Central Intelligence Agency
33 in any law, regulation, document, paper, or other record of the
34 United States shall be deemed to be a reference to the Director
35 of the Central Intelligence Agency.



1 (c) COMMUNITY MANAGEMENT STAFF.—Any reference to
2 the Community Management Staff in any law, regulation, docu-
3 ment, paper, or other record of the United States shall be
4 deemed to be a reference to the staff of the Office of the Na-
5 tional Intelligence Director.

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

7 (a) POLITICAL SERVICE OF PERSONNEL.—Section
8 7323(b)(2)(B)(i) of title 5, United States Code, is amended—

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

10 and

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

13 “(XIV) the Office of the National Intelligence Di-
14 rector; or”.

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

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

19 (2) in subparagraph (A), as so designated, by striking
20 “the Director of Central Intelligence” and inserting “the
21 Director of the Central Intelligence Agency”; and

22 (3) by adding at the end the following new subpara-
23 graph:

24 “(B) In transmitting such listings for the Office of the
25 National Intelligence Director, the National Intelligence Direc-
26 tor may delete the information described in subparagraphs (A)
27 and (C) of paragraphs (2) and (3) if the Director certifies in
28 writing to the Secretary of State that the publication of such
29 information could adversely affect United States intelligence
30 sources.”.

31 (c) EXEMPTION FROM FINANCIAL DISCLOSURES.—Section
32 105(a)(1) of the Ethics in Government Act (5 U.S.C. App.) is
33 amended by inserting “the Office of the National Intelligence
34 Director,” before “the Central Intelligence Agency”.



1 **Subtitle H—Transfer, Termination,**
2 **Transition and Other Provisions**

3 **SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT**
4 **STAFF.**

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

10 (b) ADMINISTRATION.—The National Intelligence Director
11 shall administer the Community Management Staff after the
12 date of the enactment of this Act as a component of the Office
13 of the National Intelligence Director under section 103(b) of
14 the National Security Act of 1947, as amended by section
15 1011(a).

16 **SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRA-**
17 **TION CENTER.**

18 (a) TRANSFER.—There shall be transferred to the Na-
19 tional Counterterrorism Center the Terrorist Threat Integra-
20 tion Center (TTIC), including all functions and activities dis-
21 charged by the Terrorist Threat Integration Center as of the
22 date of the enactment of this Act.

23 (b) ADMINISTRATION.—The Director of the National
24 Counterterrorism Center shall administer the Terrorist Threat
25 Integration Center after the date of the enactment of this Act
26 as a component of the Directorate of Intelligence of the Na-
27 tional Counterterrorism Center under section 119(i) of the Na-
28 tional Security Act of 1947, as added by section 1021(a).

29 **SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT**
30 **DIRECTORS OF CENTRAL INTELLIGENCE.**

31 (a) TERMINATION.—The positions within the Central In-
32 telligence Agency referred to in subsection (b) are hereby abol-
33 ished.

34 (b) COVERED POSITIONS.—The positions within the Cen-
35 tral Intelligence Agency referred to in this subsection are as
36 follows:



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

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

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

7 **SEC. 1094. IMPLEMENTATION PLAN.**

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

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

14 (2) Any consolidation, reorganization, or streamlining
15 of activities transferred to the National Intelligence Direc-
16 tor pursuant to this title.

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

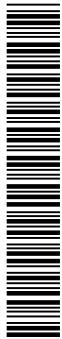
21 (4) Specification of any proposed disposition of prop-
22 erty, facilities, contracts, records, and other assets and obli-
23 gations to be transferred to the National Intelligence Direc-
24 tor.

25 (5) Recommendations for additional legislative or ad-
26 ministrative action as the Director considers appropriate.

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

32 **SEC. 1095. TRANSITIONAL AUTHORITIES.**

33 Upon the request of the National Intelligence Director, the
34 head of any executive agency may, on a reimbursable basis,
35 provide services or detail personnel to the National Intelligence
36 Director.



1 **SEC. 1096. EFFECTIVE DATES.**

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

5 (b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later than
6 60 days after the date of the enactment of this Act, the Na-
7 tional Intelligence Director shall first appoint individuals to po-
8 sitions within the Office of the National Intelligence Director.

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

11 (2) Not later than 180 days after the date of the enact-
12 ment of this Act, the President shall transmit to Congress the
13 implementation plan required under section 1904.

14 (3) Not later than one year after the date of the enact-
15 ment of this Act, the National Intelligence Director shall pre-
16 scribe regulations, policies, procedures, standards, and guide-
17 lines required under section 102A of the National Security Act
18 of 1947, as amended by section 1011(a).

19 **TITLE II—TERRORISM**
20 **PREVENTION AND PROSECUTION**
21 **Subtitle A—Individual Terrorists as**
22 **Agents of Foreign Powers**

23 **SECTION 2001. INDIVIDUAL TERRORISTS AS AGENTS OF**
24 **FOREIGN POWERS.**

25 Section 101(b)(1) of the Foreign Intelligence Surveillance
26 Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at
27 the end the following new subparagraph:

28 “(C) engages in international terrorism or activi-
29 ties in preparation therefor; or”.

30 **Subtitle B—Stop Terrorist and**
31 **Military Hoaxes Act of 2004**

32 **SEC. 2021. SHORT TITLE.**

33 This subtitle may be cited as the “Stop Terrorist and Mili-
34 tary Hoaxes Act of 2004”.



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

2 (a) PROHIBITION ON HOAXES.—Chapter 47 of title 18,
3 United States Code, is amended by inserting after section 1037
4 the following:

5 **“§ 1038. False information and hoaxes**

6 “(a) CRIMINAL VIOLATION.—

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

18 “(A) be fined under this title or imprisoned not
19 more than 5 years, or both;

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

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

25 “(2) ARMED FORCES.—Whoever, without lawful au-
26 thority, makes a false statement, with intent to convey false
27 or misleading information, about the death, injury, capture,
28 or disappearance of a member of the Armed Forces of the
29 United States during a war or armed conflict in which the
30 United States is engaged, shall—

31 “(A) be fined under this title or imprisoned not
32 more than 5 years, or both;

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

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



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

14 “(c) REIMBURSEMENT.—

15 “(1) IN GENERAL.—The court, in imposing a sentence
16 on a defendant who has been convicted of an offense under
17 subsection (a), shall order the defendant to reimburse any
18 state or local government, or private not-for-profit organi-
19 zation that provides fire or rescue service incurring ex-
20 penses incident to any emergency or investigative response
21 to that conduct, for those expenses.

22 “(2) LIABILITY.—A person ordered to make reim-
23 bursement under this subsection shall be jointly and sever-
24 ally liable for such expenses with each other person, if any,
25 who is ordered to make reimbursement under this sub-
26 section for the same expenses.

27 “(3) CIVIL JUDGMENT.—An order of reimbursement
28 under this subsection shall, for the purposes of enforce-
29 ment, be treated as a civil judgment.

30 “(d) ACTIVITIES OF LAW ENFORCEMENT.—This section
31 does not prohibit any lawfully authorized investigative, protec-
32 tive, or intelligence activity of a law enforcement agency of the
33 United States, a State, or political subdivision of a State, or
34 of an intelligence agency of the United States.”.

35 (b) CLERICAL AMENDMENT.—The table of sections as the
36 beginning of chapter 47 of title 18, United States Code, is



1 amended by adding after the item for section 1037 the fol-
2 lowing:

“1038. False information and hoaxes.”.

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

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

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

20 **SEC. 2024. CLARIFICATION OF DEFINITION.**

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

23 (1) in subsection (a), by striking “facility in” and in-
24 serting “facility of”; and

25 (2) in subsection (b)(2), by inserting “or foreign”
26 after “interstate”.

27 **Subtitle C—Material Support to Ter-**
28 **rorism Prohibition Enhancement**
29 **Act of 2004**

30 **SEC. 2041. SHORT TITLE.**

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



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

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

5 **“§ 2339D. Receiving military-type training from a**
6 **foreign terrorist organization**

7 “(a) OFFENSE.—Whoever knowingly receives military-type
8 training from or on behalf of any organization designated at
9 the time of the training by the Secretary of State under section
10 219(a)(1) of the Immigration and Nationality Act as a foreign
11 terrorist organization shall be fined under this title or impris-
12 oned for ten years, or both. To violate this subsection, a person
13 must have knowledge that the organization is a designated ter-
14 rorist organization (as defined in subsection (c)(4)), that the
15 organization has engaged or engages in terrorist activity (as de-
16 fined in section 212 of the Immigration and Nationality Act),
17 or that the organization has engaged or engages in terrorism
18 (as defined in section 140(d)(2) of the Foreign Relations Au-
19 thorization Act, Fiscal Years 1988 and 1989).

20 “(b) EXTRATERRITORIAL JURISDICTION.—There is
21 extraterritorial Federal jurisdiction over an offense under this
22 section. There is jurisdiction over an offense under subsection
23 (a) if—

24 “(1) an offender is a national of the United States (as
25 defined in 101(a)(22) of the Immigration and Nationality
26 Act) or an alien lawfully admitted for permanent residence
27 in the United States (as defined in section 101(a)(20) of
28 the Immigration and Nationality Act);

29 “(2) an offender is a stateless person whose habitual
30 residence is in the United States;

31 “(3) after the conduct required for the offense occurs
32 an offender is brought into or found in the United States,
33 even if the conduct required for the offense occurs outside
34 the United States;

35 “(4) the offense occurs in whole or in part within the
36 United States;



1 “(5) the offense occurs in or affects interstate or for-
2 eign commerce;

3 “(6) an offender aids or abets any person over whom
4 jurisdiction exists under this paragraph in committing an
5 offense under subsection (a) or conspires with any person
6 over whom jurisdiction exists under this paragraph to com-
7 mit an offense under subsection (a).

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

9 “(1) the term ‘military-type training’ includes training
10 in means or methods that can cause death or serious bodily
11 injury, destroy or damage property, or disrupt services to
12 critical infrastructure, or training on the use, storage, pro-
13 duction, or assembly of any explosive, firearm or other
14 weapon, including any weapon of mass destruction (as de-
15 fined in section 2232a(c)(2));

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

18 “(3) the term ‘critical infrastructure’ means systems
19 and assets vital to national defense, national security, eco-
20 nomic security, public health or safety including both re-
21 gional and national infrastructure. Critical infrastructure
22 may be publicly or privately owned; examples of critical in-
23 frastructure include gas and oil production, storage, or de-
24 livery systems, water supply systems, telecommunications
25 networks, electrical power generation or delivery systems,
26 financing and banking systems, emergency services (includ-
27 ing medical, police, fire, and rescue services), and transpor-
28 tation systems and services (including highways, mass tran-
29 sit, airlines, and airports); and

30 “(4) the term ‘foreign terrorist organization’ means an
31 organization designated as a terrorist organization under
32 section 219(a)(1) of the Immigration and Nationality
33 Act.”.



1 **SEC. 2043. PROVIDING MATERIAL SUPPORT TO TER-**
2 **RORISM.**

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

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

7 (2) by designating the second sentence as paragraph

8 (3);

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

11 “(2) (A) Whoever in a circumstance described in sub-
12 paragraph (B) provides material support or resources or
13 conceals or disguises the nature, location, source, or owner-
14 ship of material support or resources, knowing or intending
15 that they are to be used in preparation for, or in carrying
16 out, an act of international or domestic terrorism (as de-
17 fined in section 2331), or in preparation for, or in carrying
18 out, the concealment or escape from the commission of any
19 such act, or attempts or conspires to do so, shall be pun-
20 ished as provided under paragraph (1) for an offense under
21 that paragraph.

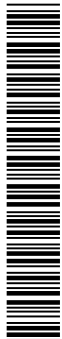
22 “(B) The circumstances referred to in subparagraph
23 (A) are any of the following:

24 “(i) The offense occurs in or affects interstate or
25 foreign commerce.

26 “(ii) The act of terrorism is an act of international
27 or domestic terrorism that violates the criminal law of
28 the United States.

29 “(iii) The act of terrorism is an act of domestic
30 terrorism that appears to be intended to influence the
31 policy, or affect the conduct, of the Government of the
32 United States or a foreign government.

33 “(iv) An offender, acting within the United States
34 or outside the territorial jurisdiction of the United
35 States, is a national of the United States (as defined
36 in section 101(a)(22) of the Immigration and Nation-
37 ality Act, an alien lawfully admitted for permanent res-



1 idence in the United States (as defined in section
2 101(a)(20) of the Immigration and Nationality Act , or
3 a stateless person whose habitual residence is in the
4 United States, and the act of terrorism is an act of
5 international terrorism that appears to be intended to
6 influence the policy, or affect the conduct, of the Gov-
7 ernment of the United States or a foreign government.

8 “(v) An offender, acting within the United States,
9 is an alien, and the act of terrorism is an act of inter-
10 national terrorism that appears to be intended to influ-
11 ence the policy, or affect the conduct, of the Govern-
12 ment of the United States or a foreign government.

13 “(vi) An offender, acting outside the territorial ju-
14 risdiction of the United States, is an alien and the act
15 of terrorism is an act of international terrorism that
16 appears to be intended to influence the policy of, or af-
17 fect the conduct of, the Government of the United
18 States.

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

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

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

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

29 (2) by inserting “any property, tangible or intangible,
30 or service, including” after “means”;

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

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

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

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

36 “(2) As used in this subsection, the term ‘training’ means
37 instruction or teaching designed to impart a specific skill, as



1 opposed to general knowledge, and the term ‘expert advice or
2 assistance’ means advice or assistance derived from scientific,
3 technical or other specialized knowledge.”.

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

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

10 (2) by adding at the end the following: “To violate this
11 paragraph, a person must have knowledge that the organi-
12 zation is a designated terrorist organization (as defined in
13 subsection (g)(6)), that the organization has engaged or en-
14 gages in terrorist activity (as defined in section
15 212(a)(3)(B) of the Immigration and Nationality Act, or
16 that the organization has engaged or engages in terrorism
17 (as defined in section 140(d)(2) of the Foreign Relations
18 Authorization Act, Fiscal Years 1988 and 1989.”.

19 (d) FEDERAL AUTHORITY.—Section 2339B(d) of title 18
20 is amended—

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

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

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

25 “(A) An offender is a national of the United States
26 (as defined in section 101(a)(22) of the Immigration and
27 Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully
28 admitted for permanent residence in the United States (as
29 defined in section 101(a)(20) of the Immigration and Na-
30 tionality Act.

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

33 “(C) After the conduct required for the offense occurs
34 an offender is brought into or found in the United States,
35 even if the conduct required for the offense occurs outside
36 the United States.



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

3 “(E) The offense occurs in or affects interstate or for-
4 eign commerce.

5 “(F) An offender aids or abets any person over whom
6 jurisdiction exists under this paragraph in committing an
7 offense under subsection (a) or conspires with any person
8 over whom jurisdiction exists under this paragraph to com-
9 mit an offense under subsection (a).”.

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

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

14 (f) ADDITIONAL PROVISIONS.—Section 2339B of title 18,
15 United States Code, is amended by adding at the end the fol-
16 lowing:

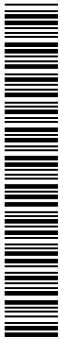
17 “(h) PROVISION OF PERSONNEL.—No person may be
18 prosecuted under this section in connection with the term ‘per-
19 sonnel’ unless that person has knowingly provided, attempted
20 to provide, or conspired to provide a foreign terrorist organiza-
21 tion with one or more individuals (who may be or include him-
22 self) to work under that terrorist organization’s direction or
23 control or to organize, manage, supervise, or otherwise direct
24 the operation of that organization. Individuals who act entirely
25 independently of the foreign terrorist organization to advance
26 its goals or objectives shall not be considered to be working
27 under the foreign terrorist organization’s direction and control.

28 “(i) RULE OF CONSTRUCTION.—Nothing in this section
29 shall be construed or applied so as to abridge the exercise of
30 rights guaranteed under the First Amendment to the Constitu-
31 tion of the United States.”.

32 **SEC. 2044. FINANCING OF TERRORISM.**

33 (a) FINANCING TERRORISM.—Section 2339c(c)(2) of title
34 18, United States Code, is amended—

35 (1) by striking “, resources, or funds” and inserting
36 “or resources, or any funds or proceeds of such funds”;



1 (2) in subparagraph (A), by striking “were provided”
2 and inserting “are to be provided, or knowing that the sup-
3 port or resources were provided,”; and

4 (3) in subparagraph (B)—

5 (A) by striking “or any proceeds of such funds”;
6 and

7 (B) by striking “were provided or collected” and
8 inserting “are to be provided or collected, or knowing
9 that the funds were provided or collected,”.

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

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

13 (2) by redesignating paragraph (13) as paragraph
14 (14); and

15 (3) by inserting after paragraph (12) the following:

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

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

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

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

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

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

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

30 “(2) against any person or property within the United
31 States, and

32 “(A) the mail or any facility of interstate or for-
33 eign commerce is used in furtherance of the offense;

34 “(B) such property is used in interstate or foreign
35 commerce or in an activity that affects interstate or
36 foreign commerce;



1 “(C) any perpetrator travels in or causes another
2 to travel in interstate or foreign commerce in further-
3 ance of the offense; or

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

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

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

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

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

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

17 (6) in subsection (c), by adding at the end the fol-
18 lowing:

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

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

24 (1) in the section heading, by striking “certain”;

25 (2) in subsection (a), by striking “(other than a chem-
26 ical weapon as that term is defined in section 229F)”; and

27 (3) in subsection (b), by striking “(other than a chem-
28 ical weapon (as that term is defined in section 229F))”.

29 (c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS
30 SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—
31 Section 175b(d)(2) of title 18, United States Code, is
32 amended—

33 (1) in subparagraph (G) by—

34 (A) inserting “(i)” after “(G)”;

35 (B) inserting “, or (ii) acts for or on behalf of, or
36 operates subject to the direction or control of, a govern-



1 ment or official of a country described in this subpara-
2 graph” after “terrorism”; and

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

4 (2) in subparagraph (H) by striking the period and in-
5 serting “; or”; and

6 (3) by adding at the end the following new subpara-
7 graph:

8 “(I) is a member of, acts for or on behalf of, or
9 operates subject to the direction or control of, a ter-
10 rorist organization as defined in section
11 212(a)(3)(B)(vi) of the Immigration and Nationality
12 Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

13 (d) CONFORMING AMENDMENT TO REGULATIONS.—

14 (1) Section 175b(a)(1) of title 18, United States Code,
15 is amended by striking “as a select agent in Appendix A”
16 and all that follows and inserting the following: “as a non-
17 overlap or overlap select biological agent or toxin in sec-
18 tions 73.4 and 73.5 of title 42, Code of Federal Regula-
19 tions, pursuant to section 351A of the Public Health Serv-
20 ice Act, and is not excluded under sections 73.4 and 73.5
21 or exempted under section 73.6 of title 42, Code of Federal
22 Regulations.”.

23 (2) The amendment made by paragraph (1) shall take
24 effect at the same time that sections 73.4, 73.5, and 73.6
25 of title 42, Code of Federal Regulations, become effective.

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

29 (a) Section 57(b) of the Atomic Energy Act of 1954 (42
30 U.S.C. 2077(b)) is amended by striking “in the production of
31 any special nuclear material” and inserting “or participate in
32 the development or production of any special nuclear material
33 or atomic weapon”.

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

35 (1) in the table of sections at the beginning of chapter
36 39, by inserting after the item relating to section 831 the
37 following:



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

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

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

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

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

14 “(c) As used in this section—

15 “(1) ‘nuclear weapons program’ means a program or
16 plan for the development, acquisition, or production of any
17 nuclear weapon or weapons;

18 “(2) ‘weapons of mass destruction program’ means a
19 program or plan for the development, acquisition, or pro-
20 duction of any weapon or weapons of mass destruction (as
21 defined in section 2332a(c));

22 “(3) ‘foreign terrorist power’ means a terrorist organi-
23 zation designated under section 219 of the Immigration
24 and Nationality Act, or a state sponsor of terrorism des-
25 ignated under section 6(j) of the Export Administration
26 Act of 1979 or section 620A of the Foreign Assistance Act
27 of 1961; and

28 “(4) ‘nuclear weapon’ means any weapon that contains
29 or uses nuclear material as defined in section 831(f)(1).”;
30 and

31 (3) in section 2332b(g)(5)(B)(i), by inserting after
32 “nuclear materials,” the following: “832 (relating to par-
33 ticipation in nuclear and weapons of mass destruction
34 threats to the United States)”.



1 **Subtitle E—Money Laundering and**
2 **Terrorist Financing**

3 **CHAPTER 1—FUNDING TO COMBAT FINANCIAL**
4 **CRIMES INCLUDING TERRORIST FINANCING**

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

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

8 (1) by striking “APPROPRIATIONS.—There are author-
9 ized” and inserting “APPROPRIATIONS.—

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

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

12 “(2) AUTHORIZATION FOR FUNDING KEY TECHNO-
13 LOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN
14 SYSTEMS.—There are authorized to be appropriated for fis-
15 cal year 2005 the following amounts, which are authorized
16 to remain available until expended:

17 “(A) BSA DIRECT.—For technological improve-
18 ments to provide authorized law enforcement and fi-
19 nancial regulatory agencies with Web-based access to
20 FinCEN data, to fully develop and implement the high-
21 ly secure network required under section 362 of Public
22 Law 107–56 to expedite the filing of, and reduce the
23 filing costs for, financial institution reports, including
24 suspicious activity reports, collected by FinCEN under
25 chapter 53 and related provisions of law, and enable
26 FinCEN to immediately alert financial institutions
27 about suspicious activities that warrant immediate and
28 enhanced scrutiny, and to provide and upgrade ad-
29 vanced information-sharing technologies to materially
30 improve the Government’s ability to exploit the infor-
31 mation in the FinCEN databanks \$16,500,000.

32 “(B) ADVANCED ANALYTICAL TECHNOLOGIES.—
33 To provide advanced analytical tools needed to ensure
34 that the data collected by FinCEN under chapter 53
35 and related provisions of law are utilized fully and ap-



1 appropriately in safeguarding financial institutions and
2 supporting the war on terrorism, \$5,000,000.

3 “(C) DATA NETWORKING MODERNIZATION.—To
4 improve the telecommunications infrastructure to sup-
5 port the improved capabilities of the FinCEN systems,
6 \$3,000,000.

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

10 “(E) DETECTION AND PREVENTION OF FINANCIAL
11 CRIMES AND TERRORISM.—To provide development of,
12 and training in the use of, technology to detect and
13 prevent financial crimes and terrorism within and with-
14 out the United States, \$8,000,000.”.

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

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

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

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

23 **CHAPTER 2—ENFORCEMENT TOOLS TO COM-**
24 **BAT FINANCIAL CRIMES INCLUDING TER-**
25 **RORIST FINANCING**

26 **Subchapter A—Money Laundering Abatement and**
27 **Financial Antiterrorism Technical Corrections**

28 **SEC. 2111. SHORT TITLE.**

29 This subtitle may be cited as the “Money Laundering
30 Abatement and Financial Antiterrorism Technical Corrections
31 Act of 2004”.



1 **SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW**
2 **107-56.**

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

5 **“TITLE III—INTERNATIONAL**
6 **MONEY LAUNDERING ABATE-**
7 **MENT AND FINANCIAL**
8 **ANTITERRORISM ACT OF 2001”.**

9 (b) The table of contents of Public Law 107-56 is amend-
10 ed by striking the item relating to title III and inserting the
11 following new item:

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

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

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

15 (2) in subsection (b)(7), by inserting “or types of ac-
16 counts” after “classes of international transactions”; and

17 (3) in subsection (b)(10), by striking “subchapters II
18 and III” and inserting “subchapter II”.

19 (d) Section 303(a) of Public Law 107-56 is amended by
20 striking “Anti-Terrorist Financing Act” and inserting “Finan-
21 cial Antiterrorism Act”.

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

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

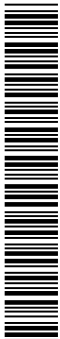
27 (1) in paragraph (1)—

28 (A) by inserting a comma after “organizations en-
29 gaged in”; and

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

32 (2) in paragraph (2)(A)—

33 (A) by striking “and” after “nongovernmental or-
34 ganizations,”; and



1 (B) by inserting a comma after “unwittingly in-
2 volved in such finances”;

3 (3) in paragraph (3)(A)—

4 (A) by striking “to monitor accounts of” and in-
5 serting “monitor accounts of,”; and

6 (B) by striking the comma after “organizations
7 identified”; and

8 (4) in paragraph (3)(B), by inserting “financial” after
9 “size, and nature of the”.

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

12 (h) Section 325 of Public Law 107–56 is amended by
13 striking “as amended by section 202 of this title,” and insert-
14 ing “as amended by section 352,”.

15 (i) Subsections (a)(2) and (b)(2) of section 327 of Public
16 Law 107–56 are each amended by inserting a period after “De-
17 cember 31, 2001” and striking all that follows through the pe-
18 riod at the end of each such subsection.

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

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

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

25 (2) by striking “is amended to read” and inserting
26 “that precedes paragraph (1) of such section is amended
27 to read”; and

28 (3) by striking “.” at the end of such section and in-
29 serting “—”.

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

31 (1) in subsection (a), by inserting “the” after “utiliza-
32 tion of the funds of”; and

33 (2) in subsection (b), by striking “at such institu-
34 tions” and inserting “at such institution”.

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



- 1 (n) Section 365 of Public Law 107—56 is amended —
2 (1) by redesignating the 2nd of the 2 subsections des-
3 igned as subsection (c) (relating to a clerical amendment)
4 as subsection (d); and
5 (2) by redesignating subsection (f) as subsection (e).
6 (o) Section 365(d) of Public Law 107—56 (as so redesign-
7 nated by subsection (n) of this section) is amended by striking
8 “section 5332 (as added by section 112 of this title)” and in-
9 serting “section 5330”.

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

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

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

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

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

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

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

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

30 **“§ 5318A Special measures for jurisdictions, finan-**
31 **cial institutions, international trans-**
32 **actions, or types of accounts of primary**
33 **money laundering concern”.**

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

36 (1) in subsection (a)(4)(A), by striking “, as defined
37 in section 3 of the Federal Deposit Insurance Act,” and in-



1 serting “ (as defined in section 3 of the Federal Deposit
2 Insurance Act)”;

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

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

9 (4) in subsection (e)(3), by inserting “or subsection (i)
10 or (j) of section 5318” after “identification of individuals
11 under this section”.

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

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

17 (1) in subsection (b)(2), by striking “, subject to sub-
18 section (d) of this section”; and

19 (2) in subsection (c)(1), by striking “, subject to sub-
20 section (d) of this section,”.

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

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

24 (j) Section 18(w)(3) of the Federal Deposit Insurance Act
25 (12 U.S.C. 1828(w)(3)) is amended by inserting a comma after
26 “agent of such institution”.

27 (k) Section 21(a)(2) of the Federal Deposit Insurance Act
28 (12 U.S.C. 1829b(a)(2)) is amended by striking “recognizes
29 that” and inserting “recognizing that”.

30 (l) Section 626(e) of the Fair Credit Reporting Act (15
31 U.S.C. 1681v(e)) is amended by striking “governmental agen-
32 cy” and inserting “government agency”.



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

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

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

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

13 **Subchapter B—Additional Enforcement Tools**

14 **SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SE-**
15 **CURITY PRINTING.**

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

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

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

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

24 (2) by adding at the end the following new para-
25 graphs:

26 “(2) ENGRAVING AND PRINTING FOR OTHER GOVERN-
27 MENTS.—The Secretary of the Treasury may produce cur-
28 rency, postage stamps, and other security documents for
29 foreign governments if—

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

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

36 “(3) PROCUREMENT GUIDELINES.—Articles, material,
37 and supplies procured for use in the production of cur-



1 rency, postage stamps, and other security documents for
2 foreign governments pursuant to paragraph (2) shall be
3 treated in the same manner as articles, material, and sup-
4 plies procured for public use within the United States for
5 purposes of title III of the Act of March 3, 1933 (41
6 U.S.C. 10a et seq.; commonly referred to as the Buy Amer-
7 ican Act).”.

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

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

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

15 (3) in the last sentence, by inserting “, and the Sec-
16 retary shall take such action, in coordination with the Sec-
17 retary of State, as may be appropriate to ensure prompt
18 payment by a foreign government of any invoice or state-
19 ment of account submitted by the Secretary with respect to
20 services rendered under section 5114” before the period at
21 the end.

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

23 (a) IN GENERAL.—Section 474(a) of title 18, United
24 States Code, is amended by inserting after the paragraph be-
25 ginning “Whoever has in his control, custody, or possession any
26 plate” the following:

27 “Whoever, with intent to defraud, has in his custody, con-
28 trol, or possession any material that can be used to make, alter,
29 forge or counterfeit any obligations and other securities of the
30 United States or any part of such securities and obligations,
31 except under the authority of the Secretary of the Treasury;
32 or”.

33 (b) FOREIGN OBLIGATIONS AND SECURITIES.—Section
34 481 of title 18, United States Code, is amended by inserting
35 after the paragraph beginning “Whoever, with intent to de-
36 fraud” the following:



1 “Whoever, with intent to defraud, has in his custody, con-
2 trol, or possession any material that can be used to make, alter,
3 forge or counterfeit any obligation or other security of any for-
4 eign government, bank or corporation; or”.

5 (c) COUNTERFEIT ACTS.—Section 470 of title 18, United
6 States Code, is amended by striking “or 474” and inserting
7 “474, or 474A”.

8 (d) MATERIALS USED IN COUNTERFEITING.—Section
9 474A(b) of title 18, United States Code, is amended by striking
10 “any essentially identical” and inserting “any thing or material
11 made after or in the similitude of any”.

12 **Subtitle F—Criminal History**
13 **Background Checks**

14 **SEC. 2141. SHORT TITLE.**

15 This subtitle may be cited as the “Criminal History Access
16 Means Protection of Infrastructures and Our Nation”.

17 **SEC. 2142. CRIMINAL HISTORY INFORMATION CHECKS.**

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

20 “(f)(1) Under rules prescribed by the Attorney General,
21 the Attorney General shall establish and maintain a system for
22 providing to an employer criminal history information that—

23 “(A) is in the possession of the Attorney General; and

24 “(B) is requested by an employer as part of an em-
25 ployee criminal history investigation that has been author-
26 ized by the State where the employee works or where the
27 employer has their principal place of business;

28 in order to ensure that a prospective employee is suitable for
29 certain employment positions.

30 “(2) The Attorney General shall require that an employer
31 seeking criminal history information of an employee request
32 such information and submit fingerprints or other biometric
33 identifiers as approved by the Attorney General to provide a
34 positive and reliable identification of such prospective employee.



1 “(3) The Director of the Federal Bureau of Investigation
2 may require an employer to pay a reasonable fee for such infor-
3 mation.

4 “(4) Upon receipt of fingerprints or other biometric identi-
5 fiers, the Attorney General shall conduct an Integrated Finger-
6 print Identification System of the Federal Bureau of Investiga-
7 tion (IAFIS) check and provide the results of such check to the
8 requester.

9 “(5) As used in this subsection,

10 “(A) the term ‘criminal history information’ and
11 ‘criminal history records’ includes—

12 “(i) an identifying description of the individual to
13 whom it pertains;

14 “(ii) notations of arrests, detentions, indictments,
15 or other formal criminal charges pertaining to such in-
16 dividual; and

17 “(iii) any disposition to a notation revealed in sub-
18 paragraph (B), including acquittal, sentencing, correc-
19 tional supervision, or release.

20 “(B) the term ‘Integrated Automated Fingerprint
21 Identification System of the Federal Bureau of Investiga-
22 tion (IAFIS)’ means the national depository for fingerprint,
23 biometric, and criminal history information, through which
24 fingerprints are processed electronically.

25 “(6) Nothing in this subsection shall preclude the Attorney
26 General from authorizing or requiring criminal history record
27 checks on individuals employed or seeking employment in posi-
28 tions vital to the Nation’s critical infrastructure or key re-
29 sources as those terms are defined in section 1016(e) of Public
30 Law 107–56 (42 U.S.C. 5195e(e)) and section 2(9) of the
31 Homeland Security Act of 2002 (6 U.S.C. 101(9)).”.

32 (b) REPORT TO CONGRESS.—

33 (1) IN GENERAL.—Not later than 120 days after the
34 date of the enactment of this Act, the Attorney General
35 shall report to the appropriate committees of Congress re-
36 garding all statutory requirements for criminal history



1 record checks that are required to be conducted by the De-
2 partment of Justice or any of its components.

3 (2) IDENTIFICATION OF INFORMATION.—The Attorney
4 General shall identify the number of records requested, in-
5 cluding the type of information requested, usage of dif-
6 ferent terms and definitions regarding criminal history in-
7 formation, and the variation in fees charged for such infor-
8 mation and who pays such fees.

9 (3) RECOMMENDATIONS.—The Attorney General shall
10 make recommendations for consolidating the existing proce-
11 dures into a unified procedure consistent with that provided
12 in section 534(f) of title 28, United States Code, as amend-
13 ed by this subtitle.

14 **Subtitle G—Protection of United**
15 **States Aviation System From Ter-**
16 **rorist Attacks**

17 **SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR**
18 **OTHER TECHNOLOGY.**

19 (a) USE OF BIOMETRIC TECHNOLOGY.—Section 44903(h)
20 of title 49, United States Code, is amended—

21 (1) in paragraph (4)(E) by striking “may provide for”
22 and inserting “shall issue, not later than 120 days after the
23 date of enactment of paragraph (5), guidance for”; and

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

25 “(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT AC-
26 CESS CONTROL SYSTEMS.—In issuing guidance under para-
27 graph (4)(E), the Assistant Secretary of Homeland Secu-
28 rity (Transportation Security Administration), in consulta-
29 tion with representatives of the aviation industry, the bio-
30 metrics industry, and the National Institute of Standards
31 and Technology, shall establish, at a minimum—

32 “(A) comprehensive technical and operational sys-
33 tem requirements and performance standards for the
34 use of biometrics in airport access control systems (in-
35 cluding airport perimeter access control systems) to en-



1 sure that the biometric systems are effective, reliable,
2 and secure;

3 “(B) a list of products and vendors that meet such
4 requirements and standards;

5 “(C) procedures for implementing biometric
6 systems—

7 “(i) to ensure that individuals do not use an
8 assumed identity to enroll in a biometric system;
9 and

10 “(ii) to resolve failures to enroll, false
11 matches, and false non-matches; and

12 “(D) best practices for incorporating biometric
13 technology into airport access control systems in the
14 most effective manner, including a process to best uti-
15 lize existing airport access control systems, facilities,
16 and equipment and existing data networks connecting
17 airports.

18 “(6) USE OF BIOMETRIC TECHNOLOGY FOR LAW EN-
19 FORCEMENT OFFICER TRAVEL.—

20 “(A) IN GENERAL.—Not later than 120 days after
21 the date of enactment of this paragraph, the Assistant
22 Secretary shall—

23 “(i) establish a law enforcement officer travel
24 credential that incorporates biometrics and is uni-
25 form across all Federal, State, and local govern-
26 ment law enforcement agencies;

27 “(ii) establish a process by which the travel
28 credential will be used to verify the identity of a
29 Federal, State, or local government law enforce-
30 ment officer seeking to carry a weapon on board an
31 aircraft, without unnecessarily disclosing to the
32 public that the individual is a law enforcement offi-
33 cer;

34 “(iii) establish procedures—

35 “(I) to ensure that only Federal, State,
36 and local government law enforcement officers
37 are issued the travel credential;



1 “(II) to resolve failures to enroll, false
2 matches, and false non-matches relating to use
3 of the travel credential; and

4 “(III) to invalidate any travel credential
5 that is lost, stolen, or no longer authorized for
6 use;

7 “(iv) begin issuance of the travel credential to
8 each Federal, State, and local government law en-
9 forcement officer authorized by the Assistant Sec-
10 retary to carry a weapon on board an aircraft; and

11 “(v) take such other actions with respect to
12 the travel credential as the Secretary considers ap-
13 propriate.

14 “(B) FUNDING.—There are authorized to be ap-
15 propriated such sums as may be necessary to carry out
16 this paragraph.

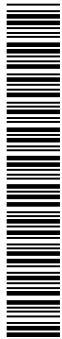
17 “(7) DEFINITIONS.—In this subsection, the following
18 definitions apply:

19 “(A) BIOMETRIC INFORMATION.—The term ‘bio-
20 metric information’ means the distinct physical or be-
21 havioral characteristics that are used for identification,
22 or verification of the identity, of an individual.

23 “(B) BIOMETRICS.—The term ‘biometrics’ means
24 a technology that enables the automated identification,
25 or verification of the identity, of an individual based on
26 biometric information.

27 “(C) FAILURE TO ENROLL.—The term ‘failure to
28 enroll’ means the inability of an individual to enroll in
29 a biometric system due to an insufficiently distinctive
30 biometric sample, the lack of a body part necessary to
31 provide the biometric sample, a system design that
32 makes it difficult to provide consistent biometric infor-
33 mation, or other factors.

34 “(D) FALSE MATCH.—The term ‘false match’
35 means the incorrect matching of one individual’s bio-
36 metric information to another individual’s biometric in-
37 formation by a biometric system.



1 “(E) FALSE NON-MATCH.—The term ‘false non-
2 match’ means the rejection of a valid identity by a bio-
3 metric system.

4 “(F) SECURE AREA OF AN AIRPORT.—The term
5 ‘secure area of an airport’ means the sterile area and
6 the Secure Identification Display Area of an airport (as
7 such terms are defined in section 1540.5 of title 49,
8 Code of Federal Regulations, or any successor regula-
9 tion to such section).”.

10 (b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY IN
11 AIRPORT ACCESS CONTROL SYSTEMS.—

12 (1) GRANT AUTHORITY.—Section 44923(a)(4) of title
13 49, United States Code, is amended—

14 (A) by striking “and” at the end of paragraph (3);

15 (B) by redesignating paragraph (4) as paragraph
16 (5); and

17 (C) by inserting after paragraph (3) the following:

18 “(4) for projects to implement biometric technologies
19 in accordance with guidance issued under section
20 44903(h)(4)(E); and”.

21 (2) AUTHORIZATION OF APPROPRIATIONS.—Section
22 44923(i)(1) of such title is amended by striking
23 “\$250,000,000 for each of fiscal years 2004 through 2007”
24 and inserting “\$250,000,000 for fiscal year 2004,
25 \$345,000,000 for fiscal year 2005, and \$250,000,000 for
26 each of fiscal years 2006 and 2007”.

27 **SEC. 2172. TRANSPORTATION SECURITY STRATEGIC**
28 **PLANNING.**

29 Section 44904 of title 49, United States Code, is
30 amended—

31 (1) by redesignating subsection (c) as subsection (e);
32 and

33 (2) by inserting after subsection (b) the following:

34 “(e) TRANSPORTATION SECURITY STRATEGIC PLAN-
35 NING.—

36 “(1) IN GENERAL.—The Secretary of Homeland Secu-
37 rity shall prepare and update, as needed, a transportation



1 **SEC. 2173. NEXT GENERATION AIRLINE PASSENGER**
2 **PRESCREENING.**

3 (a) IN GENERAL.—Section 44903(j)(2) of title 49, United
4 States Code, is amended by adding at the end the following:

5 “(C) NEXT GENERATION AIRLINE PASSENGER
6 PRESCREENING.—

7 “(i) COMMENCEMENT OF TESTING.—Not later
8 than November 1, 2004, the Assistant Secretary of
9 Homeland Security (Transportation Security Ad-
10 ministration), or the designee of the Assistant Sec-
11 retary, shall commence testing of a next generation
12 passenger prescreening system that will allow the
13 Department of Homeland Security to assume the
14 performance of comparing passenger name records
15 to the automatic selectee and no fly lists, utilizing
16 all appropriate records in the consolidated and inte-
17 grated terrorist watchlist maintained by the Fed-
18 eral Government.

19 “(ii) ASSUMPTION OF FUNCTION.—Not later
20 than 180 days after completion of testing under
21 clause (i), the Assistant Secretary, or the designee
22 of the Assistant Secretary, shall assume the per-
23 formance of the passenger prescreening function of
24 comparing passenger name records to the auto-
25 matic selectee and no fly lists and utilize all appro-
26 priate records in the consolidated and integrated
27 terrorist watchlist maintained by the Federal Gov-
28 ernment in performing that function.

29 “(iii) REQUIREMENTS.—In assuming perform-
30 ance of the function under clause (i), the Assistant
31 Secretary shall—

32 “(I) establish a procedure to enable airline
33 passengers, who are delayed or prohibited from
34 boarding a flight because the next generation
35 passenger prescreening system determined that
36 they might pose a security threat, to appeal



1 such determination and correct information
2 contained in the system;

3 “(II) ensure that Federal Government
4 databases that will be used to establish the
5 identity of a passenger under the system will
6 not produce a large number of false positives;

7 “(III) establish an internal oversight
8 board to oversee and monitor the manner in
9 which the system is being implemented;

10 “(IV) establish sufficient operational safe-
11 guards to reduce the opportunities for abuse;

12 “(V) implement substantial security meas-
13 ures to protect the system from unauthorized
14 access;

15 “(VI) adopt policies establishing effective
16 oversight of the use and operation of the sys-
17 tem; and

18 “(VII) ensure that there are no specific
19 privacy concerns with the technological archi-
20 tecture of the system.

21 “(iv) PASSENGER NAME RECORDS.—Not later
22 than 60 days after the completion of the testing of
23 the next generation passenger prescreening system,
24 the Assistant Secretary shall require air carriers to
25 supply to the Assistant Secretary the passenger
26 name records needed to begin implementing the
27 next generation passenger prescreening system.

28 “(D) SCREENING OF EMPLOYEES AGAINST
29 WATCHLIST.—The Assistant Secretary of Homeland
30 Security (Transportation Security Administration), in
31 coordination with the Secretary of Transportation and
32 the Administrator of the Federal Aviation Administra-
33 tion, shall ensure that individuals are screened against
34 all appropriate records in the consolidated and inte-
35 grated terrorist watchlist maintained by the Federal
36 Government before—



1 “(i) being certificated by the Federal Aviation
2 Administration;

3 “(ii) being issued a credential for access to the
4 secure area of an airport; or

5 “(iii) being issued a credential for access to
6 the air operations area (as defined in section
7 1540.5 of title 49, Code of Federal Regulations, or
8 any successor regulation to such section) of an air-
9 port.

10 “(E) APPEAL PROCEDURES.—The Assistant Sec-
11 retary shall establish a timely and fair process for indi-
12 viduals identified as a threat under subparagraph (D)
13 to appeal the determination and correct any erroneous
14 information.

15 “(F) DEFINITION.—In this paragraph, the term
16 ‘secure area of an airport’ means the sterile area and
17 the Secure Identification Display Area of an airport (as
18 such terms are defined in section 1540.5 of title 49,
19 Code of Federal Regulations, or any successor regula-
20 tion to such section).”.

21 (b) GAO REPORT.—

22 (1) IN GENERAL.—Not later than 90 days after the
23 date on which the Assistant Secretary of Homeland Secu-
24 rity (Transportation Security Administration) assumes per-
25 formance of the passenger prescreening function under sec-
26 tion 44903(j)(2)(C)(ii) of title 49, United States Code, the
27 Comptroller General shall submit to the appropriate con-
28 gressional committees a report on the assumption of such
29 function. The report may be submitted in a classified for-
30 mat.

31 (2) CONTENTS.—The report under paragraph (1) shall
32 address—

33 (A) whether a system exists in the next generation
34 passenger prescreening system whereby aviation pas-
35 sengers, determined to pose a threat and either delayed
36 or prohibited from boarding their scheduled flights by



1 the Transportation Security Administration, may ap-
2 peal such a decision and correct erroneous information;

3 (B) the sufficiency of identifying information con-
4 tained in passenger name records and any government
5 databases for ensuring that a large number of false
6 positives will not result under the next generation pas-
7 senger prescreening system in a significant number of
8 passengers being treated as a threat mistakenly or in
9 security resources being diverted;

10 (C) whether the Transportation Security Adminis-
11 tration stress tested the next generation passenger
12 prescreening system;

13 (D) whether an internal oversight board has been
14 established in the Department of Homeland Security to
15 monitor the next generation passenger prescreening
16 system;

17 (E) whether sufficient operational safeguards have
18 been established to prevent the opportunities for abuse
19 of the system;

20 (F) whether substantial security measures are in
21 place to protect the passenger prescreening database
22 from unauthorized access;

23 (G) whether policies have been adopted for the ef-
24 fective oversight of the use and operation of the system;

25 (H) whether specific privacy concerns still exist
26 with the system; and

27 (I) whether appropriate life cycle cost estimates
28 have been developed, and a benefit and cost analysis
29 has been performed, for the system.

30 **SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DE-**
31 **TECTION EQUIPMENT AT AIRPORT SCREEN-**
32 **ING CHECKPOINTS.**

33 (a) NONMETALLIC WEAPONS AND EXPLOSIVES.—In order
34 to improve security, the Assistant Secretary of Homeland Secu-
35 rity (Transportation Security Administration) shall give pri-
36 ority to developing, testing, improving, and deploying tech-
37 nology at screening checkpoints at airports that will detect non-



1 metallic weapons and explosives on the person of individuals, in
2 their clothing, or in their carry-on baggage or personal property
3 and shall ensure that the equipment alone, or as part of an in-
4 tegrated system, can detect under realistic operating conditions
5 the types of nonmetallic weapons and explosives that terrorists
6 would likely try to smuggle aboard an air carrier aircraft.

7 (b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EX-
8 PLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING
9 CHECKPOINTS.—

10 (1) IN GENERAL.—Not later than 90 days after the
11 date of enactment of this Act, the Assistant Secretary shall
12 transmit to the appropriate congressional committees a
13 strategic plan to promote the optimal utilization and de-
14 ployment of explosive detection systems at airports to
15 screen individuals and their carry-on baggage or personal
16 property, including walk-through explosive detection por-
17 tals, document scanners, shoe scanners, and any other ex-
18 plosive detection equipment for use at a screening check-
19 point. The plan may be transmitted in a classified format.

20 (2) CONTENTS.—The strategic plan shall include de-
21 scriptions of the operational applications of explosive detec-
22 tion equipment at airport screening checkpoints, a deploy-
23 ment schedule and quantities of equipment needed to im-
24 plement the plan, and funding needs for implementation of
25 the plan, including a financing plan that provides for
26 leveraging non-Federal funding.

27 **SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF**
28 **BLAST-RESISTANT CARGO AND BAGGAGE**
29 **CONTAINERS.**

30 (a) IN GENERAL.—Beginning not later than 180 days
31 after the date of enactment of this Act, the Assistant Secretary
32 of Homeland Security (Transportation Security Administra-
33 tion) shall carry out a pilot program to evaluate the use of
34 blast-resistant containers for cargo and baggage on passenger
35 aircraft to minimize the potential effects of detonation of an ex-
36 plosive device.



1 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-
2 GRAM.—

3 (1) IN GENERAL.—As part of the pilot program, the
4 Assistant Secretary shall provide incentives to air carriers
5 to volunteer to test the use of blast-resistant containers for
6 cargo and baggage on passenger aircraft.

7 (2) APPLICATIONS.—To volunteer to participate in the
8 incentive program, an air carrier shall submit to the Assist-
9 ant Secretary an application that is in such form and con-
10 tains such information as the Assistant Secretary requires.

11 (3) TYPES OF ASSISTANCE.—Assistance provided by
12 the Assistant Secretary to air carriers that volunteer to
13 participate in the pilot program shall include the use of
14 blast-resistant containers and financial assistance to cover
15 increased costs to the carriers associated with the use and
16 maintenance of the containers, including increased fuel
17 costs.

18 (c) REPORT.—Not later than one year after the date of
19 enactment of this Act, the Assistant Secretary shall submit to
20 appropriate congressional committees a report on the results of
21 the pilot program.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There are au-
23 thorized to be appropriated to carry out this section
24 \$2,000,000. Such sums shall remain available until expended.

25 **SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

26 The Transportation Security Administration shall develop
27 technology to better identify, track, and screen air cargo.

28 **SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLO-**
29 **SIVE DETECTION.**

30 Section 44940 of title 49, United States Code, is amended
31 by adding at the end the following:

32 “(i) CHECKPOINT SCREENING SECURITY FUND.—

33 “(1) ESTABLISHMENT.—There is established in the
34 Department of Homeland Security a fund to be known as
35 the ‘Checkpoint Screening Security Fund’.

36 “(2) DEPOSITS.—In each of fiscal years 2005 and
37 2006, after amounts are made available under section



1 ing “Secretary of Transportation” and inserting “Secretary
2 of the Department of Homeland Security and, for a viola-
3 tion relating to section 46504, the Secretary of Transpor-
4 tation,”.

5 (2) CARRYING A WEAPON.—Section 46303 of such
6 title is amended—

7 (A) in subsection (b) by striking “Secretary of
8 Transportation” and inserting “Secretary of Homeland
9 Security”; and

10 (B) in subsection (c)(2) by striking “Under Sec-
11 retary of Transportation for Security” and inserting
12 “Secretary of Homeland Security”.

13 (3) ADMINISTRATIVE IMPOSITION OF PENALTIES.—
14 Section 46301(d) of such title is amended—

15 (A) in the first sentence of paragraph (2) by strik-
16 ing “46302, 46303,” and inserting “46302 (for a viola-
17 tion relating to section 46504),”; and

18 (B) in the second sentence of paragraph (2)—

19 (i) by striking “Under Secretary of Transpor-
20 tation for Security” and inserting “Secretary of
21 Homeland Security”; and

22 (ii) by striking “44909)” and inserting
23 “44909), 46302 (except for a violation relating to
24 section 46504), 46303,”;

25 (C) in each of paragraphs (2), (3), and (4) by
26 striking “Under Secretary or” and inserting “Secretary
27 of Homeland Security”; and

28 (D) in paragraph (4)(A) by moving clauses (i),
29 (ii), and (iii) 2 ems to the left.

30 **SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.**

31 The Director of the Federal Air Marshal Service of the
32 Department of Homeland Security shall continue to develop
33 operational initiatives to protect the anonymity of Federal air
34 marshals.



1 **SEC. 2181. FEDERAL LAW ENFORCEMENT IN-FLIGHT**
2 **COUNTERTERRORISM TRAINING.**

3 The Assistant Secretary for Immigration and Customs En-
4 forcement and the Director of Federal Air Marshal Service of
5 the Department of Homeland Security, in coordination with the
6 Assistant Secretary of Homeland Security (Transportation Se-
7 curity Administration), shall make available appropriate in-
8 flight counterterrorism procedures and tactics training to Fed-
9 eral law enforcement officers who fly while on duty.

10 **SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON**
11 **CARRIAGE PILOT PROGRAM.**

12 (a) IN GENERAL.—Not later than 90 days after the date
13 of enactment of this Act, the Assistant Secretary of Homeland
14 Security (Transportation Security Administration) shall imple-
15 ment a pilot program to allow pilots participating in the Fed-
16 eral flight deck officer program to transport their firearms on
17 their persons. The Assistant Secretary may prescribe any train-
18 ing, equipment, or procedures that the Assistant Secretary de-
19 termines necessary to ensure safety and maximize weapon re-
20 tention.

21 (b) REVIEW.—Not later than 1 year after the date of initi-
22 ation of the pilot program, the Assistant Secretary shall con-
23 duct a review of the safety record of the pilot program and
24 transmit a report on the results of the review to the appro-
25 priate congressional committees.

26 (c) OPTION.—If the Assistant Secretary as part of the re-
27 view under subsection (b) determines that the safety level ob-
28 tained under the pilot program is comparable to the safety level
29 determined under existing methods of pilots carrying firearms
30 on aircraft, the Assistant Secretary shall allow all pilots partici-
31 pating in the Federal flight deck officer program the option of
32 carrying their firearm on their person subject to such require-
33 ments as the Assistant Secretary determines appropriate.

34 **SEC. 2183. REGISTERED TRAVELER PROGRAM.**

35 The Transportation Security Administration shall expedite
36 implementation of the registered traveler program.



1 **SEC. 2184. WIRELESS COMMUNICATION.**

2 (a) STUDY.—The Transportation Security Administration,
3 in consultation with the Federal Aviation Administration, shall
4 conduct a study to determine the viability of providing devices
5 or methods, including wireless methods, to enable a flight crew
6 to discreetly notify the pilot in the case of a security breach
7 or safety issue occurring in the cabin.

8 (b) MATTERS TO BE CONSIDERED.—In conducting the
9 study, the Transportation Security Administration and the
10 Federal Aviation Administration shall consider technology that
11 is readily available and can be quickly integrated and cus-
12 tomized for use aboard aircraft for flight crew communication.

13 (c) REPORT.—Not later than 180 days after the date of
14 enactment of this Act, the Transportation Security Administra-
15 tion shall submit to the appropriate congressional committees
16 a report on the results of the study.

17 **SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

18 Not later than 6 months after the date of enactment of
19 this Act, the Assistant Secretary of Homeland Security (Trans-
20 portation Security Administration) shall transmit to the appro-
21 priate congressional committees a report on the costs and bene-
22 fits associated with the use of secondary flight deck barriers
23 and whether the use of such barriers should be mandated for
24 all air carriers. The Assistant Secretary may transmit the re-
25 port in a classified format.

26 **SEC. 2186. EXTENSION.**

27 Section 48301(a) of title 49, United States Code, is
28 amended by striking “and 2005” and inserting “2005, and
29 2006”.

30 **SEC. 2187. PERIMETER SECURITY.**

31 (a) REPORT.—Not later than 180 days after the date of
32 enactment of this Act, the Assistant Secretary of Homeland Se-
33 curity (Transportation Security Administration), in consulta-
34 tion with airport operators and law enforcement authorities,
35 shall develop and submit to the appropriate congressional com-
36 mittee a report on airport perimeter security. The report may
37 be submitted in a classified format.



1 (b) CONTENTS.—The report shall include—

2 (1) an examination of the feasibility of access control
3 technologies and procedures, including the use of biometrics
4 and other methods of positively identifying individuals prior
5 to entry into secure areas of airports, and provide best
6 practices for enhanced perimeter access control techniques;
7 and

8 (2) an assessment of the feasibility of physically
9 screening all individuals prior to entry into secure areas of
10 an airport and additional methods for strengthening the
11 background vetting process for all individuals credentialed
12 to gain access to secure areas of airports.

13 **SEC. 2188. DEFINITIONS.**

14 In this title, the following definitions apply:

15 (1) APPROPRIATE CONGRESSIONAL COMMITTEE.—The
16 term “appropriate congressional committees” means the
17 Committee on Transportation and Infrastructure of the
18 House of Representatives and the Committee on Com-
19 merce, Science, and Transportation of the Senate.

20 (2) AIR CARRIER.—The term “air carrier” has the
21 meaning such term has under section 40102 of title 49,
22 United States Code.

23 (3) SECURE AREA OF AN AIRPORT.—The term “secure
24 area of an airport” means the sterile area and the Secure
25 Identification Display Area of an airport (as such terms
26 are defined in section 1540.5 of title 49, Code of Federal
27 Regulations, or any successor regulation to such section).

28 **Subtitle H—Other Matters**

29 **SEC. 2191. GRAND JURY INFORMATION SHARING.**

30 (a) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules
31 of Criminal Procedure is amended—

32 (1) in paragraph (3)—

33 (A) in subparagraph (A)(ii), by striking “or state
34 subdivision or of an Indian tribe” and inserting “, state
35 subdivision, Indian tribe, or foreign government”;

36 (B) in subparagraph (D)—



1 (i) by inserting after the first sentence the fol-
2 lowing: “An attorney for the government may also
3 disclose any grand-jury matter involving a threat of
4 actual or potential attack or other grave hostile
5 acts of a foreign power or an agent of a foreign
6 power, domestic or international sabotage, domestic
7 or international terrorism, or clandestine intel-
8 ligence gathering activities by an intelligence serv-
9 ice or network of a foreign power or by an agent
10 of a foreign power, within the United States or
11 elsewhere, to any appropriate Federal, State, state
12 subdivision, Indian tribal, or foreign government of-
13 ficial for the purpose of preventing or responding
14 to such a threat.”; and

15 (ii) in clause (i)—

16 (I) by striking “federal”; and

17 (II) by adding at the end the following:

18 “Any State, state subdivision, Indian tribal, or
19 foreign government official who receives infor-
20 mation under Rule 6(e)(3)(D) may use the in-
21 formation only consistent with such guidelines
22 as the Attorney General and the National
23 Intellience Director shall jointly issue.”; and

24 (C) in subparagraph (E)—

25 (i) by redesignating clauses (iii) and (iv) as
26 clauses (iv) and (v), respectively;

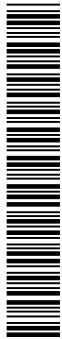
27 (ii) by inserting after clause (ii) the following:

28 “(iii) at the request of the government, when
29 sought by a foreign court or prosecutor for use in
30 an official criminal investigation;”; and

31 (iii) in clause (iv), as redesignated—

32 (I) by striking “state or Indian tribal” and
33 inserting “State, Indian tribal, or foreign”; and

34 (II) by striking “or Indian tribal official”
35 and inserting “Indian tribal, or foreign govern-
36 ment official”; and



1 (2) in paragraph (7), by inserting “, or of guidelines
2 jointly issued by the Attorney General and Director of Cen-
3 tral Intelligence pursuant to Rule 6,” after “Rule 6”.

4 (b) CONFORMING AMENDMENT.—Section 203(c) of Public
5 Law 107–56 (18 U.S.C. 2517 note) is amended by striking
6 “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting “Rule
7 6(e)(3)(D)”.

8 **SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND**
9 **INTELLIGENCE DATA SYSTEM.**

10 (a) FINDINGS.—The Congress finds as follows:

11 (1) The interoperable electronic data system know as
12 the “Chimera system”, and required to be developed and
13 implemented by section 202(a)(2) of the Enhanced Border
14 Security and Visa Entry Reform Act of 2002 (8 U.S.C.
15 1722(a)(2)), has not in any way been implemented.

16 (2) Little progress has been made since the enactment
17 of such Act with regard to establishing a process to connect
18 existing trusted systems operated independently by the re-
19 spective intelligence agencies.

20 (3) It is advisable, therefore, to assign such responsi-
21 bility to the National Intelligence Director.

22 (4) The National Intelligence Director should, pursu-
23 ant to the amendments made by subsection (c), begin sys-
24 tems planning immediately upon assuming office to deliver
25 an interim system not later than 1 year after the date of
26 the enactment of this Act, and to deliver the fully func-
27 tional Chimera system not later than September 11, 2007.

28 (5) Both the interim system, and the fully functional
29 Chimera system, should be designed so that intelligence of-
30 ficers, Federal law enforcement agencies (as defined in sec-
31 tion 2 of such Act (8 U.S.C. 1701)), operational counter-
32 terror support center personnel, consular officers, and De-
33 partment of Homeland Security enforcement officers have
34 access to them.

35 (b) PURPOSES.—The purposes of this section are as fol-
36 lows:



1 (1) To provide the National Intelligence Director with
2 the necessary authority and resources to establish both an
3 interim data system and, subsequently, a fully functional
4 Chimera system, to collect and share intelligence and oper-
5 ational information with the intelligence community (as de-
6 fined in section 3(4) of the National Security Act of 1947
7 (50 U.S.C. 401a(4)).

8 (2) To require the National Intelligence Director to es-
9 tablish a state-of-the-art Chimera system with both biomet-
10 ric identification and linguistic capabilities satisfying the
11 best technology standards.

12 (3) To ensure that the National Intelligence Center
13 will have a fully functional capability, not later than Sep-
14 tember 11, 2007, for interoperable data and intelligence ex-
15 change with the agencies of the intelligence community (as
16 so defined).

17 (c) AMENDMENTS.—

18 (1) IN GENERAL.—Title II of the Enhanced Border
19 Security and Visa Entry Reform Act of 2002 (8 U.S.C.
20 1721 et seq.) is amended—

21 (A) in section 202(a)—

22 (i) by amending paragraphs (1) and (2) to
23 read as follows:

24 “(1) INTERIM INTEROPERABLE INTELLIGENCE DATA
25 EXCHANGE SYSTEM.—Not later than 1 year after assuming
26 office, the National Intelligence Director shall establish an
27 interim interoperable intelligence data exchange system
28 that will connect the data systems operated independently
29 by the entities in the intelligence community and by the
30 National Counterterrorism Center, so as to permit auto-
31 mated data exchange among all of these entities. Imme-
32 diately upon assuming office, the National Intelligence Di-
33 rector shall begin the plans necessary to establish such in-
34 terim system.

35 “(2) CHIMERA SYSTEM.—Not later than September
36 11, 2007, the National Intelligence Director shall establish
37 a fully functional interoperable law enforcement and intel-



1 ligence electronic data system within the National
2 Counterterrorism Center to provide immediate access to in-
3 formation in databases of Federal law enforcement agencies
4 and the intelligence community that is necessary to identify
5 terrorists, and organizations and individuals that support
6 terrorism. The system established under this paragraph
7 shall referred to as the ‘Chimera system’. ”;

8 (ii) in paragraph (3)—

9 (I) by striking “President” and inserting
10 “National Intelligence Director”; and

11 (II) by striking “the data system” and in-
12 serting “the interim system described in para-
13 graph (1) and the Chimera system described in
14 paragraph (2)”;

15 (iii) in paragraph (4)(A), by striking “The
16 data system” and all that follows through “(2),”
17 and inserting “The interim system described in
18 paragraph (1) and the Chimera system described in
19 paragraph (2)”;

20 (iv) in paragraph (5)—

21 (I) in the matter preceding subparagraph
22 (A), by striking “data system under this sub-
23 section” and inserting “Chimera system de-
24 scribed in paragraph (2)”;

25 (II) in subparagraph (B), by striking
26 “and” at the end;

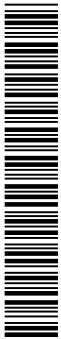
27 (III) in subparagraph (C), by striking the
28 period at the end and inserting “; and”; and

29 (IV) by adding at the end the following:

30 “(D) to any Federal law enforcement or intel-
31 ligence officer authorized to assist in the investigation,
32 identification, or prosecution of terrorists, alleged ter-
33 rorists, individuals supporting terrorist activities, and
34 individuals alleged to support terrorist activities. ”; and

35 (v) in paragraph (6)—

36 (I) by striking “President” and inserting
37 “National Intelligence Director”;



1 (II) by striking “the data system” and all
2 that follows through “(2),” and inserting “the
3 interim system described in paragraph (1) and
4 the Chimera system described in paragraph
5 (2)”;

6 (B) in section 202(b)—

7 (i) in paragraph (1), by striking “The inter-
8 operable” and all that follows through “subsection
9 (a)” and inserting “the Chimera system described
10 in subsection (a)(2)”;

11 (ii) in paragraph (2), by striking “interoper-
12 able electronic database” and inserting “Chimera
13 system described in subsection (a)(2)”;

14 (iii) by amending paragraph (4) to read as fol-
15 lows:

16 “(4) INTERIM REPORTS.—Not later than 6 months
17 after assuming office, the National Intelligence Director
18 shall submit a report to the appropriate committees of Con-
19 gress on the progress in implementing each requirement of
20 this section.”;

21 (C) in section 204—

22 (i) by striking “Attorney General” each place
23 such term appears and inserting “National Intel-
24 ligence Director”;

25 (ii) in subsection (d)(1), by striking “Attorney
26 General’s” and inserting “National Intelligence Di-
27 rector’s”;

28 (D) by striking section 203 and redesignating sec-
29 tion 204 as section 203.

30 (2) CLERICAL AMENDMENT.—The table of contents
31 for the Enhanced Border Security and Visa Entry Reform
32 Act of 2002 (8 U.S.C. 1701 et seq.) is amended—

33 (A) by striking the item relating to section 203;
34 and

35 (B) by redesignating the item relating to section
36 204 as relating to section 203.



1 **SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILI-**
2 **TIES OF THE FEDERAL BUREAU OF INVES-**
3 **TIGATION.**

4 (a) FINDINGS.—Consistent with the report of the National
5 Commission on Terrorist Attacks Upon the United States and
6 to meet the intelligence needs of the United States, Congress
7 makes the following findings:

8 (1) The Federal Bureau of Investigation has made sig-
9 nificant progress in improving its intelligence capabilities.

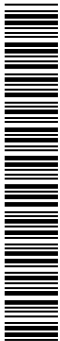
10 (2) The Federal Bureau of Investigation must further
11 enhance and fully institutionalize its ability to prevent, pre-
12 empt, and disrupt terrorist threats to our homeland, our
13 people, our allies, and our interests.

14 (3) The Federal Bureau of Investigation must collect,
15 process, share, and disseminate, to the greatest extent per-
16 mitted by applicable law, to the President, the Vice Presi-
17 dent, and other officials in the Executive Branch, all ter-
18 rorism information and other information necessary to
19 safeguard our people and advance our national and home-
20 land security interests.

21 (4) The Federal Bureau of Investigation must move
22 towards full and seamless coordination and cooperation
23 with all other elements of the Intelligence Community, in-
24 cluding full participation in, and support to, the National
25 Counterterrorism Center.

26 (5) The Federal Bureau of Investigation must
27 strengthen its pivotal role in coordination and cooperation
28 with Federal, State, tribal, and local law enforcement agen-
29 cies to ensure the necessary sharing of information for
30 counterterrorism and criminal law enforcement purposes.

31 (6) The Federal Bureau of Investigation must perform
32 its vital intelligence functions in a manner consistent with
33 both with national intelligence priorities and respect for
34 privacy and other civil liberties under the Constitution and
35 laws of the United States.



1 (b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—
2 The Director of the Federal Bureau of Investigation shall es-
3 tablish a comprehensive intelligence program for—

4 (1) intelligence analysis, including recruitment and
5 hiring of analysts, analyst training, priorities and status for
6 analysis, and analysis performance measures;

7 (2) intelligence production, including product stand-
8 ards, production priorities, information sharing and dis-
9 semination, and customer satisfaction measures;

10 (3) production of intelligence that is responsive to na-
11 tional intelligence requirements and priorities, including
12 measures of the degree to which each FBI headquarters
13 and field component is collecting and providing such intel-
14 ligence;

15 (4) intelligence sources, including source validation,
16 new source development, and performance measures;

17 (5) field intelligence operations, including staffing and
18 infrastructure, management processes, priorities, and per-
19 formance measures;

20 (6) full and seamless coordination and cooperation
21 with the other components of the Intelligence Community,
22 consistent with their responsibilities; and

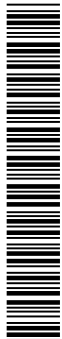
23 (7) sharing of FBI intelligence and information across
24 Federal, state, and local governments, with the private sec-
25 tor, and with foreign partners as provided by law or by
26 guidelines of the Attorney General.

27 (c) INTELLIGENCE DIRECTORATE.—The Director of the
28 Federal Bureau of Investigation shall establish an Intelligence
29 Directorate within the FBI. The Intelligence Directorate shall
30 have the authority to manage and direct the intelligence oper-
31 ations of all FBI headquarters and field components. The In-
32 telligence Directorate shall have responsibility for all compo-
33 nents and functions of the FBI necessary for—

34 (1) oversight of FBI field intelligence operations;

35 (2) FBI human source development and management;

36 (3) FBI collection against nationally-determined intel-
37 ligence requirements;



- 1 (4) language services;
- 2 (5) strategic analysis;
- 3 (6) intelligence program and budget management; and
- 4 (7) the intelligence workforce.

5 (d) NATIONAL SECURITY WORKFORCE.—The Director of
6 the Federal Bureau of Investigation shall establish a special-
7 ized, integrated intelligence cadre composed of Special Agents,
8 analysts, linguists, and surveillance specialists in a manner
9 which creates and sustains within the FBI a workforce with
10 substantial expertise in, and commitment to, the intelligence
11 mission of the FBI. The Director shall—

12 (1) ensure that these FBI employees may make their
13 career, including promotion to the most senior positions in
14 the FBI, within this career track;

15 (2) establish intelligence cadre requirements for—

- 16 (A) training;
- 17 (B) career development and certification;
- 18 (C) recruitment, hiring, and selection;
- 19 (D) integrating field intelligence teams; and
- 20 (E) senior level field management;

21 (3) establish intelligence officer certification require-
22 ments, including requirements for training courses and as-
23 signments to other intelligence, national security, or home-
24 land security components of the Executive branch, in order
25 to advance to senior operational management positions in
26 the FBI;

27 (4) ensure that the FBI's recruitment and training
28 program enhances its ability to attract individuals with
29 educational and professional backgrounds in intelligence,
30 international relations, language, technology, and other
31 skills relevant to the intelligence mission of the FBI;

32 (5) ensure that all Special Agents and analysts em-
33 ployed by the FBI after the date of the enactment of this
34 Act shall receive basic training in both criminal justice
35 matters and intelligence matters;

36 (6) ensure that all Special Agents employed by the
37 FBI after the date of the enactment of this Act, to the



1 maximum extent practicable, be given an opportunity to
2 undergo, during their early service with the FBI, meaning-
3 ful assignments in criminal justice matters and in intel-
4 ligence matters;

5 (7) ensure that, to the maximum extent practical, Spe-
6 cial Agents who specialize in intelligence are afforded the
7 opportunity to work on intelligence matters over the re-
8 mainder of their career with the FBI; and

9 (8) ensure that, to the maximum extent practical, ana-
10 lysts are afforded FBI training and career opportunities
11 commensurate with the training and career opportunities
12 afforded analysts in other elements of the intelligence com-
13 munity.

14 (e) FIELD OFFICE MATTERS.—The Director of the Fed-
15 eral Bureau of Investigation shall take appropriate actions to
16 ensure the integration of analysis, Special Agents, linguists,
17 and surveillance personnel in FBI field intelligence components
18 and to provide effective leadership and infrastructure to sup-
19 port FBI field intelligence components. The Director shall—

20 (1) ensure that each FBI field office has an official at
21 the level of Assistant Special Agent in Charge or higher
22 with responsibility for the FBI field intelligence component;
23 and

24 (2) to the extent practicable, provide for such expan-
25 sion of special compartmented information facilities in FBI
26 field offices as is necessary to ensure the discharge by the
27 field intelligence components of the national security and
28 criminal intelligence mission of the FBI.

29 (g) BUDGET MATTERS.—The Director of the Federal Bu-
30 reau of Investigation shall, in consultation with the Director of
31 the Office of Management and Budget, modify the budget
32 structure of the FBI in order to organize the budget according
33 to its four main programs as follows:

34 (1) Intelligence.

35 (2) Counterterrorism and counterintelligence.

36 (3) Criminal enterprise/Federal crimes.

37 (4) Criminal justice services.



1 (h) REPORTS.—

2 (1)(A) Not later than 180 days after the date of the
3 enactment of this Act, and every twelve months thereafter,
4 the Director of the Federal Bureau of Investigation shall
5 submit to Congress a report on the progress made as of the
6 date of such report in carrying out the requirements of this
7 section.

8 (B) The Director shall include in the first report re-
9 quired by subparagraph (A) an estimate of the resources
10 required to complete the expansion of special compart-
11 mented information facilities to carry out the intelligence
12 mission of FBI field intelligence components.

13 (2) In each annual report required by paragraph
14 (1)(A) the director shall include—

15 (A) a report on the progress made by each FBI
16 field office during the period covered by such review in
17 addressing FBI and national intelligence priorities;

18 (B) a report assessing the qualifications, status,
19 and roles of analysts at FBI headquarters and in FBI
20 field offices; and

21 (C) a report on the progress of the FBI in imple-
22 menting information-sharing principles.

23 (3) A report required by this subsection shall be
24 submitted—

25 (A) to each committee of Congress that has juris-
26 diction over the subject matter of such report; and

27 (B) in unclassified form, but may include a classi-
28 fied annex.

29 **TITLE III—BORDER SECURITY AND**
30 **TERRORIST TRAVEL**
31 **Subtitle A—Immigration Reform in**
32 **the National Interest**

33 **CHAPTER 1—GENERAL PROVISIONS**

34 **SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE”**
35 **EXCEPTION FOR CITIZENS.**

36 (a) IN GENERAL.—



1 (1) IN GENERAL.—Section 215(b) of the Immigration
2 and Nationality Act (8 U.S.C. 1185(b)) is amended to read
3 as follows:

4 “(b)(1) Except as otherwise provided in this subsection, it
5 shall be unlawful for any citizen of the United States to depart
6 from or enter, or attempt to depart from or enter, the United
7 States unless the citizen bears a valid United States passport.

8 “(2) Subject to such limitations and exceptions as the
9 President may authorize and prescribe, the President may
10 waive the application of paragraph (1) in the case of a citizen
11 departing the United States to, or entering the United States
12 from, foreign contiguous territory.

13 “(3) The President, if waiving the application of para-
14 graph (1) pursuant to paragraph (2), shall require citizens de-
15 parting the United States to, or entering the United States
16 from, foreign contiguous territory to bear a document (or com-
17 bination of documents) designated by the Secretary of Home-
18 land Security under paragraph (4).

19 “(4) The Secretary of Homeland Security—

20 “(A) shall designate documents that are sufficient to
21 denote identity and citizenship in the United States such
22 that they may be used, either individually or in conjunction
23 with another document, to establish that the bearer is a cit-
24 izen or national of the United States for purposes of law-
25 fully departing from or entering the United States; and

26 “(B) shall publish a list of those documents in the
27 Federal Register.

28 “(5) A document may not be designated under paragraph
29 (4) (whether alone or in combination with other documents)
30 unless the Secretary of Homeland Security determines that the
31 document—

32 “(A) may be relied upon for the purposes of this sub-
33 section; and

34 “(B) may not be issued to an alien unlawfully present
35 in the United States.”.

36 (2) EFFECTIVE DATE.—The amendment made by
37 paragraph (1) shall take effect on October 1, 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 Immigration
7 and Nationality Act (8 U.S.C.1182(d)(4)) is amended—

8 (1) by striking “Attorney General” and inserting
9 “Secretary of Homeland Security”;

10 (2) by striking “on the basis of reciprocity” and all
11 that follows through “or (C)”; and

12 (3) by adding at the end the following:
13 “Either or both of the requirements of such paragraph may
14 also be waived by the Secretary of Homeland Security and
15 the Secretary of State, acting jointly and on the basis of
16 reciprocity, with respect to nationals of foreign contiguous
17 territory or of adjacent islands, but only if such nationals
18 are required, in order to be admitted into the United
19 States, to be in possession of identification deemed by the
20 Secretary of Homeland Security to be secure.”.

21 (b) EFFECTIVE DATE.—The amendment made by sub-
22 section (a) shall take effect on December 31, 2006.

23 **SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL**
24 **AGENTS.**

25 The Secretary of Homeland Security, in each of fiscal
26 years 2006 through 2010, shall increase by not less than 2,000
27 the number of positions for full-time active-duty border patrol
28 agents within the Department of Homeland Security above the
29 number of such positions for which funds were allotted for the
30 preceding fiscal year.

31 **SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND**
32 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

33 The Secretary of Homeland Security, in each of fiscal
34 years 2006 through 2010, shall increase by not less than 800
35 the number of positions for full-time active-duty investigators
36 within the Department of Homeland Security investigating vio-
37 lations of immigration laws (as defined in section 101(a)(17)
38 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))



1 above the number of such positions for which funds were allot-
2 ted for the preceding fiscal year. At least half of these addi-
3 tional investigators shall be designated to investigate potential
4 violations of section 274A of the Immigration and Nationality
5 Act (8 U.S.C 1324a). Each State shall be allotted at least 3
6 of these additional investigators.

7 **SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

8 Section 211 of the Immigration and Nationality Act (8
9 U.S.C. 1181) is amended by adding at the end the following:

10 “(d) For purposes of establishing identity to any Federal
11 employee, an alien present in the United States may present
12 any document issued by the Attorney General or the Secretary
13 of Homeland Security under the authority of one of the immi-
14 gration laws (as defined in section 101(a)(17)), or an unexpired
15 lawfully issued foreign passport. Subject to the limitations and
16 exceptions in immigration laws (as defined in section
17 101(a)(17) of the Immigration and Nationality Act (8 U.S.C.
18 1101(a)(17)), no other document may be presented for those
19 purposes.”.

20 **SEC. 3006. EXPEDITED REMOVAL.**

21 Section 235(b)(1)(A) of the Immigration and Nationality
22 Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses
23 (i) through (iii) and inserting the following:

24 “(i) IN GENERAL.—If an immigration officer
25 determines that an alien (other than an alien de-
26 scribed in subparagraph (F)) who is arriving in the
27 United States, or who has not been admitted or pa-
28 roled into the United States and has not been
29 physically present in the United States continu-
30 ously for the 5-year period immediately prior to the
31 date of the determination of inadmissibility under
32 this paragraph, is inadmissible under section
33 212(a)(6)(C) or 212(a)(7), the officer shall order
34 the alien removed from the United States without
35 further hearing or review, unless—



1 “(I) the alien has been charged with a
 2 crime, is in criminal proceedings, or is serving
 3 a criminal sentence; or

4 “(II) the alien indicates an intention to
 5 apply for asylum under section 208 or a fear
 6 of persecution and the officer determines that
 7 the alien has been physically present in the
 8 United States for less than 1 year.

9 “(ii) CLAIMS FOR ASYLUM.—If an immigration
 10 officer determines that an alien (other than an
 11 alien described in subparagraph (F)) who is arriv-
 12 ing in the United States, or who has not been ad-
 13 mitted or paroled into the United States and has
 14 not been physically present in the United States
 15 continuously for the 5-year period immediately
 16 prior to the date of the determination of inadmis-
 17 sibility under this paragraph, is inadmissible under
 18 section 212(a)(6)(C) or 212(a)(7), and the alien in-
 19 dicates either an intention to apply for asylum
 20 under section 208 or a fear of persecution, the offi-
 21 cer shall refer the alien for an interview by an asy-
 22 lum officer under subparagraph (B) if the officer
 23 determines that the alien has been physically
 24 present in the United States for less than 1 year.”.

25 **SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING**
 26 **ASYLUM.**

27 (a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)
 28 of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is
 29 amended—

30 (1) in paragraph (1), by striking “The Attorney Gen-
 31 eral” and inserting the following:

32 “(A) ELIGIBILITY.—The Secretary of Homeland
 33 Security or the Attorney General”; and

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

35 “(B) BURDEN OF PROOF.—The burden of proof is
 36 on the applicant to establish that the applicant is a ref-
 37 gee within the meaning of section 101(a)(42)(A). To



1 establish that the applicant is a refugee within the
2 meaning of this Act, the applicant must establish that
3 race, religion, nationality, membership in a particular
4 social group, or political opinion was or will be the cen-
5 tral motive for persecuting the applicant. The testi-
6 mony of the applicant may be sufficient to sustain such
7 burden without corroboration, but only if it is credible,
8 is persuasive, and refers to specific facts that dem-
9 onstrate that the applicant is a refugee. Where the
10 trier of fact finds that it is reasonable to expect cor-
11 roborating evidence for certain alleged facts pertaining
12 to the specifics of the applicant's claim, such evidence
13 must be provided unless a reasonable explanation is
14 given as to why such information is not provided. The
15 credibility determination of the trier of fact may be
16 based, in addition to other factors, on the demeanor,
17 candor, or responsiveness of the applicant or witness,
18 the consistency between the applicant's or witness's
19 written and oral statements, whether or not under
20 oath, made at any time to any officer, agent, or em-
21 ployee of the United States, the internal consistency of
22 each such statement, the consistency of such state-
23 ments with the country conditions in the country from
24 which the applicant claims asylum (as presented by the
25 Department of State) and any inaccuracies or false-
26 hoods in such statements. These factors may be consid-
27 ered individually or cumulatively."

28 (b) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—
29 Section 242(b)(4) of the Immigration and Nationality Act (8
30 U.S.C. 1252(b)(4)) is amended by adding after subparagraph
31 (D) the following flush language: "No court shall reverse a de-
32 termination made by an adjudicator with respect to the avail-
33 ability of corroborating evidence as described in section
34 208(b)(1)(B), unless the court finds that a reasonable adjudi-
35 cator is compelled to conclude that such corroborating evidence
36 is unavailable."



1 (c) EFFECTIVE DATE.—The amendment made by sub-
2 section (b) shall take effect upon the date of enactment of this
3 Act and shall apply to cases in which the final administrative
4 removal order was issued before, on, or after the date of enact-
5 ment of this Act.

6 **SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL**
7 **DOCUMENTATION.**

8 (a) LIMITATION ON REVIEW.—Section 221(i) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1201(i)) is amended by
10 adding at the end the following: “There shall be no means of
11 administrative or judicial review of a revocation under this sub-
12 section, and no court or other person otherwise shall have juris-
13 diction to consider any claim challenging the validity of such
14 a revocation.”.

15 (b) CLASSES OF DEPORTABLE ALIENS.—Section
16 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C.
17 1227(a)(1)(B)) is amended by striking “United States is” and
18 inserting the following: “United States, or whose nonimmigrant
19 visa (or other documentation authorizing admission into the
20 United States as a nonimmigrant) has been revoked under sec-
21 tion 221(i), is”.

22 (c) REVOCATION OF PETITIONS.—Section 205 of the Im-
23 migration and Nationality Act (8 U.S.C. 1155) is amended—

24 (1) by striking “Attorney General” and inserting
25 “Secretary of Homeland Security”; and

26 (2) by striking the final two sentences.

27 (d) EFFECTIVE DATE.—The amendments made by this
28 section shall take effect on the date of the enactment of this
29 Act and shall apply to revocations under sections 205 and
30 221(i) of the Immigration and Nationality Act made before, on,
31 or after such date.

32 **SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

33 (a) IN GENERAL.—Section 242 of the Immigration and
34 Nationality Act (8 U.S.C. 1252) is amended—

35 (1) in subsection (a)—

36 (A) in paragraph (2)—



1 (i) in subparagraphs (A), (B), and (C), by in-
 2 serting “(statutory and nonstatutory), including
 3 section 2241 of title 28, United States Code, or
 4 any other habeas corpus provision, and sections
 5 1361 and 1651 of title 28, United States Code”
 6 after “Notwithstanding any other provision of
 7 law”; and

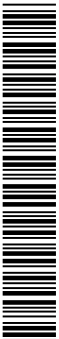
8 (ii) by adding at the end the following:

9 “(D) JUDICIAL REVIEW OF CERTAIN LEGAL
 10 CLAIMS.—Nothing in this paragraph shall be construed
 11 as precluding consideration by the circuit courts of ap-
 12 peals of constitutional claims or pure questions of law
 13 raised upon petitions for review filed in accordance with
 14 this section. Notwithstanding any other provision of
 15 law (statutory and nonstatutory), including section
 16 2241 of title 28, United States Code, or, except as pro-
 17 vided in subsection (e), any other habeas corpus provi-
 18 sion, and sections 1361 and 1651 of title 28, United
 19 States Code, such petitions for review shall be the sole
 20 and exclusive means of raising any and all claims with
 21 respect to orders of removal entered or issued under
 22 any provision of this Act.”; and

23 (B) by adding at the end the following:

24 “(4) CLAIMS UNDER THE UNITED NATIONS CONVEN-
 25 TION.—Notwithstanding any other provision of law (statu-
 26 tory and nonstatutory), including section 2241 of title 28,
 27 United States Code, or any other habeas corpus provision,
 28 and sections 1361 and 1651 of title 28, United States
 29 Code, a petition for review by the circuit courts of appeals
 30 filed in accordance with this section is the sole and exclu-
 31 sive means of judicial review of claims arising under the
 32 United Nations Convention Against Torture and Other
 33 Forms of Cruel, Inhuman, or Degrading Treatment or
 34 Punishment.

35 “(5) EXCLUSIVE MEANS OF REVIEW.—The judicial re-
 36 view specified in this subsection shall be the sole and exclu-
 37 sive means for review by any court of an order of removal



1 entered or issued under any provision of this Act. For pur-
2 poses of this title, in every provision that limits or elimi-
3 nates judicial review or jurisdiction to review, the terms ‘ju-
4 dicial review’ and ‘jurisdiction to review’ include habeas
5 corpus review pursuant to section 2241 of title 28, United
6 States Code, or any other habeas corpus provision, sections
7 1361 and 1651 of title 28, United States Code, and review
8 pursuant to any other provision of law.”;

9 (2) in subsection (b)—

10 (A) in paragraph (3)(B), by inserting “pursuant
11 to subsection (f)” after “unless”; and

12 (B) in paragraph (9), by adding at the end the fol-
13 lowing: “Except as otherwise provided in this sub-
14 section, no court shall have jurisdiction, by habeas cor-
15 pus under section 2241 of title 28, United States Code,
16 or any other habeas corpus provision, by section 1361
17 or 1651 of title 28, United States Code, or by any
18 other provision of law (statutory or nonstatutory), to
19 hear any cause or claim subject to these consolidation
20 provisions.”;

21 (3) in subsection (f)(2), by inserting “or stay, by tem-
22 porary or permanent order, including stays pending judicial
23 review,” after “no court shall enjoin”; and

24 (4) in subsection (g), by inserting “(statutory and
25 nonstatutory), including section 2241 of title 28, United
26 States Code, or any other habeas corpus provision, and sec-
27 tions 1361 and 1651 of title 28, United States Code” after
28 “notwithstanding any other provision of law”.

29 (b) EFFECTIVE DATE.—The amendments made by sub-
30 section (a) shall take effect upon the date of enactment of this
31 Act and shall apply to cases in which the final administrative
32 removal order was issued before, on, or after the date of enact-
33 ment of this Act.



**CHAPTER 2—DEPORTATION OF TERRORISTS
AND SUPPORTERS OF TERRORISM**

SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION ON REMOVAL.

(a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in the matter preceding clause (i), by striking “section 237(a)(4)(D)” and inserting “paragraph (4)(B) or (4)(D) of section 237(a)”;

(2) in clause (iii), by striking “or”;

(3) in clause (iv), by striking the period and inserting “; or” ;

(4) by inserting after clause (iv) and following:

“(v) the alien is described in subclause (I), (II), (III), (IV), or (VI) of section 212(a)(3)(B)(i) or section 237(a)(4)(B), unless, in the case only of an alien described in subclause (IV) of section 212(a)(3)(B)(i), the Secretary of Homeland Security determines, in the Secretary’s discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.”; and

(5) by striking the last sentence.

(b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended—

(1) by striking “inadmissible under” each place such term appears and inserting “described in”; and

(2) by striking “removable under”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(2) acts and conditions constituting a ground for inadmissibility or removal occurring or existing before, on, or after such date.



1 **SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL**
2 **FOR TERRORISTS AND CRIMINALS.**

3 (a) REGULATIONS.—

4 (1) REVISION DEADLINE.—Not later than 120 days
5 after the date of the enactment of this Act, the Secretary
6 of Homeland Security shall revise the regulations pre-
7 scribed by the Secretary to implement the United Nations
8 Convention Against Torture and Other Forms of Cruel, In-
9 human or Degrading Treatment or Punishment, done at
10 New York on December 10, 1984.

11 (2) EXCLUSION OF CERTAIN ALIENS.—The revision—

12 (A) shall exclude from the protection of such regu-
13 lations aliens described in section 241(b)(3)(B) of the
14 Immigration and Nationality Act (8 U.S.C.
15 1231(b)(3)(B)) (as amended by this title), including
16 rendering such aliens ineligible for withholding or de-
17 ferral of removal under the Convention; and

18 (B) shall ensure that the revised regulations oper-
19 ate so as to—

20 (i) allow for the reopening of determinations
21 made under the regulations before the effective
22 date of the revision; and

23 (ii) apply to acts and conditions constituting a
24 ground for ineligibility for the protection of such
25 regulations, as revised, regardless of when such
26 acts or conditions occurred.

27 (3) BURDEN OF PROOF.—The revision shall also en-
28 sure that the burden of proof is on the applicant for with-
29 holding or deferral of removal under the Convention to es-
30 tablish by clear and convincing evidence that he or she
31 would be tortured if removed to the proposed country of re-
32 moval.

33 (b) JUDICIAL REVIEW.—Notwithstanding any other provi-
34 sion of law, no court shall have jurisdiction to review the regu-
35 lations adopted to implement this section, and nothing in this
36 section shall be construed as providing any court jurisdiction to
37 consider or review claims raised under the Convention or this



1 section, except as part of the review of a final order of removal
2 pursuant to section 242 of the Immigration and Nationality
3 Act (8 U.S.C. 1252).

4 **SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

5 (a) IN GENERAL.—Section 241(b) of the Immigration and
6 Nationality Act (8 U.S.C. 1231(b)) is amended—

7 (1) in paragraph (1)—

8 (A) in each of subparagraphs (A) and (B), by
9 striking the period at the end and inserting “unless, in
10 the opinion of the Secretary of Homeland Security, re-
11 moving the alien to such country would be prejudicial
12 to the United States.”; and

13 (B) by amending subparagraph (C) to read as fol-
14 lows:

15 “(C) ALTERNATIVE COUNTRIES.—If the alien is
16 not removed to a country designated in subparagraph
17 (A) or (B), the Secretary of Homeland Security shall
18 remove the alien to—

19 “(i) the country of which the alien is a citizen,
20 subject, or national, where the alien was born, or
21 where the alien has a residence, unless the country
22 physically prevents the alien from entering the
23 country upon the alien’s removal there; or

24 “(ii) any country whose government will accept
25 the alien into that country.”; and

26 (2) in paragraph (2)—

27 (A) by striking “Attorney General” each place
28 such term appears and inserting “Secretary of Home-
29 land Security”;

30 (B) by amending subparagraph (D) to read as fol-
31 lows:

32 “(D) ALTERNATIVE COUNTRIES.—If the alien is
33 not removed to a country designated under subpara-
34 graph (A)(i), the Secretary of Homeland Security shall
35 remove the alien to a country of which the alien is a
36 subject, national, or citizen, or where the alien has a
37 residence, unless—



1 “(i) such country physically prevents the alien
2 from entering the country upon the alien’s removal
3 there; or

4 “(ii) in the opinion of the Secretary of Home-
5 land Security, removing the alien to the country
6 would be prejudicial to the United States.”; and

7 (C) by amending subparagraph (E)(vii) to read as
8 follows:

9 “(vii) Any country whose government will ac-
10 cept the alien into that country.”.

11 (b) EFFECTIVE DATE.—The amendments made by sub-
12 section (a) shall take effect on the date of the enactment of this
13 Act and shall apply to any deportation, exclusion, or removal
14 on or after such date pursuant to any deportation, exclusion,
15 or removal order, regardless of whether such order is adminis-
16 tratively final before, on, or after such date.

17 **Subtitle B—Identity Management**
18 **Security**

19 **CHAPTER 1—IMPROVED SECURITY FOR DRIV-**
20 **ERS’ LICENSES AND PERSONAL IDENTIFICA-**
21 **TION CARDS**

22 **SEC. 3051. DEFINITIONS.**

23 In this chapter, the following definitions apply:

24 (1) DRIVER’S LICENSE.—The term “driver’s license”
25 means a motor vehicle operator’s license, as defined in sec-
26 tion 30301 of title 49, United States Code.

27 (2) IDENTIFICATION CARD.—The term “identification
28 card” means a personal identification card, as defined in
29 section 1028(d) of title 18, United States Code, issued by
30 a State.

31 (3) SECRETARY.—The term “Secretary” means the
32 Secretary of Homeland Security.

33 (4) STATE.—The term “State” means a State of the
34 United States, the District of Columbia, Puerto Rico, the
35 Virgin Islands, Guam, American Samoa, the Northern



1 Mariana Islands, the Trust Territory of the Pacific Islands,
2 and any other territory or possession of the United States.

3 **SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND**
4 **ISSUANCE STANDARDS FOR FEDERAL REC-**
5 **OGNITION.**

6 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

7 (1) IN GENERAL.—Beginning 3 years after the date of
8 enactment of this Act, a Federal agency may not accept,
9 for any official purpose, a driver’s license or identification
10 card issued by a State to any person unless the State is
11 meeting the requirements of this section.

12 (2) STATE CERTIFICATIONS.—The Secretary shall de-
13 termine whether a State is meeting the requirements of
14 this section based on certifications made by the State to
15 the Secretary. Such certifications shall be made at such
16 times and in such manner as the Secretary, in consultation
17 with the Secretary of Transportation, may prescribe by reg-
18 ulation.

19 (b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the
20 requirements of this section, a State shall include, at a min-
21 imum, the following information and features on each driver’s
22 license and identification card issued to a person by the State:

- 23 (1) The person’s full legal name.
- 24 (2) The person’s date of birth.
- 25 (3) The person’s gender.
- 26 (4) The person’s driver license or identification card
27 number.
- 28 (5) A photograph of the person.
- 29 (6) The person’s address of principal residence.
- 30 (7) The person’s signature.
- 31 (8) Physical security features designed to prevent tam-
32 pering, counterfeiting, or duplication of the document for
33 fraudulent purposes.

34 (9) A common machine-readable technology, with de-
35 fined minimum data elements.

36 (c) MINIMUM ISSUANCE STANDARDS.—



1 (1) IN GENERAL.—To meet the requirements of this
2 section, a State shall require, at a minimum, presentation
3 and verification of the following information before issuing
4 a driver’s license or identification card to a person:

5 (A) A photo identity document, except that a non-
6 photo identity document is acceptable if it includes
7 both the person’s full legal name and date of birth.

8 (B) Documentation showing the person’s date of
9 birth.

10 (C) Proof of the person’s social security account
11 number or verification that the person is not eligible
12 for a social security account number.

13 (D) Documentation showing the person’s name
14 and address of principal residence.

15 (2) VERIFICATION OF DOCUMENTS.—To meet the re-
16 quirements of this section, a State shall implement the fol-
17 lowing procedures:

18 (A) Before issuing a driver’s license or identifica-
19 tion card to a person, the State shall verify, with the
20 issuing agency, the issuance, validity, and completeness
21 of each document required to be presented by the per-
22 son under paragraph (1).

23 (B) The State shall not accept any foreign docu-
24 ment, other than an official passport, to satisfy a re-
25 quirement of paragraph (1).

26 (d) OTHER REQUIREMENTS.—To meet the requirements
27 of this section, a State shall adopt the following practices in
28 the issuance of drivers’ licenses and identification cards:

29 (1) Employ technology to capture digital images of
30 identity source documents so that the images can be re-
31 tained in electronic storage in a transferable format.

32 (2) Retain paper copies of source documents for a
33 minimum of 7 years or images of source documents pre-
34 sented for a minimum of 10 years.

35 (3) Subject each person applying for a driver’s license
36 or identification card to mandatory facial image capture.



1 (4) Establish an effective procedure to confirm or ver-
2 ify a renewing applicant’s information.

3 (5) Confirm with the Social Security Administration a
4 social security account number presented by a person using
5 the full social security account number. In the event that
6 a social security account number is already registered to or
7 associated with another person to which any State has
8 issued a driver’s license or identification card, the State
9 shall resolve the discrepancy and take appropriate action.

10 (6) Refuse to issue a driver’s license or identification
11 card to a person holding a driver’s license issued by an-
12 other State without confirmation that the person is termi-
13 nating or has terminated the driver’s license.

14 (7) Ensure the physical security of locations where
15 drivers’ licenses and identification cards are produced and
16 the security of document materials and papers from which
17 drivers’ licenses and identification cards are produced.

18 (8) Subject all persons authorized to manufacture or
19 produce drivers’ licenses and identification cards to appro-
20 priate security clearance requirements.

21 (9) Establish fraudulent document recognition training
22 programs for appropriate employees engaged in the
23 issuance of drivers’ licenses and identification cards.

24 **SEC. 3053. LINKING OF DATABASES.**

25 (a) IN GENERAL.—To be eligible to receive any grant or
26 other type of financial assistance made available under this
27 subtitle, a State shall participate in the interstate compact re-
28 garding sharing of driver license data, known as the “Driver
29 License Agreement”, in order to provide electronic access by a
30 State to information contained in the motor vehicle databases
31 of all other States.

32 (b) REQUIREMENTS FOR INFORMATION.—A State motor
33 vehicle database shall contain, at a minimum, the following in-
34 formation:

35 (1) All data fields printed on drivers’ licenses and
36 identification cards issued by the State.



1 (2) Motor vehicle drivers' histories, including motor
2 vehicle violations, suspensions, and points on licenses.

3 **SEC. 3054. TRAFFICKING IN AUTHENTICATION FEAT-**
4 **URES FOR USE IN FALSE IDENTIFICATION**
5 **DOCUMENTS.**

6 Section 1028(a)(8) of title 18, United States Code, is
7 amended by striking "false authentication features" and insert-
8 ing "false or actual authentication features".

9 **SEC. 3055. GRANTS TO STATES.**

10 (a) IN GENERAL.—The Secretary may make grants to a
11 State to assist the State in conforming to the minimum stand-
12 ards set forth in this chapter.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There are au-
14 thorized to be appropriated to the Secretary for each of the fis-
15 cal years 2005 through 2009 such sums as may be necessary
16 to carry out this chapter.

17 **SEC. 3056. AUTHORITY.**

18 (a) PARTICIPATION OF SECRETARY OF TRANSPORTATION
19 AND STATES.—All authority to issue regulations, certify stand-
20 ards, and issue grants under this chapter shall be carried out
21 by the Secretary, in consultation with the Secretary of Trans-
22 portation and the States.

23 (b) EXTENSIONS OF DEADLINES.—The Secretary may
24 grant to a State an extension of time to meet the requirements
25 of section 3052(a)(1) if the State provides adequate justifica-
26 tion for noncompliance.

27 **CHAPTER 2—IMPROVED SECURITY FOR BIRTH**
28 **CERTIFICATES**

29 **SEC. 3061. DEFINITIONS.**

30 (a) APPLICABILITY OF DEFINITIONS.—Except as other-
31 wise specifically provided, the definitions contained in section
32 3051 apply to this chapter.

33 (b) OTHER DEFINITIONS.—In this chapter, the following
34 definitions apply:

35 (1) BIRTH CERTIFICATE.—The term "birth certifi-
36 cate" means a certificate of birth—

37 (A) for an individual (regardless of where born)—



1 this section based on certifications made by the State to
2 the Secretary. Such certifications shall be made at such
3 times and in such manner as the Secretary, in consultation
4 with the Secretary of Health and Human Services, may
5 prescribe by regulation.

6 (b) MINIMUM DOCUMENT STANDARDS.—To meet the re-
7 quirements of this section, a State shall include, on each birth
8 certificate issued to a person by the State, the use of safety
9 paper, the seal of the issuing custodian of record, and such
10 other features as the Secretary may determine necessary to
11 prevent tampering, counterfeiting, and otherwise duplicating
12 the birth certificate for fraudulent purposes. The Secretary
13 may not require a single design to which birth certificates
14 issued by all States must conform.

15 (c) MINIMUM ISSUANCE STANDARDS.—

16 (1) IN GENERAL.—To meet the requirements of this
17 section, a State shall require and verify the following infor-
18 mation from the requestor before issuing an authenticated
19 copy of a birth certificate:

- 20 (A) The name on the birth certificate.
- 21 (B) The date and location of the birth.
- 22 (C) The mother's maiden name.
- 23 (D) Substantial proof of the requestor's identity.

24 (2) ISSUANCE TO PERSONS NOT NAMED ON BIRTH
25 CERTIFICATE.—To meet the requirements of this section,
26 in the case of a request by a person who is not named on
27 the birth certificate, a State must require the presentation
28 of legal authorization to request the birth certificate before
29 issuance.

30 (3) ISSUANCE TO FAMILY MEMBERS.—Not later than
31 one year after the date of enactment of this Act, the Sec-
32 retary, in consultation with the Secretary of Health and
33 Human Services and the States, shall establish minimum
34 standards for issuance of a birth certificate to specific fam-
35 ily members, their authorized representatives, and others
36 who demonstrate that the certificate is needed for the pro-
37 tection of the requestor's personal or property rights.



1 (4) WAIVERS.—A State may waive the requirements
2 set forth in subparagraphs (A) through (C) of subsection
3 (c)(1) in exceptional circumstances, such as the incapacita-
4 tion of the registrant.

5 (5) APPLICATIONS BY ELECTRONIC MEANS.—To meet
6 the requirements of this section, for applications by elec-
7 tronic means, through the mail or by phone or fax, a State
8 shall employ third party verification, or equivalent verifica-
9 tion, of the identity of the requestor.

10 (6) VERIFICATION OF DOCUMENTS.—To meet the re-
11 quirements of this section, a State shall verify the docu-
12 ments used to provide proof of identity of the requestor.

13 (d) OTHER REQUIREMENTS.—To meet the requirements
14 of this section, a State shall adopt, at a minimum, the following
15 practices in the issuance and administration of birth certifi-
16 cates:

17 (1) Establish and implement minimum building secu-
18 rity standards for State and local vital record offices.

19 (2) Restrict public access to birth certificates and in-
20 formation gathered in the issuance process to ensure that
21 access is restricted to entities with which the State has a
22 binding privacy protection agreement.

23 (3) Subject all persons with access to vital records to
24 appropriate security clearance requirements.

25 (4) Establish fraudulent document recognition training
26 programs for appropriate employees engaged in the
27 issuance process.

28 (5) Establish and implement internal operating system
29 standards for paper and for electronic systems.

30 (6) Establish a central database that can provide
31 interoperative data exchange with other States and with
32 Federal agencies, subject to privacy restrictions and con-
33 firmation of the authority and identity of the requestor.

34 (7) Ensure that birth and death records are matched
35 in a comprehensive and timely manner, and that all elec-
36 tronic birth records and paper birth certificates of dece-
37 dents are marked “deceased”.



1 (8) Cooperate with the Secretary in the implementa-
2 tion of electronic verification of vital events under section
3 3065.

4 **SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
5 **DEATH REGISTRATION SYSTEMS.**

6 In consultation with the Secretary of Health and Human
7 Services and the Commissioner of Social Security, the Sec-
8 retary shall take the following actions:

9 (1) Work with the States to establish a common data
10 set and common data exchange protocol for electronic birth
11 registration systems and death registration systems.

12 (2) Coordinate requirements for such systems to align
13 with a national model.

14 (3) Ensure that fraud prevention is built into the de-
15 sign of electronic vital registration systems in the collection
16 of vital event data, the issuance of birth certificates, and
17 the exchange of data among government agencies.

18 (4) Ensure that electronic systems for issuing birth
19 certificates, in the form of printed abstracts of birth
20 records or digitized images, employ a common format of
21 the certified copy, so that those requiring such documents
22 can quickly confirm their validity.

23 (5) Establish uniform field requirements for State
24 birth registries.

25 (6) Not later than 1 year after the date of enactment
26 of this Act, establish a process with the Department of De-
27 fense that will result in the sharing of data, with the States
28 and the Social Security Administration, regarding deaths of
29 United States military personnel and the birth and death
30 of their dependents.

31 (7) Not later than 1 year after the date of enactment
32 of this Act, establish a process with the Department of
33 State to improve registration, notification, and the sharing
34 of data with the States and the Social Security Administra-
35 tion, regarding births and deaths of United States citizens
36 abroad.



1 (8) Not later than 3 years after the date of establish-
2 ment of databases provided for under this section, require
3 States to record and retain electronic records of pertinent
4 identification information collected from requestors who are
5 not the registrants.

6 (9) Not later than 6 months after the date of enact-
7 ment of this Act, submit to Congress, a report on whether
8 there is a need for Federal laws to address penalties for
9 fraud and misuse of vital records and whether violations
10 are sufficiently enforced.

11 **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL**
12 **EVENTS.**

13 (a) LEAD AGENCY.—The Secretary shall lead the imple-
14 mentation of electronic verification of a person’s birth and
15 death.

16 (b) REGULATIONS.—In carrying out subsection (a), the
17 Secretary shall issue regulations to establish a means by which
18 authorized Federal and State agency users with a single inter-
19 face will be able to generate an electronic query to any partici-
20 pating vital records jurisdiction throughout the Nation to verify
21 the contents of a paper birth certificate. Pursuant to the regu-
22 lations, an electronic response from the participating vital
23 records jurisdiction as to whether there is a birth record in
24 their database that matches the paper birth certificate will be
25 returned to the user, along with an indication if the matching
26 birth record has been flagged “deceased”. The regulations shall
27 take effect not later than 5 years after the date of enactment
28 of this Act.

29 **SEC. 3066. GRANTS TO STATES.**

30 (a) IN GENERAL.—The Secretary may make grants to a
31 State to assist the State in conforming to the minimum stand-
32 ards set forth in this chapter.

33 (b) AUTHORIZATION OF APPROPRIATIONS.—There are au-
34 thorized to be appropriated to the Secretary for each of the fis-
35 cal years 2005 through 2009 such sums as may be necessary
36 to carry out this chapter.



1 **SEC. 3067. AUTHORITY.**

2 (a) PARTICIPATION WITH FEDERAL AGENCIES AND
 3 STATES.—All authority to issue regulations, certify standards,
 4 and issue grants under this chapter shall be carried out by the
 5 Secretary, with the concurrence of the Secretary of Health and
 6 Human Services and in consultation with State vital statistics
 7 offices and appropriate Federal agencies.

8 (b) EXTENSIONS OF DEADLINES.—The Secretary may
 9 grant to a State an extension of time to meet the requirements
 10 of section 3063(a)(1) if the State provides adequate justifica-
 11 tion for noncompliance.

12 **Chapter 3—Measures To Enhance Privacy and**
 13 **Integrity of Social Security Account Numbers**

14 **SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SE-**
 15 **CURITY ACCOUNT NUMBERS ON DRIVER'S**
 16 **LICENSES OR MOTOR VEHICLE REGISTRA-**
 17 **TIONS.**

18 (a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social
 19 Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

20 (1) by inserting “(I)” after “(vi)”; and

21 (2) by adding at the end the following new subclause:

22 “(II) Any State or political subdivision thereof (and any
 23 person acting as an agent of such an agency or instrumen-
 24 tality), in the administration of any driver’s license or motor
 25 vehicle registration law within its jurisdiction, may not display
 26 a social security account number issued by the Commissioner
 27 of Social Security (or any derivative of such number) on any
 28 driver’s license or motor vehicle registration or any other docu-
 29 ment issued by such State or political subdivision to an indi-
 30 vidual for purposes of identification of such individual or in-
 31 clude on any such licence, registration, or other document a
 32 magnetic strip, bar code, or other means of communication
 33 which conveys such number (or derivative thereof).”.

34 (b) EFFECTIVE DATE.—The amendments made by this
 35 section shall apply with respect to licenses, registrations, and
 36 other documents issued or reissued after 1 year after the date
 37 of the enactment of this Act.



1 **SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH**
2 **RECORDS PROVIDED IN SUPPORT OF APPLI-**
3 **CATIONS FOR SOCIAL SECURITY ACCOUNT**
4 **NUMBERS.**

5 (a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUM-
6 BERS.—Section 205(c)(2)(B)(ii) of the Social Security Act (42
7 U.S.C. 405(c)(2)(B)(ii)) is amended—

- 8 (1) by inserting “(I)” after “(ii)”; and
- 9 (2) by adding at the end the following new subclause:

10 “(II) With respect to an application for a social security
11 account number for an individual, other than for purposes of
12 enumeration at birth, the Commissioner shall require inde-
13 pendent verification of any birth record provided by the appli-
14 cant in support of the application. The Commissioner may pro-
15 vide by regulation for reasonable exceptions from the require-
16 ment for independent verification under this subclause in any
17 case in which the Commissioner determines there is minimal
18 opportunity for fraud.”.

19 (b) EFFECTIVE DATE.—The amendment made by sub-
20 section (a) shall apply with respect to applications filed after
21 270 days after the date of the enactment of this Act.

22 (c) STUDY REGARDING APPLICATIONS FOR REPLACEMENT
23 SOCIAL SECURITY CARDS.—

24 (1) IN GENERAL.—As soon as practicable after the
25 date of the enactment of this Act, the Commissioner of So-
26 cial Security shall undertake a study to test the feasibility
27 and cost effectiveness of verifying all identification docu-
28 ments submitted by an applicant for a replacement social
29 security card. As part of such study, the Commissioner
30 shall determine the feasibility of, and the costs associated
31 with, the development of appropriate electronic processes
32 for third party verification of any such identification docu-
33 ments which are issued by agencies and instrumentalities
34 of the Federal Government and of the States (and political
35 subdivisions thereof).

36 (2) REPORT.—Not later than 2 years after the date of
37 the enactment of this Act, the Commissioner shall report



1 to the Committee on Ways and Means of the House of
2 Representatives and the Committee on Finance of the Sen-
3 ate regarding the results of the study undertaken under
4 paragraph (1). Such report shall contain such recommenda-
5 tions for legislative changes as the Commissioner considers
6 necessary to implement needed improvements in the process
7 for verifying identification documents submitted by appli-
8 cants for replacement social security cards.

9 **SEC. 3073. ENUMERATION AT BIRTH.**

10 (a) IMPROVEMENT OF APPLICATION PROCESS.—

11 (1) IN GENERAL.—As soon as practicable after the
12 date of the enactment of this Act, the Commissioner of So-
13 cial Security shall undertake to make improvements to the
14 enumeration at birth program for the issuance of social se-
15 curity account numbers to newborns. Such improvements
16 shall be designed to prevent—

17 (A) the assignment of social security account num-
18 bers to unnamed children;

19 (B) the issuance of more than 1 social security ac-
20 count number to the same child; and

21 (C) other opportunities for fraudulently obtaining
22 a social security account number.

23 (2) REPORT TO THE CONGRESS.—Not later than 1
24 year after the date of the enactment of this Act, the Com-
25 missioner shall transmit to each House of the Congress a
26 report specifying in detail the extent to which the improve-
27 ments required under paragraph (1) have been made.

28 (b) STUDY REGARDING PROCESS FOR ENUMERATION AT
29 BIRTH.—

30 (1) IN GENERAL.—As soon as practicable after the
31 date of the enactment of this Act, the Commissioner of So-
32 cial Security shall undertake a study to determine the most
33 efficient options for ensuring the integrity of the process
34 for enumeration at birth. Such study shall include an ex-
35 amination of available methods for reconciling hospital
36 birth records with birth registrations submitted to agencies
37 of States and political subdivisions thereof and with infor-



1 information provided to the Commissioner as part of the process
2 for enumeration at birth.

3 (2) REPORT.—Not later than 18 months after the
4 date of the enactment of this Act, the Commissioner shall
5 report to the Committee on Ways and Means of the House
6 of Representatives and the Committee on Finance of the
7 Senate regarding the results of the study undertaken under
8 paragraph (1). Such report shall contain such recommenda-
9 tions for legislative changes as the Commissioner considers
10 necessary to implement needed improvements in the process
11 for enumeration at birth.

12 **SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC**
13 **IDENTIFICATION IN CONNECTION WITH AP-**
14 **PLICATIONS FOR BENEFITS, SOCIAL SECU-**
15 **RITY ACCOUNT NUMBERS, AND SOCIAL SE-**
16 **SECURITY CARDS.**

17 (a) IN GENERAL.—As soon as practicable after the date
18 of the enactment of this Act, the Commissioner of Social Secu-
19 rity shall undertake a study to—

20 (1) determine the best method of requiring and obtain-
21 ing photographic identification of applicants for old-age,
22 survivors, and disability insurance benefits under title II of
23 the Social Security Act, for a social security account num-
24 ber, or for a replacement social security card, and of pro-
25 viding for reasonable exceptions to any requirement for
26 photographic identification of such applicants that may be
27 necessary to promote efficient and effective administration
28 of such title, and

29 (2) evaluate the benefits and costs of instituting such
30 a requirement for photographic identification, including the
31 degree to which the security and integrity of the old-age,
32 survivors, and disability insurance program would be en-
33 hanced.

34 (b) REPORT.—Not later than 18 months after the date of
35 the enactment of this Act, the Commissioner shall report to the
36 Committee on Ways and Means of the House of Representa-
37 tives and the Committee on Finance of the Senate regarding
38 the results of the study undertaken under subsection (a). Such



1 report shall contain such recommendations for legislative
 2 changes as the Commissioner considers necessary relating to
 3 requirements for photographic identification of applicants de-
 4 scribed in subsection (a).

5 **SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE**
 6 **REPLACEMENT SOCIAL SECURITY CARDS.**

7 (a) IN GENERAL.—Section 205(c)(2)(G) of the Social Se-
 8 curity Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at
 9 the end the following new sentence: “The Commissioner shall
 10 restrict the issuance of multiple replacement social security
 11 cards to any individual to 3 per year and to 10 for the life of
 12 the individual, except in any case in which the Commissioner
 13 determines there is minimal opportunity for fraud.”

14 (b) REGULATIONS AND EFFECTIVE DATE.—The Commis-
 15 sioner of Social Security shall issue regulations under the
 16 amendment made by subsection (a) not later than 1 year after
 17 the date of the enactment of this Act. Systems controls devel-
 18 oped by the Commissioner pursuant to such amendment shall
 19 take effect upon the earlier of the issuance of such regulations
 20 or the end of such 1-year period.

21 **SEC. 3076. STUDY RELATING TO MODIFICATION OF THE**
 22 **SOCIAL SECURITY ACCOUNT NUMBERING**
 23 **SYSTEM TO SHOW WORK AUTHORIZATION**
 24 **STATUS.**

25 (a) IN GENERAL.—As soon as practicable after the date
 26 of the enactment of this Act, the Commissioner of Social Secu-
 27 rity, in consultation with the Secretary of Homeland Security,
 28 shall undertake a study to examine the best method of modi-
 29 fying the social security account number assigned to individuals
 30 who—

- 31 (1) are not citizens of the United States,
 32 (2) have not been admitted for permanent residence,
 33 and
 34 (3) are not authorized by the Secretary of Homeland
 35 Security to work in the United States, or are so authorized
 36 subject to one or more restrictions,
 37 so as to include an indication of such lack of authorization to
 38 work or such restrictions on such an authorization.



1 (b) REPORT.—Not later than 1 year after the date of the
2 enactment of this Act, the Commissioner shall report to the
3 Committee on Ways and Means of the House of Representa-
4 tives and the Committee on Finance of the Senate regarding
5 the results of the study undertaken under this section. Such re-
6 port shall include the Commissioner’s recommendations of fea-
7 sible options for modifying the social security account number
8 in the manner described in subsection (a).

9 **Subtitle C—Targeting Terrorist** 10 **Travel**

11 **SEC. 3081. STUDIES ON MACHINE-READABLE PASS-** 12 **PORTS AND TRAVEL HISTORY DATABASE.**

13 (a) IN GENERAL.—Not later than May 31, 2005, the
14 Comptroller General of the United States, the Secretary of
15 State, and the Secretary of Homeland Security each shall sub-
16 mit to the Committees on the Judiciary of the House of Rep-
17 resentatives and of the Senate, the Committee on International
18 Relations of the House of Representatives, and the Committee
19 on Foreign Relations of the Senate the results of a separate
20 study on the subjects described in subsection (c).

21 (b) STUDY.—The study submitted by the Secretary of
22 State under subsection (a) shall be completed by the Office of
23 Visa and Passport Control of the Department of State, in co-
24 ordination with the appropriate officials of the Department of
25 Homeland Security.

26 (c) CONTENTS.—The studies described in subsection (a)
27 shall examine the feasibility, cost, potential benefits, and re-
28 lative importance to the objectives of tracking suspected terror-
29 ists’ travel, and apprehending suspected terrorists, of each of
30 the following:

31 (1) Requiring nationals of all countries to present ma-
32 chine-readable, tamper-resistant passports that incorporate
33 biometric and document authentication identifiers.

34 (2) Creation of a database containing information on
35 the lifetime travel history of each foreign national or
36 United States citizen who might seek to enter the United
37 States or another country at any time, in order that border



1 and visa issuance officials may ascertain the travel history
2 of a prospective entrant by means other than a passport.

3 (d) INCENTIVES.—The studies described in subsection (a)
4 shall also make recommendations on incentives that might be
5 offered to encourage foreign nations to participate in the initia-
6 tives described in paragraphs (1) and (2) of subsection (c).

7 **SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIR-**
8 **PORTS.**

9 (a) IN GENERAL.—Section 235A(a)(4) of the Immigration
10 and Nationality Act (8 U.S.C. 1225(a)(4)) is amended—

11 (1) by striking “October 31, 2000,” and inserting
12 “January 1, 2008,”;

13 (2) by striking “5 additional” and inserting “up to 25
14 additional”;

15 (3) by striking “number of aliens” and inserting
16 “number of inadmissible aliens, especially aliens who are
17 potential terrorists,”;

18 (4) by striking “who are inadmissible to the United
19 States.” and inserting a period; and

20 (5) by striking “Attorney General” each place such
21 term appears and inserting “Secretary of Homeland Secu-
22 rity”.

23 (b) REPORT.—Not later than June 30, 2006, the Sec-
24 retary of Homeland Security and the Secretary of State shall
25 report to the Committees on the Judiciary of the House of
26 Representatives and of the Senate, the Committee on Inter-
27 national Relations of the House of Representatives, and the
28 Committee on Foreign Relations of the Senate on the progress
29 being made in implementing the amendments made by sub-
30 section (a).

31 (c) AUTHORIZATION OF APPROPRIATIONS.—There are au-
32 thorized to be appropriated to the Secretary of Homeland Secu-
33 rity to carry out the amendments made by subsection (a)—

34 (1) \$24,000,000 for fiscal year 2005;

35 (2) \$48,000,000 for fiscal year 2006; and

36 (3) \$97,000,000 for fiscal year 2007.



1 **SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

2 (a) IN GENERAL.—Section 235A(b) of the Immigration
3 and Nationality Act (8 U.S.C. 1225(b)) is amended—

4 (1) in the subsection heading, by inserting “AND IMMI-
5 GRATION SECURITY INITIATIVE” after “PROGRAM”; and

6 (2) by adding at the end the following:
7 “Beginning not later than December 31, 2006, the number of
8 airports selected for an assignment under this subsection shall
9 be at least 50.”.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There are au-
11 thorized to be appropriated to the Secretary of Homeland Secu-
12 rity to carry out the amendments made by subsection (a)—

- 13 (1) \$25,000,000 for fiscal year 2005;
14 (2) \$40,000,000 for fiscal year 2006; and
15 (3) \$40,000,000 for fiscal year 2007.

16 **SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-
17 SULAR OFFICERS.**

18 (a) INCREASED NUMBER OF CONSULAR OFFICERS.—The
19 Secretary of State, in each of fiscal years 2006 through 2009,
20 may increase by 150 the number of positions for consular offi-
21 cers above the number of such positions for which funds were
22 allotted for the preceding fiscal year.

23 (b) LIMITATION ON USE OF FOREIGN NATIONALS FOR
24 NONIMMIGRANT VISA SCREENING.—Section 222(d) of the Im-
25 migration and Nationality Act (8 U.S.C. 1202(d)) is amended
26 by adding at the end the following:

27 “All nonimmigrant visa applications shall be reviewed and adju-
28 dicated by a consular officer.”.

29 (c) TRAINING FOR CONSULAR OFFICERS IN DETECTION
30 OF FRAUDULENT DOCUMENTS.—Section 305(a) of the En-
31 hanced Border Security and Visa Entry Reform Act of 2002
32 (8 U.S.C. 1734(a)) is amended by adding at the end the fol-
33 lowing: “As part of the consular training provided to such offi-
34 cers by the Secretary of State, such officers shall also receive
35 training in detecting fraudulent documents and general docu-
36 ment forensics and shall be required as part of such training
37 to work with immigration officers conducting inspections of ap-



1 plicants for admission into the United States at ports of
 2 entry.”.

3 (d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

4 (1) SURVEY REGARDING DOCUMENT FRAUD.—The
 5 Secretary of State, in coordination with the Secretary of
 6 Homeland Security, shall conduct a survey of each diplo-
 7 matic and consular post at which visas are issued to assess
 8 the extent to which fraudulent documents are presented by
 9 visa applicants to consular officers at such posts.

10 (2) PLACEMENT OF SPECIALIST.—Not later than July
 11 31, 2005, the Secretary shall, in coordination with the Sec-
 12 retary of Homeland Security, identify 100 of such posts
 13 that experience the greatest frequency of presentation of
 14 fraudulent documents by visa applicants. The Secretary
 15 shall place in each such post at least one full-time anti-
 16 fraud specialist employed by the Department of State to
 17 assist the consular officers at each such post in the detec-
 18 tion of such fraud.

19 **SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND**
 20 **RELATED ACTIVITY.**

21 Section 1028 of title 18, United States Code, relating to
 22 penalties for fraud and related activity in connection with iden-
 23 tification documents and information, is amended—

24 (1) in subsection (b)(1)(A)(i), by striking “issued by
 25 or under the authority of the United States” and inserting
 26 the following: “as described in subsection (d)”;

27 (2) in subsection (b)(2), by striking “three years” and
 28 inserting “six years”;

29 (3) in subsection (b)(3), by striking “20 years” and
 30 inserting “25 years”;

31 (4) in subsection (b)(4), by striking “25 years” and
 32 inserting “30 years”; and

33 (5) in subsection (c)(1), by inserting after “United
 34 States” the following: “Government, a State, political sub-
 35 division of a State, a foreign government, political subdivi-
 36 sion of a foreign government, an international govern-



1 mental or an international quasi-governmental organiza-
2 tion,”.

3 **SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO**
4 **CITIZENSHIP.**

5 Section 1015 of title 18, United States Code, is
6 amended—

7 (1) by striking the dash at the end of subsection (f)
8 and inserting “; or”; and

9 (2) by inserting after subsection (f) the following:

10 “(g) Whoever knowingly makes any false statement or
11 claim that he is a citizen of the United States in order to enter
12 into, or remain in, the United States—”.

13 **SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF**
14 **THE DEPARTMENT OF STATE.**

15 (a) **LIMITATION.**—Notwithstanding any other provision of
16 law, the Secretary of State shall ensure, subject to subsection
17 (b), that the Antiterrorism Assistance Training (ATA) program
18 of the Department of State (or any successor or related pro-
19 gram) under chapter 8 of part II of the Foreign Assistance Act
20 of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provi-
21 sions of law) is carried out primarily to provide training to host
22 nation security services for the specific purpose of ensuring the
23 physical security and safety of United States Government facili-
24 ties and personnel abroad (as well as foreign dignitaries and
25 training related to the protection of such dignitaries), including
26 security detail training and offenses related to passport or visa
27 fraud.

28 (b) **EXCEPTION.**—The limitation contained in subsection
29 (a) shall not apply, and the Secretary of State may expand the
30 ATA program to include other types of antiterrorism assistance
31 training, if the Secretary first consults with the Attorney Gen-
32 eral and provides written notification of such proposed expan-
33 sion to the appropriate congressional committees.

34 (c) **DEFINITION.**—In this section, the term “appropriate
35 congressional committees” means—



1 (1) the Committee on International Relations and the
2 Committee on the Judiciary of the House of Representa-
3 tives; and

4 (2) the Committee on Foreign Relations and the Com-
5 mittee on the Judiciary of the Senate.

6 **SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK**
7 **AND CURTAIL TERRORIST TRAVEL**
8 **THROUGH THE USE OF FRAUDULENTLY OB-**
9 **TAINED DOCUMENTS.**

10 (a) FINDINGS.—Congress finds the following:

11 (1) International terrorists travel across international
12 borders to raise funds, recruit members, train for oper-
13 ations, escape capture, communicate, and plan and carry
14 out attacks.

15 (2) The international terrorists who planned and car-
16 ried out the attack on the World Trade Center on February
17 26, 1993, the attack on the embassies of the United States
18 in Kenya and Tanzania on August 7, 1998, the attack on
19 the USS Cole on October 12, 2000, and the attack on the
20 World Trade Center and the Pentagon on September 11,
21 2001, traveled across international borders to plan and
22 carry out these attacks.

23 (3) The international terrorists who planned other at-
24 tacks on the United States, including the plot to bomb New
25 York City landmarks in 1993, the plot to bomb the New
26 York City subway in 1997, and the millennium plot to
27 bomb Los Angeles International Airport on December 31,
28 1999, traveled across international borders to plan and
29 carry out these attacks.

30 (4) Many of the international terrorists who planned
31 and carried out large-scale attacks against foreign targets,
32 including the attack in Bali, Indonesia, on October 11,
33 2002, and the attack in Madrid, Spain, on March 11,
34 2004, traveled across international borders to plan and
35 carry out these attacks.

36 (5) Throughout the 1990s, international terrorists, in-
37 cluding those involved in the attack on the World Trade



1 Center on February 26, 1993, the plot to bomb New York
2 City landmarks in 1993, and the millennium plot to bomb
3 Los Angeles International Airport on December 31, 1999,
4 traveled on fraudulent passports and often had more than
5 one passport.

6 (6) Two of the September 11, 2001, hijackers were
7 carrying passports that had been manipulated in a fraudu-
8 lent manner and several other hijackers whose passports
9 did not survive the attacks on the World Trade Center and
10 Pentagon were likely to have carried passports that were
11 similarly manipulated.

12 (7) The National Commission on Terrorist Attacks
13 upon the United States, (commonly referred to as the 9/
14 11 Commission), stated that “Targeting travel is at least
15 as powerful a weapon against terrorists as targeting their
16 money.”.

17 (b) INTERNATIONAL AGREEMENTS TO TRACK AND CUR-
18 TAIL TERRORIST TRAVEL.—

19 (1) INTERNATIONAL AGREEMENT ON LOST, STOLEN,
20 OR FALSIFIED DOCUMENTS.—The President shall lead ef-
21 forts to track and curtail the travel of terrorists by sup-
22 porting the drafting, adoption, and implementation of inter-
23 national agreements, and by supporting the expansion of
24 existing international agreements, to track and stop inter-
25 national travel by terrorists and other criminals through
26 the use of lost, stolen, or falsified documents to augment
27 existing United Nations and other international anti-ter-
28 rorism efforts.

29 (2) CONTENTS OF INTERNATIONAL AGREEMENT.—The
30 President shall seek, in the appropriate fora, the drafting,
31 adoption, and implementation of an effective international
32 agreement requiring—

33 (A) the establishment of a system to share infor-
34 mation on lost, stolen, and fraudulent passports and
35 other travel documents for the purposes of preventing
36 the undetected travel of persons using such passports



1 **SEC. 3089. INTERNATIONAL STANDARDS FOR TRANS-**
2 **LATION OF NAMES INTO THE ROMAN ALPHA-**
3 **BET FOR INTERNATIONAL TRAVEL DOCU-**
4 **MENTS AND NAME-BASED WATCHLIST SYS-**
5 **TEMS.**

6 (a) FINDINGS.—Congress finds that—

7 (1) the current lack of a single convention for trans-
8 lating Arabic names enabled some of the 19 hijackers of
9 aircraft used in the terrorist attacks against the United
10 States that occurred on September 11, 2001, to vary the
11 spelling of their names to defeat name-based terrorist
12 watchlist systems and to make more difficult any potential
13 efforts to locate them; and

14 (2) although the development and utilization of ter-
15 rorist watchlist systems using biometric identifiers will be
16 helpful, the full development and utilization of such sys-
17 tems will take several years, and name-based terrorist
18 watchlist systems will always be useful.

19 (b) SENSE OF CONGRESS.—It is the sense of Congress
20 that the President should seek to enter into an international
21 agreement to modernize and improve standards for the trans-
22 lation of names into the Roman alphabet in order to ensure one
23 common spelling for such names for international travel docu-
24 ments and name-based watchlist systems.

25 **SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

26 (a) FINDINGS.—Consistent with the report of the National
27 Commission on Terrorist Attacks Upon the United States, Con-
28 gress finds that completing a biometric entry and exit data sys-
29 tem as expeditiously as possible is an essential investment in
30 efforts to protect the United States by preventing the entry of
31 terrorists.

32 (b) PLAN AND REPORT.—

33 (1) DEVELOPMENT OF PLAN.—The Secretary of
34 Homeland Security shall develop a plan to accelerate the
35 full implementation of an automated biometric entry and
36 exit data system required by applicable sections of—



1 (III) programs or policies planned or im-
2 plemented to correct problems identified in sub-
3 clause (I) or (II); and

4 (v) an assessment of the effectiveness of the
5 entry and exit data system in fulfilling its intended
6 purposes, including preventing terrorists from en-
7 tering the United States;

8 (B) a description of factors relevant to the acceler-
9 ated implementation of the biometric entry and exit
10 system, including—

11 (i) the earliest date on which the Secretary es-
12 timates that full implementation of the biometric
13 entry and exit data system can be completed;

14 (ii) the actions the Secretary will take to accel-
15 erate the full implementation of the biometric entry
16 and exit data system at all ports of entry through
17 which all aliens must pass that are legally required
18 to do so; and

19 (iii) the resources and authorities required to
20 enable the Secretary to meet the implementation
21 date described in clause (i);

22 (C) a description of any improvements needed in
23 the information technology employed for the entry and
24 exit data system; and

25 (D) a description of plans for improved or added
26 interoperability with any other databases or data sys-
27 tems.

28 (c) INTEGRATION REQUIREMENT.—Not later than 2 years
29 after the date of the enactment of this Act, the Secretary shall
30 integrate the biometric entry and exit data system with all
31 databases and data systems maintained by the United States
32 Citizenship and Immigration Services that process or contain
33 information on aliens.

34 (d) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY
35 AND EXIT DATA SYSTEM.—

36 (1) IN GENERAL.—The Secretary, in consultation with
37 other appropriate agencies, shall establish rules, guidelines,



1 (B) INTEGRATION.—The registered traveler pro-
2 gram developed under this paragraph shall be inte-
3 grated into the automated biometric entry and exit
4 data system described in this section.

5 (C) REVIEW AND EVALUATION.—In developing the
6 program under this paragraph, the Secretary shall—

7 (i) review existing programs or pilot projects
8 designed to expedite the travel of registered trav-
9 elers across the borders of the United States;

10 (ii) evaluate the effectiveness of the programs
11 described in clause (i), the costs associated with
12 such programs, and the costs to travelers to join
13 such programs; and

14 (iii) increase research and development efforts
15 to accelerate the development and implementation
16 of a single registered traveler program.

17 (4) REPORT.—Not later than 1 year after the date of
18 the enactment of this Act, the Secretary shall submit to the
19 Congress a report describing the Department’s progress on
20 the development and implementation of the plan required
21 by this subsection.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—There are au-
23 thorized to be appropriated to the Secretary, for each of the
24 fiscal years 2005 through 2009, such sums as may be nec-
25 essary to carry out the provisions of this section.

26 **SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COOR-**
27 **DINATOR FOR COUNTERTERRORISM.**

28 (a) DECLARATION OF UNITED STATES POLICY.—Congress
29 declares that it shall be the policy of the United States to—

30 (1) make combating terrorist travel and those who as-
31 sist them a priority for the United States counterterrorism
32 policy; and

33 (2) ensure that the information relating to individuals
34 who help facilitate terrorist travel by creating false pass-
35 ports, visas, documents used to obtain such travel docu-
36 ments, and other documents are fully shared within the
37 United States Government and, to the extent possible, with



1 and from foreign governments, in order to initiate United
2 States and foreign prosecutions of such individuals.

3 (b) AMENDMENT.—Section 1(e)(2) of the State Depart-
4 ment Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2))
5 is amended by adding at the end the following:

6 “(C) ADDITIONAL DUTIES RELATING TO TER-
7 RORIST TRAVEL.—In addition to the principal duties of
8 the Coordinator described in subparagraph (B), the Co-
9 ordinator shall analyze methods used by terrorists to
10 travel internationally, develop policies with respect to
11 curtailing terrorist travel, and coordinate such policies
12 with the appropriate bureaus and other entities of the
13 Department of State, other United States Government
14 agencies, the Human Trafficking and Smuggling Cen-
15 ter, and foreign governments.”.

16 **SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND**
17 **PASSPORT SECURITY IN THE DEPARTMENT**
18 **OF STATE.**

19 (a) ESTABLISHMENT.—There is established within the Bu-
20 reau of Diplomatic Security of the Department of State an Of-
21 fice of Visa and Passport Security (in this section referred to
22 as the “Office”).

23 (b) HEAD OF OFFICE.—

24 (1) IN GENERAL.—Notwithstanding any other provi-
25 sion of law, the head of the Office shall be an individual
26 who shall have the rank and status of Deputy Assistant
27 Secretary of State for Diplomatic Security (in this section
28 referred to as the “Deputy Assistant Secretary”).

29 (2) RECRUITMENT.—The Under Secretary of State for
30 Management shall chose the Deputy Assistant Secretary
31 from among individuals who are Diplomatic Security
32 Agents.

33 (3) QUALIFICATIONS.—The Diplomatic Security Agent
34 chosen to serve as the Deputy Assistant Secretary shall
35 have expertise and experience in investigating and pros-
36 ecuting visa and passport fraud.

37 (c) DUTIES.—



1 uments used to obtain such passports and visas, and
2 other types of travel documents.

3 (D) INSPECTION OF APPLICATIONS.—Randomly
4 inspect visa and passport applications for accuracy, ef-
5 ficiency, and fraud, especially at high terrorist threat
6 posts, in order to prevent a recurrence of the issuance
7 of visas to those who submit incomplete, fraudulent, or
8 otherwise irregular or incomplete applications.

9 (3) REPORT.—Not later than 90 days after the date
10 of the enactment of this Act, the Deputy Assistant Sec-
11 retary shall submit to Congress a report containing—

12 (A) a description of the strategic plan prepared
13 under paragraph (1); and

14 (B) an evaluation of the feasibility of establishing
15 civil service positions in field offices of the Bureau of
16 Diplomatic Security to investigate visa and passport
17 fraud, including an evaluation of whether to allow dip-
18 lomatic security agents to convert to civil service offi-
19 cers to fill such positions.

20 **Subtitle D—Terrorist Travel**

21 **SEC. 3101. INFORMATION SHARING AND COORDINA-** 22 **TION.**

23 The Secretary of Homeland Security shall establish a
24 mechanism to—

25 (1) ensure the coordination and dissemination of ter-
26 rorist travel intelligence and operational information among
27 the appropriate agencies within the Department of Home-
28 land Security, including the Bureau of Customs and Border
29 Protection, the Bureau of Immigration and Customs En-
30 forcement, the Bureau of Citizenship and Immigration
31 Services, the Transportation Security Administration, the
32 Coast Guard, and other agencies as directed by the Sec-
33 retary; and

34 (2) ensure the sharing of terrorist travel intelligence
35 and operational information with the Department of State,
36 the National Counterterrorism Center, and other appro-
37 priate Federal agencies.



1 **SEC. 3102. TERRORIST TRAVEL PROGRAM.**

2 The Secretary of Homeland Security shall establish a pro-
3 gram to—

4 (1) analyze and utilize information and intelligence re-
5 garding terrorist travel tactics, patterns, trends, and prac-
6 tices; and

7 (2) disseminate that information to all front-line De-
8 partment of Homeland Security personnel who are at ports
9 of entry or between ports of entry, to immigration benefits
10 offices, and, in coordination with the Secretary of State, to
11 appropriate individuals at United States embassies and
12 consulates.

13 **SEC. 3103. TRAINING PROGRAM.**

14 (a) REVIEW, EVALUATION, AND REVISION OF EXISTING
15 TRAINING PROGRAMS.—The Secretary of Homeland Security
16 shall—

17 (1) review and evaluate the training currently provided
18 to Department of Homeland Security personnel and, in
19 consultation with the Secretary of State, relevant Depart-
20 ment of State personnel with respect to travel and identity
21 documents, and techniques, patterns, and trends associated
22 with terrorist travel; and

23 (2) develop and implement a revised training program
24 for border, immigration, and consular officials in order to
25 teach such officials how to effectively detect, intercept, and
26 disrupt terrorist travel.

27 (b) REQUIRED TOPICS OF REVISED PROGRAMS.—The
28 training program developed under subsection (a)(2) shall in-
29 clude training in the following areas:

30 (1) Methods for identifying fraudulent and genuine
31 travel documents.

32 (2) Methods for detecting terrorist indicators on travel
33 documents and other relevant identity documents.

34 (3) Recognizing travel patterns, tactics, and behaviors
35 exhibited by terrorists.



1 (4) Effectively utilizing information contained in data-
2 bases and data systems available to the Department of
3 Homeland Security.

4 (5) Other topics determined to be appropriate by the
5 Secretary of Homeland Security in consultation with the
6 Secretary of State or the National Intelligence Director.

7 **SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINA-**
8 **TION PLAN.**

9 (a) **PLAN REQUIRED.**—Not later than 180 days after the
10 date of the enactment of this Act, the Secretary of Homeland
11 Security, in consultation with the Secretary of State, shall sub-
12 mit to the Congress a plan to ensure that the Department of
13 Homeland Security and the Department of State acquire and
14 deploy, to all consulates, ports of entry, and immigration bene-
15 fits offices, technologies that facilitate document authentication
16 and the detection of potential terrorist indicators on travel doc-
17 uments.

18 (b) **INTEROPERABILITY REQUIREMENT.**—To the extent
19 possible, technologies to be acquired and deployed under the
20 plan shall be compatible with current systems used by the De-
21 partment of Homeland Security to detect and identify fraudu-
22 lent documents and genuine documents.

23 (c) **PASSPORT SCREENING.**—The plan shall address the
24 feasibility of using such technologies to screen passports sub-
25 mitted for identification purposes to a United States consular,
26 border, or immigration official.

27 **Subtitle E—Maritime Security**
28 **Requirements**

29 **SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-**
30 **TIME SECURITY REQUIREMENTS.**

31 (a) **NATIONAL MARITIME TRANSPORTATION SECURITY**
32 **PLAN.**—Section 70103(a) of the 46, United States Code, is
33 amended by striking “The Secretary” and inserting “Not later
34 than December 31, 2004, the Secretary”.

35 (b) **FACILITY AND VESSEL VULNERABILITY ASSESS-**
36 **MENTS.**—Section 70102(b)(1) of the 46, United States Code,



1 is amended by striking “, the Secretary” and inserting “and by
2 not later than December 31, 2004, the Secretary”.

3 (c) TRANSPORTATION SECURITY CARD REGULATIONS.—
4 Section 70105(a) of the 46, United States Code, is amended
5 by striking “The Secretary” and inserting “Not later than De-
6 cember 31, 2004, the Secretary”.

7 **TITLE IV—INTERNATIONAL CO-**
8 **OPERATION AND COORDINATION**
9 **Subtitle A—Attack Terrorists and**
10 **Their Organizations**

11 **CHAPTER 1—PROVISIONS RELATING TO**
12 **TERRORIST SANCTUARIES**

13 **SEC. 4001. UNITED STATES POLICY ON TERRORIST**
14 **SANCTUARIES.**

15 It is the sense of Congress that it should be the policy of
16 the United States—

17 (1) to identify and prioritize foreign countries that are
18 or that could be used as terrorist sanctuaries;

19 (2) to assess current United States resources being
20 provided to such foreign countries;

21 (3) to develop and implement a coordinated strategy
22 to prevent terrorists from using such foreign countries as
23 sanctuaries; and

24 (4) to work in bilateral and multilateral fora to pre-
25 vent foreign countries from being used as terrorist sanc-
26 tuaries.

27 **SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

28 (a) INITIAL REPORT.—

29 (1) IN GENERAL.—Not later than 90 days after the
30 date of the enactment of this Act, the President shall
31 transmit to Congress a report that describes a strategy for
32 addressing and, where possible, eliminating terrorist sanc-
33 tuaries.

34 (2) CONTENT.—The report required under this sub-
35 section shall include the following:



1 (A) A list that prioritizes each actual and potential
2 terrorist sanctuary and a description of activities in the
3 actual and potential sanctuaries.

4 (B) An outline of strategies for preventing the use
5 of, disrupting, or ending the use of such sanctuaries.

6 (C) A detailed description of efforts, including an
7 assessment of successes and setbacks, by the United
8 States to work with other countries in bilateral and
9 multilateral fora to address or eliminate each actual or
10 potential terrorist sanctuary and disrupt or eliminate
11 the security provided to terrorists by each such sanc-
12 tuary.

13 (D) A description of long-term goals and actions
14 designed to reduce the conditions that allow the forma-
15 tion of terrorist sanctuaries.

16 (b) SUBSEQUENT REPORTS.—

17 (1) REQUIREMENT OF REPORTS.—Section 140(a)(1)
18 of the Foreign Relations Authorization Act, Fiscal Years
19 1988 and 1989 (22 U.S.C. 2656f(a)(1)) is amended—

20 (A) by striking “(1)” and inserting “(1)(A)”;

21 (B) by redesignating subparagraphs (A) through
22 (C) as clauses (i) through (iii), respectively;

23 (C) in subparagraph (A)(iii) (as redesignated), by
24 adding “and” at the end; and

25 (D) by adding at the end the following:

26 “(B) detailed assessments with respect to each foreign
27 country whose territory is being used or could potentially
28 be used as a sanctuary for terrorists or terrorist organiza-
29 tions;”.

30 (2) PROVISIONS TO BE INCLUDED IN REPORT.—Sec-
31 tion 140(b) of such Act (22 U.S.C. 2656f(b)) is amended—

32 (A) in paragraph (1)—

33 (i) in the matter preceding subparagraph (A),
34 by striking “subsection (a)(1)” and inserting “sub-
35 section (a)(1)(A)”;

36 (ii) by striking “and” at the end;



1 (B) by redesignating paragraph (2) as paragraph
2 (3);

3 (C) by inserting after paragraph (1) the following:
4 “(2) with respect to subsection (a)(1)(B)—

5 “(A) the extent of knowledge by the government of
6 the country with respect to terrorist activities in the
7 territory of the country; and

8 “(B) the actions by the country—

9 “(i) to eliminate each terrorist sanctuary in
10 the territory of the country;

11 “(ii) to cooperate with United States
12 antiterrorism efforts; and

13 “(iii) to prevent the proliferation of and traf-
14 ficking in weapons of mass destruction in and
15 through the territory of the country;”;

16 (D) by striking the period at the end of paragraph
17 (3) (as redesignated) and inserting a semicolon; and

18 (E) by inserting after paragraph (3) (as redesi-
19 gnated) the following:

20 “(4) a strategy for addressing and, where possible,
21 eliminating terrorist sanctuaries that shall include—

22 “(A) a description of actual and potential terrorist
23 sanctuaries, together with an assessment of the prior-
24 ities of addressing and eliminating such sanctuaries;

25 “(B) an outline of strategies for disrupting or
26 eliminating the security provided to terrorists by such
27 sanctuaries;

28 “(C) a description of efforts by the United States
29 to work with other countries in bilateral and multilat-
30 eral fora to address or eliminate actual or potential ter-
31 rorist sanctuaries and disrupt or eliminate the security
32 provided to terrorists by such sanctuaries; and

33 “(D) a description of long-term goals and actions
34 designed to reduce the conditions that allow the forma-
35 tion of terrorist sanctuaries;

36 “(5) an update of the information contained in the re-
37 port required to be transmitted to Congress pursuant to



1 section 4002(a)(2) of the 9/11 Recommendations Imple-
2 mentation Act;

3 “(6) to the extent practicable, complete statistical in-
4 formation on the number of individuals, including United
5 States citizens and dual nationals, killed, injured, or kid-
6 napped by each terrorist group during the preceding cal-
7 endar year; and

8 “(7) an analysis, as appropriate, relating to trends in
9 international terrorism, including changes in technology
10 used, methods and targets of attacks, demographic infor-
11 mation on terrorists, and other appropriate information.”.

12 (3) DEFINITIONS.—Section 140(d) of such Act (22
13 U.S.C. 2656f(d)) is amended—

14 (A) in paragraph (2), by striking “and” at the
15 end;

16 (B) in paragraph (3), by striking the period at the
17 end and inserting a semicolon; and

18 (C) by adding at the end the following:

19 “(4) the term ‘territory’ and ‘territory of the country’
20 means the land, waters, and airspace of the country; and

21 “(5) the term ‘terrorist sanctuary’ or ‘sanctuary’
22 means an area in the territory of a country that is used
23 by a terrorist group with the express or implied consent of
24 the government of the country—

25 “(A) to carry out terrorist activities, including
26 training, fundraising, financing, recruitment, and edu-
27 cation activities; or

28 “(B) to provide transit through the country.”.

29 (4) EFFECTIVE DATE.—The amendments made by
30 paragraphs (1), (2), and (3) apply with respect to the re-
31 port required to be transmitted under section 140 of the
32 Foreign Relations Authorization Act, Fiscal Years 1988
33 and 1989, by April 30, 2006, and by April 30 of each sub-
34 sequent year.



1 **SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE**
2 **TERRORIST SANCTUARIES.**

3 (a) AMENDMENTS.—Section 6(j) of the Export Adminis-
4 tration Act of 1979 (50 U.S.C. App. 2405(j)) is amended—

5 (1) in paragraph (1)—

6 (A) by redesignating subparagraph (B) as sub-
7 paragraph (C); and

8 (B) by inserting after subparagraph (A) the fol-
9 lowing:

10 “(B) Any part of the territory of the country is being
11 used as a sanctuary for terrorists or terrorist organiza-
12 tions.”;

13 (2) in paragraph (3), by striking “paragraph (1)(A)”
14 and inserting “subparagraph (A) or (B) of paragraph (1)”;

15 (3) by redesignating paragraph (5) as paragraph (6);

16 (4) by inserting after paragraph (4) the following:

17 “(5) A determination made by the Secretary of State
18 under paragraph (1)(B) may not be rescinded unless the Presi-
19 dent submits to the Speaker of the House of Representatives
20 and the chairman of the Committee on Banking, Housing, and
21 Urban Affairs and the chairman of the Committee on Foreign
22 Relations of the Senate before the proposed rescission would
23 take effect a report certifying that the government of the coun-
24 try concerned —

25 “(A) is taking concrete, verifiable steps to eliminate
26 each terrorist sanctuary in the territory of the country;

27 “(B) is cooperating with United States antiterrorism
28 efforts; and

29 “(C) is taking all appropriate actions to prevent the
30 proliferation of and trafficking in weapons of mass destruc-
31 tion in and through the territory of the country.”; and

32 (5) by inserting after paragraph (6) (as redesignated)
33 the following:

34 “(7) In this subsection—

35 “(A) the term ‘territory of the country’ means the
36 land, waters, and airspace of the country; and



1 “(B) the term ‘terrorist sanctuary’ or ‘sanctuary’
2 means an area in the territory of a country that is used
3 by a terrorist group with the express or implied consent of
4 the government of the country—

5 “(i) to carry out terrorist activities, including
6 training, fundraising, financing, recruitment, and edu-
7 cation activities; or

8 “(ii) to provide transit through the country.”.

9 (b) IMPLEMENTATION.—The President shall implement
10 the amendments made by subsection (a) by exercising the au-
11 thorities the President has under the International Emergency
12 Economic Powers Act (50 U.S.C. 1701 et seq.).

13 **CHAPTER 2—OTHER PROVISIONS**

14 **SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS** 15 **CONTROL AND NONPROLIFERATION ADVI-** 16 **SORY BOARD.**

17 (a) REQUIREMENT.—Not later than December 31, 2004,
18 the Secretary of State shall appoint individuals to the Arms
19 Control and Nonproliferation Advisory Board to fill all vacan-
20 cies in the membership of the Board that exist on the date of
21 the enactment of this Act.

22 (b) CONSULTATION.—Appointments to the Board under
23 subsection (a) shall be made in consultation with the Com-
24 mittee on International Relations of the House of Representa-
25 tives and the Committee on Foreign Relations of the Senate.

26 **SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-** 27 **LIFERATION OF WEAPONS OF MASS DE-** 28 **STRUCTION AND CONTROL OF STRATEGIC** 29 **WEAPONS.**

30 (a) REVIEW.—

31 (1) IN GENERAL.—The Undersecretary of State for
32 Arms Control and International Security shall instruct the
33 Arms Control and Nonproliferation Advisory Board (in this
34 section referred to as the “Advisory Board”) to carry out
35 a review of existing policies of the United States relating
36 to the proliferation of weapons of mass destruction and the
37 control of strategic weapons.



1 (2) COMPONENTS.—The review required under this
2 subsection shall contain at a minimum the following:

3 (A) An identification of all major deficiencies in
4 existing United States policies relating to the prolifera-
5 tion of weapons of mass destruction and the control of
6 strategic weapons.

7 (B) Proposals that contain a range of options that
8 if implemented would adequately address any signifi-
9 cant threat deriving from the deficiencies in existing
10 United States policies described in subparagraph (A).

11 (b) REPORTS.—

12 (1) INTERIM REPORT.—Not later than June 15, 2005,
13 the Advisory Board shall prepare and submit to the Under-
14 secretary of State for Arms Control and International Se-
15 curity an interim report that contains the initial results of
16 the review carried out pursuant to subsection (a).

17 (2) FINAL REPORT.—Not later than December 1,
18 2005, the Advisory Board shall prepare and submit to the
19 Undersecretary of State for Arms Control and Inter-
20 national Security, and to the Committee on International
21 Relations of the House of Representatives and the Com-
22 mittee on Foreign Relations of the Senate, a final report
23 that contains the comprehensive results of the review car-
24 ried out pursuant to subsection (a).

25 (c) EXPERTS AND CONSULTANTS.— In carrying out this
26 section, the Advisory Board may procure temporary and inter-
27 mittent services of experts and consultants, including experts
28 and consultants from nongovernmental organizations, under
29 section 3109(b) of title 5, United States Code.

30 (d) FUNDING AND OTHER RESOURCES.—The Secretary of
31 State shall provide to the Advisory Board an appropriate
32 amount of funding and other resources to enable the Advisory
33 Board to carry out this section.

34 **SEC. 4013. INTERNATIONAL AGREEMENTS TO INTER-**
35 **DICT ACTS OF INTERNATIONAL TERRORISM.**

36 Section 1(e)(2) of the State Department Basic Authorities
37 Act of 1956 (22 U.S.C. 2651a(e)(2)), as amended by section



1 3091(b), is further amended by adding at the end the fol-
2 lowing:

3 “(D) ADDITIONAL DUTIES RELATING TO INTER-
4 NATIONAL AGREEMENTS TO INTERDICT ACTS OF
5 INTERNATIONAL TERRORISM.—

6 “(i) IN GENERAL.—In addition to the prin-
7 cipal duties of the Coordinator described in sub-
8 paragraph (B), the Coordinator, in consultation
9 with relevant United States Government agencies,
10 shall seek to negotiate on a bilateral basis inter-
11 national agreements under which parties to an
12 agreement work in partnership to address and
13 interdict acts of international terrorism.

14 “(ii) TERMS OF INTERNATIONAL AGREE-
15 MENT.—It is the sense of Congress that—

16 “(I) each party to an international agree-
17 ment referred to in clause (i)—

18 “(aa) should be in full compliance with
19 United Nations Security Council Resolution
20 1373 (September 28, 2001), other appro-
21 priate international agreements relating to
22 antiterrorism measures, and such other ap-
23 propriate criteria relating to antiterrorism
24 measures;

25 “(bb) should sign and adhere to a
26 ‘Counterterrorism Pledge’ and a list of
27 ‘Interdiction Principles’, to be determined
28 by the parties to the agreement;

29 “(cc) should identify assets and agree
30 to multilateral efforts that maximizes the
31 country’s strengths and resources to ad-
32 dress and interdict acts of international
33 terrorism or the financing of such acts;

34 “(dd) should agree to joint training
35 exercises among the other parties to the
36 agreement; and



1 “(ee) should agree to the negotiation
2 and implementation of other relevant inter-
3 national agreements and consensus-based
4 international standards; and

5 “(II) an international agreement referred
6 to in clause (i) should contain provisions that
7 require the parties to the agreement—

8 “(aa) to identify regions throughout
9 the world that are emerging terrorist
10 threats;

11 “(bb) to establish terrorism interdiction
12 centers in such regions and other re-
13 gions, as appropriate;

14 “(cc) to deploy terrorism prevention
15 teams to such regions, including United
16 States-led teams; and

17 “(dd) to integrate intelligence, mili-
18 tary, and law enforcement personnel from
19 countries that are parties to the agreement
20 in order to work directly with the regional
21 centers described in item (bb) and regional
22 teams described in item (cc).”.

23 **SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD**
24 **DETENTION AND HUMANE TREATMENT OF**
25 **CAPTURED TERRORISTS.**

26 It is the sense of Congress that the President should pur-
27 sue by all appropriate diplomatic means with countries that are
28 participating in the Coalition to fight terrorism the develop-
29 ment of an effective approach toward the detention and hu-
30 mane treatment of captured terrorists. The effective approach
31 referred to in this section may, as appropriate, draw on Article
32 3 of the Convention Relative to the Treatment of Prisoners of
33 War, done at Geneva on August 12, 1949 (6 UST 3316).

34 **SEC. 4015. SENSE OF CONGRESS AND REPORT REGARD-**
35 **ING COUNTER-DRUG EFFORTS IN AFGHANI-**
36 **STAN.**

37 (a) SENSE OF CONGRESS.—It is the sense of Congress
38 that—



1 (1) the President should make the substantial reduc-
2 tion of illegal drug production and trafficking in Afghani-
3 stan a priority in the Global War on Terrorism;

4 (2) the Secretary of Defense, in coordination with the
5 Secretary of State and the heads of other appropriate Fed-
6 eral agencies, should expand cooperation with the Govern-
7 ment of Afghanistan and international organizations in-
8 volved in counter-drug activities to assist in providing a se-
9 cure environment for counter-drug personnel in Afghani-
10 stan; and

11 (3) the United States, in conjunction with the Govern-
12 ment of Afghanistan and coalition partners, should under-
13 take additional efforts to reduce illegal drug trafficking and
14 related activities that provide financial support for terrorist
15 organizations in Afghanistan and neighboring countries.

16 (b) REPORT REQUIRED.—(1) The Secretary of Defense
17 and the Secretary of State shall jointly prepare a report that
18 describes—

19 (A) the progress made towards substantially reducing
20 poppy cultivation and heroin production capabilities in Af-
21 ghanistan; and

22 (B) the extent to which profits from illegal drug activ-
23 ity in Afghanistan are used to financially support terrorist
24 organizations and groups seeking to undermine the Govern-
25 ment of Afghanistan.

26 (2) The report required by this subsection shall be sub-
27 mitted to Congress not later than 120 days after the date of
28 the enactment of this Act.

29 **Subtitle B—Prevent the Continued**
30 **Growth of Terrorism**

31 **CHAPTER 1—UNITED STATES PUBLIC**
32 **DIPLOMACY**

33 **SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUB-**
34 **LIC DIPLOMACY STRATEGY.**

35 (a) IN GENERAL.—The Secretary of State, in coordination
36 with all appropriate Federal agencies, shall submit to the Com-
37 mittee on International Relations of the House of Representa-



1 tives and the Committee on Foreign Relations of the Senate an
2 annual assessment of the impact of public diplomacy efforts on
3 target audiences. Each assessment shall review the United
4 States public diplomacy strategy worldwide and by region, in-
5 cluding an examination of the allocation of resources and an
6 evaluation and assessment of the progress in, and barriers to,
7 achieving the goals set forth under previous plans submitted
8 under this section. Not later than March 15 of every year, the
9 Secretary shall submit the assessment required by this sub-
10 section.

11 (b) FURTHER ACTION.— On the basis of such review, the
12 Secretary, in coordination with all appropriate Federal agen-
13 cies, shall submit, as part of the annual budget submission, a
14 public diplomacy strategy plan which specifies goals, agency re-
15 sponsibilities, and necessary resources and mechanisms for
16 achieving such goals during the next fiscal year. The plan may
17 be submitted in classified form.

18 **SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

19 (a) STATEMENT OF POLICY.—It should be the policy of
20 the United States:

21 (1) The Foreign Service should recruit individuals
22 with expertise and professional experience in public diplo-
23 macy.

24 (2) United States chiefs of mission should have a
25 prominent role in the formulation of public diplomacy strat-
26 egies for the countries and regions to which they are as-
27 signed and should be accountable for the operation and
28 success of public diplomacy efforts at their posts.

29 (3) Initial and subsequent training of Foreign Service
30 officers should be enhanced to include information and
31 training on public diplomacy and the tools and technology
32 of mass communication.

33 (b) PERSONNEL.—

34 (1) QUALIFICATIONS.—In the recruitment, training,
35 and assignment of members of the Foreign Service, the
36 Secretary of State shall emphasize the importance of public
37 diplomacy and applicable skills and techniques. The Sec-



1 retary shall consider the priority recruitment into the For-
2 eign Service, at middle-level entry, of individuals with ex-
3 pertise and professional experience in public diplomacy,
4 mass communications, or journalism. The Secretary shall
5 give special consideration to individuals with language facil-
6 ity and experience in particular countries and regions.

7 (2) LANGUAGES OF SPECIAL INTEREST.—The Sec-
8 retary of State shall seek to increase the number of For-
9 eign Service officers proficient in languages spoken in pre-
10 dominantly Muslim countries. Such increase shall be ac-
11 complished through the recruitment of new officers and in-
12 centives for officers in service.

13 **SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUS-**
14 **LIM COUNTRIES.**

15 (a) DECLARATION OF POLICY.—Congress declares that the
16 United States should commit to a long-term and sustainable in-
17 vestment in promoting engagement with people of all levels of
18 society in countries with predominantly Muslim populations,
19 particularly with youth and those who influence youth. Such an
20 investment should make use of the talents and resources in the
21 private sector and should include programs to increase the
22 number of people who can be exposed to the United States and
23 its fundamental ideas and values in order to dispel misconcep-
24 tions. Such programs should include youth exchange programs,
25 young ambassadors programs, international visitor programs,
26 academic and cultural exchange programs, American Corner
27 programs, library programs, journalist exchange programs, sis-
28 ter city programs, and other programs related to people-to-peo-
29 ple diplomacy.

30 (b) SENSE OF CONGRESS.—It is the sense of Congress
31 that the United States should significantly increase its invest-
32 ment in the people-to-people programs described in subsection
33 (a).

34 **SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PRO-**
35 **MOTION IN FOREIGN SERVICE.**

36 (a) IN GENERAL.—Section 603(b) of the Foreign Service
37 Act of 1980 (22 U.S.C. 4003(b)) is amended by adding at the



1 end the following new sentences: “The precepts for such selec-
2 tion boards shall also consider whether the member of the Serv-
3 ice or the member of the Senior Foreign Service, as the case
4 may be, has served in at least one position in which the pri-
5 mary responsibility of such member was related to public diplo-
6 macy. A member may not be promoted into or within the Sen-
7 ior Foreign Service if such member has not served in at least
8 one such position.”.

9 (b) EFFECTIVE DATE.—The amendment made by sub-
10 section (a) shall take effect on January 1, 2009.

11 **CHAPTER 2—UNITED STATES MULTILATERAL**
12 **DIPLOMACY**

13 **SEC. 4031. PURPOSE.**

14 It is the purpose of this chapter to strengthen United
15 States leadership and effectiveness at international organiza-
16 tions and multilateral institutions.

17 **SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY**
18 **CAUCUS.**

19 (a) IN GENERAL.—The President, acting through the Sec-
20 retary of State and the relevant United States chiefs of mis-
21 sion, shall—

22 (1) continue to strongly support and seek to expand
23 the work of the democracy caucus at the United Nations
24 General Assembly and the United Nations Human Rights
25 Commission; and

26 (2) seek to establish a democracy caucus at the United
27 Nations Conference on Disarmament and at other broad-
28 based international organizations.

29 (b) PURPOSES OF THE CAUCUS.—A democracy caucus at
30 an international organization should—

31 (1) forge common positions, including, as appropriate,
32 at the ministerial level, on matters of concern before the or-
33 ganization and work within and across regional lines to
34 promote agreed positions;

35 (2) work to revise an increasingly outmoded system of
36 membership selection, regional voting, and decision making;
37 and



1 (3) establish a rotational leadership agreement to pro-
2 vide member countries an opportunity, for a set period of
3 time, to serve as the designated president of the caucus, re-
4 sponsible for serving as its voice in each organization.

5 **SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-**
6 **NATIONAL ORGANIZATIONS.**

7 (a) UNITED STATES POLICY.—The President, acting
8 through the Secretary of State and the relevant United States
9 chiefs of mission, shall use the voice, vote, and influence of the
10 United States to—

11 (1) where appropriate, reform the criteria for leader-
12 ship and, in appropriate cases, for membership, at all
13 United Nations bodies and at other international organiza-
14 tions and multilateral institutions to which the United
15 States is a member so as to exclude countries that violate
16 the principles of the specific organization;

17 (2) make it a policy of the United Nations and other
18 international organizations and multilateral institutions of
19 which the United States is a member that a member coun-
20 try may not stand in nomination for membership or in
21 nomination or in rotation for a leadership position in such
22 bodies if the member country is subject to sanctions im-
23 posed by the United Nations Security Council; and

24 (3) work to ensure that no member country stand in
25 nomination for membership, or in nomination or in rotation
26 for a leadership position in such organizations, or for mem-
27 bership on the United Nations Security Council, if the
28 member country is subject to a determination under section
29 6(j)(1)(A) of the Export Administration Act of 1979 (50
30 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign
31 Assistance Act of 1961 (22 U.S.C. 2371(a)), or section
32 40(d) of the Arms Export Control Act (22 U.S.C.
33 2780(d)).

34 (b) REPORT TO CONGRESS.—Not later than 15 days after
35 a country subject to a determination under one or more of the
36 provisions of law specified in subsection (a)(3) is selected for
37 membership or a leadership post in an international organiza-



1 tion of which the United States is a member or for membership
2 on the United Nations Security Council, the Secretary of State
3 shall submit to the Committee on International Relations of the
4 House of Representatives and the Committee on Foreign Rela-
5 tions of the Senate a report on any steps taken pursuant to
6 subsection (a)(3).

7 **SEC. 4034. INCREASED TRAINING IN MULTILATERAL DI-**
8 **PLOMACY.**

9 (a) TRAINING PROGRAMS.—Section 708 of the Foreign
10 Service Act of 1980 (22 U.S.C. 4028) is amended by adding
11 at the end the following new subsection:

12 “(e) TRAINING IN MULTILATERAL DIPLOMACY.—

13 “(1) IN GENERAL.—The Secretary shall establish a se-
14 ries of training courses for officers of the Service, including
15 appropriate chiefs of mission, on the conduct of diplomacy
16 at international organizations and other multilateral insti-
17 tutions and at broad-based multilateral negotiations of
18 international instruments.

19 “(2) PARTICULAR PROGRAMS.—The Secretary shall
20 ensure that the training described in paragraph (1) is pro-
21 vided at various stages of the career of members of the
22 service. In particular, the Secretary shall ensure that after
23 January 1, 2006—

24 “(A) officers of the Service receive training on the
25 conduct of diplomacy at international organizations and
26 other multilateral institutions and at broad-based mul-
27 tilateral negotiations of international instruments as
28 part of their training upon entry into the Service; and

29 “(B) officers of the Service, including chiefs of
30 mission, who are assigned to United States missions
31 representing the United States to international organi-
32 zations and other multilateral institutions or who are
33 assigned in Washington, D.C., to positions that have as
34 their primary responsibility formulation of policy to-
35 wards such organizations and institutions or towards
36 participation in broad-based multilateral negotiations of
37 international instruments, receive specialized training



1 in the areas described in paragraph (1) prior to begin-
2 ning of service for such assignment or, if receiving such
3 training at that time is not practical, within the first
4 year of beginning such assignment.”.

5 (b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The Sec-
6 retary shall ensure that employees of the Department of State
7 who are members of the civil service and who are assigned to
8 positions described in section 708(c) of the Foreign Service Act
9 of 1980 (as amended by subsection (a)) receive training de-
10 scribed in such section.

11 (c) CONFORMING AMENDMENTS.—Section 708 of such Act
12 is further amended—

13 (1) in subsection (a), by striking “(a) The” and insert-
14 ing “(a) TRAINING ON HUMAN RIGHTS.—The”; and

15 (2) in subsection (b), by striking “(b) The” and insert-
16 ing “(b) TRAINING ON REFUGEE LAW AND RELIGIOUS
17 PERSECUTION.—The”.

18 **SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF**
19 **OFFICE ON MULTILATERAL NEGOTIATIONS.**

20 (a) ESTABLISHMENT OF OFFICE.—The Secretary of State
21 is authorized to establish, within the Bureau of International
22 Organizational Affairs, an Office on Multilateral Negotiations
23 to be headed by a Special Representative for Multilateral Nego-
24 tiations (in this section referred to as the “Special Representa-
25 tive”).

26 (b) APPOINTMENT.—The Special Representative shall be
27 appointed by the President and shall have the rank of Amba-
28 sador-at-Large. At the discretion of the President another offi-
29 cial at the Department may serve as the Special Representa-
30 tive.

31 (c) STAFFING.—The Special Representative shall have a
32 staff of Foreign Service and civil service officers skilled in mul-
33 tilateral diplomacy.

34 (d) DUTIES.—The Special Representative shall have the
35 following responsibilities:

36 (1) IN GENERAL.—The primary responsibility of the
37 Special Representative shall be to assist in the organization



1 of, and preparation for, United States participation in mul-
2 tilateral negotiations, including advocacy efforts undertaken
3 by the Department of State and other United States Gov-
4 ernment agencies.

5 (2) CONSULTATIONS.—The Special Representative
6 shall consult with Congress, international organizations,
7 nongovernmental organizations, and the private sector on
8 matters affecting multilateral negotiations.

9 (3) ADVISORY ROLE.—The Special Representative
10 shall advise the Assistant Secretary for International Orga-
11 nizational Affairs and, as appropriate, the Secretary of
12 State, regarding advocacy at international organizations,
13 multilateral institutions, and negotiations, and shall make
14 recommendations regarding—

15 (A) effective strategies (and tactics) to achieve
16 United States policy objectives at multilateral negotia-
17 tions;

18 (B) the need for and timing of high level interven-
19 tion by the President, the Secretary of State, the Dep-
20 uty Secretary of State, and other United States offi-
21 cials to secure support from key foreign government of-
22 ficials for United States positions at such organiza-
23 tions, institutions, and negotiations; and

24 (C) the composition of United States delegations
25 to multilateral negotiations.

26 (4) ANNUAL DIPLOMATIC MISSIONS OF MULTILATERAL
27 ISSUES.—The Special Representative, in coordination with
28 the Assistant Secretary for International Organizational
29 Affairs, shall organize annual diplomatic missions to appro-
30 priate foreign countries to conduct consultations between
31 principal officers responsible for advising the Secretary of
32 State on international organizations and high-level rep-
33 resentatives of the governments of such foreign countries to
34 promote the United States agenda at the United Nations
35 General Assembly and other key international fora (such as
36 the United Nations Human Rights Commission).



1 (5) LEADERSHIP AND MEMBERSHIP OF INTER-
2 NATIONAL ORGANIZATIONS.—The Special Representative,
3 in coordination with the Assistant Secretary of Inter-
4 national Organizational Affairs, shall direct the efforts of
5 the United States to reform the criteria for leadership of
6 and membership in international organizations as described
7 in section 4033.

8 (6) PARTICIPATION IN MULTILATERAL NEGOTIA-
9 TIONS.—The Secretary of State may direct the Special
10 Representative to serve as a member of a United States
11 delegation to any multilateral negotiation.

12 **CHAPTER 3—OTHER PROVISIONS**

13 **SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO** 14 **AMERICAN-SPONSORED SCHOOLS IN PRE-** 15 **DOMINANTLY MUSLIM COUNTRIES TO PRO-** 16 **VIDE SCHOLARSHIPS.**

17 (a) FINDINGS.—Congress finds the following:

18 (1) During the 2003–2004 school year, the Office of
19 Overseas Schools of the Department of State is financially
20 assisting 189 elementary and secondary schools in foreign
21 countries.

22 (2) American-sponsored elementary and secondary
23 schools are located in more than 20 countries with signifi-
24 cant Muslim populations in the Near East, Africa, South
25 Asia, Central Asia, and East Asia.

26 (3) American-sponsored elementary and secondary
27 schools provide an American-style education in English,
28 with curricula that typically include an emphasis on the de-
29 velopment of critical thinking and analytical skills.

30 (b) PURPOSE.—The United States has an interest in in-
31 creasing the level of financial support provided to American-
32 sponsored elementary and secondary schools in predominantly
33 Muslim countries, in order to—

34 (1) increase the number of students in such countries
35 who attend such schools;



1 (2) increase the number of young people who may
2 thereby gain at any early age an appreciation for the cul-
3 ture, society, and history of the United States; and

4 (3) increase the number of young people who may
5 thereby improve their proficiency in the English language.

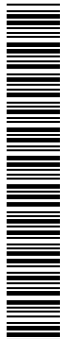
6 (c) PILOT PROGRAM AUTHORIZED.—The Secretary of
7 State, acting through the Director of the Office of Overseas
8 Schools of the Department of State, may conduct a pilot pro-
9 gram to make grants to American-sponsored elementary and
10 secondary schools in predominantly Muslim countries for the
11 purpose of providing full or partial merit-based scholarships to
12 students from lower- and middle-income families of such coun-
13 tries to attend such schools.

14 (d) DETERMINATION OF ELIGIBLE STUDENTS.—For pur-
15 poses of expending grant funds, an American-sponsored ele-
16 mentary and secondary school that receives a grant under sub-
17 section (c) is authorized to establish criteria to be implemented
18 by such school to determine what constitutes lower- and mid-
19 dle-income families in the country (or region of the country, if
20 regional variations in income levels in the country are signifi-
21 cant) in which such school is located.

22 (e) RESTRICTION ON USE OF FUNDS.—Amounts appro-
23 priated to the Secretary of State pursuant to the authorization
24 of appropriations in subsection (h) shall be used for the sole
25 purpose of making grants under this section, and may not be
26 used for the administration of the Office of Overseas Schools
27 of the Department of State or for any other activity of the Of-
28 fice.

29 (f) VOLUNTARY PARTICIPATION.—Nothing in this section
30 shall be construed to require participation in the pilot program
31 by an American-sponsored elementary or secondary school in a
32 predominantly Muslim country.

33 (g) REPORT.—Not later than April 15, 2006, the Sec-
34 retary shall submit to the Committee on International Rela-
35 tions of the House of Representatives and the Committee on
36 Foreign Relations of the Senate a report on the pilot program.
37 The report shall assess the success of the program, examine



1 any obstacles encountered in its implementation, and address
2 whether it should be continued, and if so, provide recommenda-
3 tions to increase its effectiveness.

4 (h) FUNDING.—There are authorized to be appropriated
5 to the Secretary of State such sums as may be necessary for
6 each of fiscal years 2005, 2006, and 2007 to carry out this sec-
7 tion.

8 **SEC. 4042. ENHANCING FREE AND INDEPENDENT**
9 **MEDIA.**

10 (a) FINDINGS.—Congress makes the following findings:

11 (1) Freedom of speech and freedom of the press are
12 fundamental human rights.

13 (2) The United States has a national interest in pro-
14 moting these freedoms by supporting free media abroad,
15 which is essential to the development of free and demo-
16 cratic societies consistent with our own.

17 (3) Free media is undermined, endangered, or non-
18 existent in many repressive and transitional societies
19 around the world, including in Eurasia, Africa, and the
20 Middle East.

21 (4) Individuals lacking access to a plurality of free
22 media are vulnerable to misinformation and propaganda
23 and are potentially more likely to adopt anti-American
24 views.

25 (5) Foreign governments have a responsibility to ac-
26 tively and publicly discourage and rebut unprofessional and
27 unethical media while respecting journalistic integrity and
28 editorial independence.

29 (b) STATEMENTS OF POLICY.—It shall be the policy of the
30 United States, acting through the Secretary of State, to—

31 (1) ensure that the promotion of press freedoms and
32 free media worldwide is a priority of United States foreign
33 policy and an integral component of United States public
34 diplomacy;

35 (2) respect the journalistic integrity and editorial inde-
36 pendence of free media worldwide; and



1 (3) ensure that widely accepted standards for profes-
2 sional and ethical journalistic and editorial practices are
3 employed when assessing international media.

4 (c) GRANTS TO PRIVATE SECTOR GROUP TO ESTABLISH
5 MEDIA NETWORK.—

6 (1) IN GENERAL.—Grants made available to the Na-
7 tional Endowment for Democracy (NED) pursuant to para-
8 graph (3) shall be used by NED to provide funding to a
9 private sector group to establish and manage a free and
10 independent media network in accordance with paragraph
11 (2).

12 (2) PURPOSE.—The purpose of the network shall be to
13 provide an effective forum to convene a broad range of in-
14 dividuals, organizations, and governmental participants in-
15 volved in journalistic activities and the development of free
16 and independent media to—

17 (A) fund a clearinghouse to collect and share in-
18 formation concerning international media development
19 and training;

20 (B) improve research in the field of media assist-
21 ance and program evaluation to better inform decisions
22 regarding funding and program design for government
23 and private donors;

24 (C) explore the most appropriate use of existing
25 means to more effectively encourage the involvement of
26 the private sector in the field of media assistance; and

27 (D) identify effective methods for the development
28 of a free and independent media in societies in transi-
29 tion.

30 (3) FUNDING.—For grants made by the Department
31 of State to NED as authorized by the National Endowment
32 for Democracy Act (Pub. L. 98–164, 97 Stat. 1039), there
33 are authorized to be appropriated to the Secretary of State
34 such sums as may be necessary for each of fiscal years
35 2005, 2006, and 2007 to carry out this section.



1 **SEC. 4043. COMBATING BIASED OR FALSE FOREIGN**
2 **MEDIA COVERAGE OF THE UNITED STATES.**

3 (a) FINDINGS.—Congress finds the following:

4 (1) Biased or false media coverage of the United
5 States and its allies is a significant factor encouraging ter-
6 rorist acts against the people of the United States.

7 (2) Public diplomacy efforts designed to encourage an
8 accurate understanding of the people of the United States
9 and the policies of the United States are unlikely to suc-
10 ceed if foreign publics are subjected to unrelenting biased
11 or false local media coverage of the United States.

12 (3) Where freedom of the press exists in foreign coun-
13 tries the United States can combat biased or false media
14 coverage by responding in the foreign media or by commu-
15 nicating directly to foreign publics in such countries.

16 (4) Foreign governments which encourage biased or
17 false media coverage of the United States bear a significant
18 degree of responsibility for creating a climate within which
19 terrorism can flourish. Such governments are responsible
20 for encouraging biased or false media coverage if they—

21 (A) issue direct or indirect instructions to the
22 media to publish biased or false information regarding
23 the United States;

24 (B) make deliberately biased or false charges ex-
25 pecting that such charges will be disseminated; or

26 (C) so severely constrain the ability of the media
27 to express criticism of any such government that one
28 of the few means of political expression available is
29 criticism of the United States.

30 (b) STATEMENTS OF POLICY.—

31 (1) FOREIGN GOVERNMENTS.—It shall be the policy of
32 the United States to regard foreign governments as know-
33 ingly engaged in unfriendly acts toward the United States
34 if such governments—

35 (A) instruct their state-owned or influenced media
36 to include content that is anti-American or prejudicial



1 to the foreign and security policies of the United
2 States; or

3 (B) make deliberately false charges regarding the
4 United States or permit false or biased charges against
5 the United States to be made while constraining nor-
6 mal political discourse.

7 (2) SEEKING MEDIA ACCESS; RESPONDING TO FALSE
8 CHARGES.—It shall be the policy of the United States to—

9 (A) seek access to the media in foreign countries
10 on terms no less favorable than those afforded any
11 other foreign entity or on terms available to the foreign
12 country in the United States; and

13 (B) combat biased or false media coverage in for-
14 eign countries of the United States and its allies by re-
15 sponding in the foreign media or by communicating di-
16 rectly to foreign publics.

17 (c) RESPONSIBILITIES REGARDING BIASED OR FALSE
18 MEDIA COVERAGE.—

19 (1) SECRETARY OF STATE.—The Secretary of State
20 shall instruct chiefs of mission to report on and combat bi-
21 ased or false media coverage originating in or received in
22 foreign countries to which such chiefs are posted. Based on
23 such reports and other information available to the Sec-
24 retary, the Secretary shall prioritize efforts to combat such
25 media coverage, giving special attention to audiences where
26 fostering popular opposition to terrorism is most important
27 and such media coverage is most prevalent.

28 (2) CHIEFS OF MISSION.—Chiefs of mission shall have
29 the following responsibilities:

30 (A) Chiefs of mission shall give strong priority to
31 combatting biased or false media reports in foreign
32 countries to which such chiefs are posted regarding the
33 United States.

34 (B) Chiefs of mission posted to foreign countries
35 in which freedom of the press exists shall inform the
36 governments of such countries of the policies of the
37 United States regarding biased or false media coverage



1 of the United States, and shall make strong efforts to
2 persuade such governments to change policies that en-
3 courage such media coverage.

4 (d) REPORTS.—Not later than 120 days after the date of
5 the enactment of this Act and at least annually thereafter until
6 January 1, 2015, the Secretary shall submit to the Committee
7 on International Relations of the House of Representatives and
8 the Committee on Foreign Relations of the Senate a report re-
9 garding the major themes of biased or false media coverage of
10 the United States in foreign countries, the actions taken to per-
11 suade foreign governments to change policies that encourage
12 such media coverage (and the results of such actions), and any
13 other actions taken to combat such media coverage in foreign
14 countries.

15 **SEC. 4044. REPORT ON BROADCAST OUTREACH STRAT-**
16 **EGY.**

17 (a) REPORT.—Not later than 180 days after the date of
18 the enactment of this Act, the President shall transmit to the
19 Committee on International Relations of the House of Rep-
20 resentatives and the Committee on Foreign Relations of the
21 Senate a report on the strategy of the United States to expand
22 its outreach to foreign Muslim audiences through broadcast
23 media.

24 (b) CONTENT.—The report required under subsection (a)
25 shall contain the following:

26 (1) An assessment of the Broadcasting Board of Gov-
27 ernors and the public diplomacy activities of the Depart-
28 ment of State with respect to outreach to foreign Muslim
29 audiences through broadcast media.

30 (2) An outline of recommended actions that the
31 United States should take to more regularly and com-
32 prehensively present a United States point of view through
33 indigenous broadcast media in countries with sizeable Mus-
34 lim populations, including increasing appearances by
35 United States Government officials, experts, and citizens.

36 (3) An assessment of potential incentives for, and
37 costs associated with, encouraging United States broad-



1 casters to dub or subtitle into Arabic and other relevant
2 languages their news and public affairs programs broadcast
3 in Muslim countries in order to present those programs to
4 a much broader Muslim audience than is currently reached.

5 (4) An assessment of providing a training program in
6 media and press affairs for members of the Foreign Serv-
7 ice.

8 **SEC. 4045. OFFICE RELOCATION.**

9 As soon as practicable after the date of the enactment of
10 this Act, the Secretary of State shall take such actions as are
11 necessary to consolidate within the Harry S. Truman Building
12 all offices of the Department of State that are responsible for
13 the conduct of public diplomacy, including the Bureau of Edu-
14 cational and Cultural Affairs.

15 **SEC. 4046. STRENGTHENING THE COMMUNITY OF DE-**
16 **MOCRACIES FOR MUSLIM COUNTRIES.**

17 (a) SENSE OF CONGRESS.—It is the sense of Congress
18 that the United States—

19 (1) should work with the Community of Democracies
20 to discuss, develop, and refine policies and assistance pro-
21 grams to support and promote political, economic, judicial,
22 educational, and social reforms in Muslim countries;

23 (2) should, as part of that effort, secure support to re-
24 quire countries seeking membership in the Community of
25 Democracies to be in full compliance with the Community's
26 criteria for participation, as established by the Commu-
27 nity's Convening Group, should work to ensure that the cri-
28 teria are part of a legally binding document, and should
29 urge other donor countries to use compliance with the cri-
30 teria as a basis for determining diplomatic and economic
31 relations (including assistance programs) with such partici-
32 pating countries; and

33 (3) should seek support for international contributions
34 to the Community of Democracies and should seek author-
35 ity for the Community's Convening Group to oversee adher-
36 ence and compliance of participating countries with the cri-
37 teria.



1 (b) MIDDLE EAST PARTNERSHIP INITIATIVE AND BROAD-
2 ER MIDDLE EAST AND NORTH AFRICA INITIATIVE.—Amounts
3 made available to carry out the Middle East Partnership Initia-
4 tive and the Broader Middle East and North Africa Initiative
5 may be made available to the Community of Democracies in
6 order to strengthen and expand its work with Muslim countries.

7 (c) REPORT.—The Secretary of State shall include in the
8 annual report entitled “Supporting Human Rights and Democ-
9 racy: The U.S. Record” a description of efforts by the Commu-
10 nity of Democracies to support and promote political, economic,
11 judicial, educational, and social reforms in Muslim countries
12 and the extent to which such countries meet the criteria for
13 participation in the Community of Democracies.

14 **Subtitle C—Reform of Designation of** 15 **Foreign Terrorist Organizations**

16 **SEC. 4051. DESIGNATION OF FOREIGN TERRORIST OR-** 17 **GANIZATIONS.**

18 (a) PERIOD OF DESIGNATION.—Section 219(a)(4) of the
19 Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is
20 amended—

21 (1) in subparagraph (A)—

22 (A) by striking “Subject to paragraphs (5) and
23 (6), a” and inserting “A”; and

24 (B) by striking “for a period of 2 years beginning
25 on the effective date of the designation under para-
26 graph (2)(B)” and inserting “until revoked under para-
27 graph (5) or (6) or set aside pursuant to subsection
28 (c)”;

29 (2) by striking subparagraph (B) and inserting the fol-
30 lowing:

31 “(B) REVIEW OF DESIGNATION UPON PETITION.—

32 “(i) IN GENERAL.—The Secretary shall review
33 the designation of a foreign terrorist organization
34 under the procedures set forth in clauses (iii) and
35 (iv) if the designated organization files a petition
36 for revocation within the petition period described
37 in clause (ii).



1 “(ii) PETITION PERIOD.—For purposes of
2 clause (i)—

3 “(I) if the designated organization has not
4 previously filed a petition for revocation under
5 this subparagraph, the petition period begins 2
6 years after the date on which the designation
7 was made; or

8 “(II) if the designated organization has
9 previously filed a petition for revocation under
10 this subparagraph, the petition period begins 2
11 years after the date of the determination made
12 under clause (iv) on that petition.

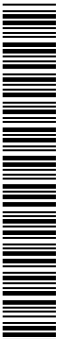
13 “(iii) PROCEDURES.—Any foreign terrorist or-
14 ganization that submits a petition for revocation
15 under this subparagraph must provide evidence in
16 that petition that the relevant circumstances de-
17 scribed in paragraph (1) have changed in such a
18 manner as to warrant revocation with respect to
19 the organization.

20 “(iv) DETERMINATION.—

21 “(I) IN GENERAL.—Not later than 180
22 days after receiving a petition for revocation
23 submitted under this subparagraph, the Sec-
24 retary shall make a determination as to such
25 revocation.

26 “(II) CLASSIFIED INFORMATION.—The
27 Secretary may consider classified information
28 in making a determination in response to a pe-
29 tition for revocation. Classified information
30 shall not be subject to disclosure for such time
31 as it remains classified, except that such infor-
32 mation may be disclosed to a court ex parte
33 and in camera for purposes of judicial review
34 under subsection (c).

35 “(III) PUBLICATION OF DETERMINA-
36 TION.—A determination made by the Secretary



1 under this clause shall be published in the Fed-
2 eral Register.

3 “(IV) PROCEDURES.—Any revocation by
4 the Secretary shall be made in accordance with
5 paragraph (6).”; and

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

7 “(C) OTHER REVIEW OF DESIGNATION.—

8 “(i) IN GENERAL.—If in a 6-year period no re-
9 view has taken place under subparagraph (B), the
10 Secretary shall review the designation of the for-
11 eign terrorist organization in order to determine
12 whether such designation should be revoked pursu-
13 ant to paragraph (6).

14 “(ii) PROCEDURES.—If a review does not take
15 place pursuant to subparagraph (B) in response to
16 a petition for revocation that is filed in accordance
17 with that subparagraph, then the review shall be
18 conducted pursuant to procedures established by
19 the Secretary. The results of such review and the
20 applicable procedures shall not be reviewable in any
21 court.

22 “(iii) PUBLICATION OF RESULTS OF RE-
23 VIEW.—The Secretary shall publish any determina-
24 tion made pursuant to this subparagraph in the
25 Federal Register.”.

26 (b) ALIASES.—Section 219 of the Immigration and Na-
27 tionality Act (8 U.S.C. 1189) is amended—

28 (1) by redesignating subsections (b) and (c) as sub-
29 sections (c) and (d), respectively; and

30 (2) by inserting after subsection (a) the following new
31 subsection (b):

32 “(b) AMENDMENTS TO A DESIGNATION.—

33 “(1) IN GENERAL.—The Secretary may amend a des-
34 ignation under this subsection if the Secretary finds that
35 the organization has changed its name, adopted a new
36 alias, dissolved and then reconstituted itself under a dif-



1 ferent name or names, or merged with another organiza-
2 tion.

3 “(2) PROCEDURE.—Amendments made to a designa-
4 tion in accordance with paragraph (1) shall be effective
5 upon publication in the Federal Register. Subparagraphs
6 (B) and (C) of subsection (a)(2) shall apply to an amended
7 designation upon such publication. Paragraphs (2)(A)(i),
8 (4), (5), (6), (7), and (8) of subsection (a) shall also apply
9 to an amended designation.

10 “(3) ADMINISTRATIVE RECORD.—The administrative
11 record shall be corrected to include the amendments as well
12 as any additional relevant information that supports those
13 amendments.

14 “(4) CLASSIFIED INFORMATION.—The Secretary may
15 consider classified information in amending a designation
16 in accordance with this subsection. Classified information
17 shall not be subject to disclosure for such time as it re-
18 mains classified, except that such information may be dis-
19 closed to a court ex parte and in camera for purposes of
20 judicial review under subsection (e).”.

21 (c) TECHNICAL AND CONFORMING AMENDMENTS.—Sec-
22 tion 219 of the Immigration and Nationality Act (8 U.S.C.
23 1189) is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (3)(B), by striking “subsection
26 (b)” and inserting “subsection (c)”;

27 (B) in paragraph (6)(A)—

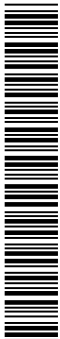
28 (i) in the matter preceding clause (i), by strik-
29 ing “or a redesignation made under paragraph
30 (4)(B)” and inserting “at any time, and shall re-
31 voke a designation upon completion of a review
32 conducted pursuant to subparagraphs (B) and (C)
33 of paragraph (4)”;

34 (ii) in clause (i), by striking “or redesigna-
35 tion”;

36 (C) in paragraph (7), by striking “, or the revoca-
37 tion of a redesignation under paragraph (6),”; and



- 1 (D) in paragraph (8)—
- 2 (i) by striking “, or if a redesignation under
- 3 this subsection has become effective under para-
- 4 graph (4)(B),”; and
- 5 (ii) by striking “or redesignation”; and
- 6 (2) in subsection (c), as so redesignated—
- 7 (A) in paragraph (1), by striking “of the designa-
- 8 tion in the Federal Register,” and all that follows
- 9 through “review of the designation” and inserting “in
- 10 the Federal Register of a designation, an amended des-
- 11 ignation, or a determination in response to a petition
- 12 for revocation, the designated organization may seek
- 13 judicial review”;
- 14 (B) in paragraph (2), by inserting “, amended
- 15 designation, or determination in response to a petition
- 16 for revocation” after “designation”;
- 17 (C) in paragraph (3), by inserting “, amended des-
- 18 ignation, or determination in response to a petition for
- 19 revocation” after “designation”; and
- 20 (D) in paragraph (4), by inserting “, amended
- 21 designation, or determination in response to a petition
- 22 for revocation” after “designation” each place that
- 23 term appears.
- 24 (d) SAVINGS PROVISION.—For purposes of applying sec-
- 25 tion 219 of the Immigration and Nationality Act on or after
- 26 the date of enactment of this Act, the term “designation”, as
- 27 used in that section, includes all redesignations made pursuant
- 28 to section 219(a)(4)(B) of the Immigration and Nationality Act
- 29 (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this
- 30 Act, and such redesignations shall continue to be effective until
- 31 revoked as provided in paragraph (5) or (6) of section 219(a)
- 32 of the Immigration and Nationality Act (8 U.S.C. 1189(a)).



1 **SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF**
2 **STATE COUNTRY REPORTS ON TERRORISM**
3 **OF INFORMATION ON TERRORIST GROUPS**
4 **THAT SEEK WEAPONS OF MASS DESTRUC-**
5 **TION AND GROUPS THAT HAVE BEEN DES-**
6 **IGNATED AS FOREIGN TERRORIST ORGANI-**
7 **ZATIONS.**

8 (a) INCLUSION IN REPORTS.—Section 140 of the Foreign
9 Relations Authorization Act, Fiscal Years 1988 and 1989 (22
10 U.S.C. 2656f) is amended—

11 (1) in subsection (a)(2)—

12 (A) by inserting “any terrorist group known to
13 have obtained or developed, or to have attempted to ob-
14 tain or develop, weapons of mass destruction,” after
15 “during the preceding five years,”; and

16 (B) by inserting “any group designated by the
17 Secretary as a foreign terrorist organization under sec-
18 tion 219 of the Immigration and Nationality Act (8
19 U.S.C. 1189),” after “Export Administration Act of
20 1979,”;

21 (2) in subsection (b)(1)(C)(iii), by striking “and” at
22 the end;

23 (3) in subsection (b)(1)(C)—

24 (A) by redesignating clause (iv) as clause (v); and

25 (B) by inserting after clause (iii) the following new
26 clause:

27 “(iv) providing weapons of mass destruction,
28 or assistance in obtaining or developing such weap-
29 ons, to terrorists or terrorist groups; and”;

30 (4) in subsection (b)(3) (as redesignated by section
31 4002(b)(2)(B) of this Act)—

32 (A) by redesignating subparagraphs (C), (D), and
33 (E) as (D), (E), and (F), respectively; and

34 (B) by inserting after subparagraph (B) the fol-
35 lowing new subparagraph:

36 “(C) efforts by those groups to obtain or develop
37 weapons of mass destruction;”.



1 (b) EFFECTIVE DATE.—The amendments made by sub-
2 section (a) shall apply beginning with the first report under
3 section 140 of the Foreign Relations Authorization Act, Fiscal
4 Years 1988 and 1989 (22 U.S.C. 2656f), submitted more than
5 one year after the date of the enactment of this Act.

6 **Subtitle D—Afghanistan Freedom** 7 **Support Act Amendments of 2004**

8 **SEC. 4061. SHORT TITLE.**

9 This subtitle may be cited as the “Afghanistan Freedom
10 Support Act Amendments of 2004”.

11 **SEC. 4062. COORDINATION OF ASSISTANCE FOR AF-** 12 **GHANISTAN.**

13 (a) FINDINGS.—Congress finds that—

14 (1) the Final Report of the National Commission on
15 Terrorist Attacks Upon the United States criticized the
16 provision of United States assistance to Afghanistan for
17 being too inflexible; and

18 (2) the Afghanistan Freedom Support Act of 2002
19 (Public Law 107–327; 22 U.S.C. 7501 et seq.) contains
20 provisions that provide for flexibility in the provision of as-
21 sistance for Afghanistan and are not subject to the require-
22 ments of typical foreign assistance programs and provide
23 for the designation of a coordinator to oversee United
24 States assistance for Afghanistan.

25 (b) DESIGNATION OF COORDINATOR.—Section 104(a) of
26 the Afghanistan Freedom Support Act of 2002 (22 U.S.C.
27 7514(a)) is amended in the matter preceding paragraph (1) by
28 striking “is strongly urged to” and inserting “shall”.

29 (c) OTHER MATTERS.—Section 104 of such Act (22
30 U.S.C. 7514) is amended by adding at the end the following:

31 “(e) PROGRAM PLAN.—The coordinator designated under
32 subsection (a) shall annually submit to the Committees on
33 International Relations and Appropriations of the House of
34 Representatives and the Committees on Foreign Relations and
35 Appropriations of the Senate the Administration’s plan for as-
36 sistance to Afghanistan together with a description of such as-
37 sistance in prior years.



1 “(d) COORDINATION WITH INTERNATIONAL COMMU-
2 NITY.—The coordinator designated under subsection (a) shall
3 work with the international community, including multilateral
4 organizations and international financial institutions, and the
5 Government of Afghanistan to ensure that assistance to Af-
6 ghanistan is implemented in a coherent, consistent, and effi-
7 cient manner to prevent duplication and waste.”.

8 **SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-**
9 **GHANISTAN FREEDOM SUPPORT ACT OF**
10 **2002.**

11 (a) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL AND
12 SOCIAL DEVELOPMENT.—

13 (1) DECLARATION OF POLICY.—Congress reaffirms
14 the authorities contained in title I of the Afghanistan Free-
15 dom Support Act of 2002 (22 U.S.C. 7501 et seq.; relating
16 to economic and democratic development assistance for Af-
17 ghanistan).

18 (2) PROVISION OF ASSISTANCE.—Section 103(a) of
19 such Act (22 U.S.C. 7513(a)) is amended in the matter
20 preceding paragraph (1) by striking “section 512 of Public
21 Law 107–115 or any other similar” and inserting “any
22 other”.

23 (b) DECLARATIONS OF POLICY.—Congress makes the fol-
24 lowing declarations:

25 (1) The United States reaffirms the support that it
26 and other countries expressed for the report entitled “Se-
27 curing Afghanistan’s Future” in their Berlin Declaration of
28 April 2004. The United States should help enable the
29 growth needed to create an economically sustainable Af-
30 ghanistan capable of the poverty reduction and social devel-
31 opment foreseen in the report.

32 (2) The United States supports the parliamentary
33 elections to be held in Afghanistan by April 2005 and will
34 help ensure that such elections are not undermined by war-
35 lords or narcotics traffickers.

36 (3)(A) The United States continues to urge North At-
37 lantic Treaty Organization members and other friendly



1 countries to make much greater military contributions to-
2 ward securing the peace in Afghanistan.

3 (B) The United States should continue to lead in the
4 security domain by, among other things, providing logistical
5 support to facilitate those contributions.

6 (C) In coordination with the Government of Afghani-
7 stan, the United States should urge others, and act itself,
8 to increase efforts to promote disarmament, demobilization,
9 and reintegration efforts, to enhance counternarcotics ac-
10 tivities, to expand deployments of Provincial Reconstruction
11 Teams, and to increase training of Afghanistan’s National
12 Army and its police and border security forces.

13 (c) LONG-TERM STRATEGY.—

14 (1) STRATEGY.—Title III of such Act (22 U.S.C. 7551
15 et seq.) is amended by adding at the end the following:

16 **“SEC. 304 FORMULATION OF LONG-TERM STRATEGY**
17 **FOR AFGHANISTAN.**

18 “(a) STRATEGY.—

19 “(1) IN GENERAL.—Not later than 180 days after the
20 date of the enactment of the Afghanistan Freedom Support
21 Act Amendments of 2004, the President shall formulate
22 and transmit to the Committee on International Relations
23 of the House of Representatives and the Committee on
24 Foreign Relations of the Senate a 5-year strategy for Af-
25 ghanistan that includes specific and measurable goals,
26 timeframes for accomplishing such goals, and specific re-
27 source levels necessary for accomplishing such goals for ad-
28 dressing the long-term development and security needs of
29 Afghanistan, including sectors such as agriculture and irri-
30 gation, parliamentary and democratic development, the ju-
31 dicial system and rule of law, human rights, education,
32 health, telecommunications, electricity, women’s rights,
33 counternarcotics, police, border security, anti-corruption,
34 and other law-enforcement activities.

35 “(2) ADDITIONAL REQUIREMENT.—The strategy shall
36 also delineate responsibilities for achieving such goals and



1 identify and address possible external factors that could
2 significantly affect the achievement of such goals.

3 “(b) IMPLEMENTATION.—Not later than 30 days after the
4 date of the transmission of the strategy required by subsection
5 (a), the Secretary of State, the Administrator of the United
6 States Agency for International Development, and the Sec-
7 retary of Defense shall submit to the Committee on Inter-
8 national Relations of the House of Representatives and the
9 Committee on Foreign Relations of the Senate a written 5-year
10 action plan to implement the strategy developed pursuant to
11 subsection (a). Such action plan shall include a description and
12 schedule of the program evaluations that will monitor progress
13 toward achieving the goals described in subsection (a).

14 “(c) REVIEW.—The Secretary of State, the Administrator
15 of the United States Agency for International Development,
16 and the Secretary of Defense shall carry out an annual review
17 of the strategy required by subsection (a) and the action plan
18 required by subsection (b).

19 “(d) MONITORING.—The report required by section
20 206(c)(2) of this Act shall include—

21 “(1) a description of progress toward implementation
22 of both the strategy required by subsection (a) and the ac-
23 tion plan required by subsection (b); and

24 “(2) a description of any changes to the strategy or
25 action plan since the date of the submission of the last re-
26 port required by such section.”.

27 (2) CLERICAL AMENDMENT.—The table of contents
28 for such Act (22 U.S.C. 7501 note) is amended by adding
29 after the item relating to section 303 the following:

“Sec. 304. Formulation of long-term strategy for Afghanistan.”.

30 **SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

31 Section 103(a)(5)(A) of the Afghanistan Freedom Support
32 Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amended—

33 (1) in clause (v), to read as follows:

34 “(v) support for the activities of the Govern-
35 ment of Afghanistan to develop modern legal codes



1 and court rules, to provide for the creation of legal
2 assistance programs, and other initiatives to pro-
3 mote the rule of law in Afghanistan;”;

4 (2) in clause (xii), to read as follows:

5 “(xii) support for the effective administration
6 of justice at the national, regional, and local levels,
7 including programs to improve penal institutions
8 and the rehabilitation of prisoners, to establish a
9 responsible and community-based police force, and
10 to rehabilitate or construct courthouses and deten-
11 tion facilities;”;

12 (3) in clause (xiii), by striking “and” at the end;

13 (4) in clause (xiv), by striking the period at the end
14 and inserting “; and”; and

15 (5) by adding at the end the following:

16 “(xv) assistance for the protection of Afghani-
17 stan’s culture, history, and national identity, in-
18 cluding with the rehabilitation of Afghanistan’s
19 museums and sites of cultural significance.”.

20 **SEC. 4065. MONITORING OF ASSISTANCE.**

21 Section 108 of the Afghanistan Freedom Support Act of
22 2002 (22 U.S.C. 7518) is amended by adding at the end the
23 following:

24 “(c) MONITORING OF ASSISTANCE FOR AFGHANISTAN.—

25 “(1) REPORT.—Not later than January 15, 2005, and
26 every six months thereafter, the Secretary of State, in con-
27 sultation with the Administrator for the United States
28 Agency for International Development, shall submit to the
29 Committee on International Relations of the House of Rep-
30 resentatives and the Committee on Foreign Relations of the
31 Senate a report on the obligations and expenditures of
32 United States assistance for Afghanistan from all United
33 States Government agencies.

34 “(2) SUBMISSION OF INFORMATION FOR REPORT.—

35 The head of each United States Government agency re-
36 ferred to in paragraph (1) shall provide on a timely basis
37 to the Secretary of State such information as the Secretary



1 may reasonably require to allow the Secretary to prepare
2 and submit the report required by such paragraph.”.

3 **SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-**
4 **MAMENT OF PRIVATE MILITIAS AND TO SUP-**
5 **PORT EXPANSION OF INTERNATIONAL**
6 **PEACEKEEPING AND SECURITY OPERATIONS**
7 **IN AFGHANISTAN.**

8 (a) DISARMAMENT OF PRIVATE MILITIAS.—Section 103 of
9 the Afghanistan Freedom Support Act of 2002 (22 U.S.C.
10 7513) is amended by adding at the end the following:

11 “(d) UNITED STATES POLICY RELATING TO DISAR-
12 MAMENT OF PRIVATE MILITIAS.—

13 “(1) IN GENERAL.—It shall be the policy of the
14 United States to take immediate steps to provide active
15 support for the disarmament, demobilization, and re-
16 integration of armed soldiers, particularly child soldiers, in
17 Afghanistan, in close consultation with the President of Af-
18 ghanistan.

19 “(2) REPORT.—The report required by section
20 206(c)(2) of this Act shall include a description of the
21 progress to implement paragraph (1).”.

22 (b) INTERNATIONAL PEACEKEEPING AND SECURITY OP-
23 ERATIONS.—Section 103 of such Act (22 U.S.C. 7513(d)), as
24 amended by subsection (a), is further amended by adding at
25 the end the following:

26 “(e) UNITED STATES POLICY RELATING TO INTER-
27 NATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—It
28 shall be the policy of the United States to make every effort
29 to support the expansion of international peacekeeping and se-
30 curity operations in Afghanistan in order to—

31 “(1) increase the area in which security is provided
32 and undertake vital tasks related to promoting security,
33 such as disarming warlords, militias, and irregulars, and
34 disrupting opium production; and

35 “(2) safeguard highways in order to allow the free flow
36 of commerce and to allow material assistance to the people
37 of Afghanistan, and aid personnel in Afghanistan, to move
38 more freely.”.



1 **SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL**
2 **PEACEKEEPING AND SECURITY OPERATIONS**
3 **IN AFGHANISTAN.**

4 Section 206(d)(1) of the Afghanistan Freedom Support
5 Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as fol-
6 lows:

7 “(1) EFFORTS TO EXPAND INTERNATIONAL PEACE-
8 KEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

9 “(A) EFFORTS.—The President shall encourage,
10 and, as authorized by law, enable other countries to ac-
11 tively participate in expanded international peace-
12 keeping and security operations in Afghanistan, espe-
13 cially through the provision of military personnel for
14 extended periods of time.

15 “(B) REPORTS.—The President shall prepare and
16 transmit to the Committee on International Relations
17 of the House of Representatives and the Committee on
18 Foreign Relations of the Senate a report on efforts car-
19 ried out pursuant to subparagraph (A). The first report
20 under this subparagraph shall be transmitted not later
21 than 60 days after the date of the enactment of the Af-
22 ghanistan Freedom Support Act Amendments of 2004
23 and subsequent reports shall be transmitted every six
24 months thereafter and may be included in the report
25 required by section 206(e)(2) of this Act.”.

26 **SEC. 4068. PROVISIONS RELATING TO COUNTER-**
27 **NARCOTICS EFFORTS IN AFGHANISTAN.**

28 (a) COUNTERNARCOTICS EFFORTS.—The Afghanistan
29 Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) is
30 amended—

31 (1) by redesignating—

32 (A) title III as title IV; and

33 (B) sections 301 through 304 as sections 401
34 through 404, respectively; and

35 (2) by inserting after title II the following:



1 **“TITLE III—PROVISIONS RELATING**
2 **TO COUNTERNARCOTICS EF-**
3 **FORTS IN AFGHANISTAN**

4 **“SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EF-**
5 **FORTS.**

6 “In addition to programs established pursuant to section
7 103(a)(3) of this Act or other similar programs, the President
8 is authorized and encouraged to implement specific initiatives
9 to assist in the eradication of poppy cultivation and the disrup-
10 tion of heroin production in Afghanistan, such as—

11 “(1) promoting alternatives to poppy cultivation, in-
12 cluding the introduction of high value crops that are suit-
13 able for export and the provision of appropriate technical
14 assistance and credit mechanisms for farmers;

15 “(2) enhancing the ability of farmers to bring legiti-
16 mate agricultural goods to market;

17 “(3) notwithstanding section 660 of the Foreign As-
18 sistance Act of 1961 (22 U.S.C. 2420), assistance, includ-
19 ing nonlethal equipment, training (including training in
20 internationally recognized standards of human rights, the
21 rule of law, anti-corruption, and the promotion of civilian
22 police roles that support democracy), and payments, during
23 fiscal years 2006 through 2008, for salaries for special
24 counternarcotics police and supporting units;

25 “(4) training the Afghan National Army in counter-
26 narcotics activities; and

27 “(5) creating special counternarcotics courts, prosecu-
28 tors, and places of incarceration.”.

29 (b) CLERICAL AMENDMENTS.—The table of contents for
30 such Act (22 U.S.C. 7501 note) is amended—

31 (1) by redesignating—

32 (A) the item relating to title III as the item relat-
33 ing to title IV; and

34 (B) the items relating to sections 301 through 304
35 as the items relating to sections 401 through 404; and



1 (2) by inserting after the items relating to title II the
2 following:

“TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS
EFFORTS IN AFGHANISTAN

“Sec. 301. Assistance for counternarcotics efforts.”.

3 **SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANI-**
4 **STAN FREEDOM SUPPORT ACT OF 2002.**

5 (a) TECHNICAL AMENDMENT.—Section 103(a)(7)(A)(xii)
6 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C.
7 7513(a)(7)(A)(xii)) is amended by striking “National” and in-
8 serting “Afghan Independent”.

9 (b) REPORTING REQUIREMENT.—Section 206(c)(2) of
10 such Act (22 U.S.C. 7536(c)(2)) is amended in the matter pre-
11 ceding subparagraph (A) by striking “2007” and inserting
12 “2012”.

13 **SEC. 4070. REPEAL.**

14 Section 620D of the Foreign Assistance Act of 1961 (22
15 U.S.C. 2374; relating to prohibition on assistance to Afghani-
16 stan) is hereby repealed.

17 **Subtitle E—Provisions Relating to**
18 **Saudi Arabia and Pakistan**

19 **SEC. 4081. NEW UNITED STATES STRATEGY FOR RELA-**
20 **TIONSHIP WITH SAUDI ARABIA.**

21 (a) SENSE OF CONGRESS.—It is the sense of Congress
22 that the relationship between the United States and Saudi Ara-
23 bia should include a more robust dialogue between the people
24 and Government of the United States and the people and Gov-
25 ernment of Saudi Arabia in order to provide for a reevaluation
26 of, and improvements to, the relationship by both sides.

27 (b) REPORT.—

28 (1) IN GENERAL.— Not later than one year after the
29 date of the enactment of this Act, the President shall
30 transmit to the Committee on International Relations of
31 the House of Representatives and the Committee on For-
32 eign Relations of the Senate a strategy for collaboration
33 with the people and Government of Saudi Arabia on sub-



1 jects of mutual interest and importance to the United
2 States.

3 (2) CONTENTS.—The strategy required under para-
4 graph (1) shall include the following provisions:

5 (A) A framework for security cooperation in the
6 fight against terrorism, with special reference to com-
7 bating terrorist financing and an examination of the
8 origins of modern terrorism.

9 (B) A framework for political and economic reform
10 in Saudi Arabia and throughout the Middle East.

11 (C) An examination of steps that should be taken
12 to reverse the trend toward extremism in Saudi Arabia
13 and other Muslim countries and throughout the Middle
14 East.

15 (D) A framework for promoting greater tolerance
16 and respect for cultural and religious diversity in Saudi
17 Arabia and throughout the Middle East.

18 **SEC. 4082. UNITED STATES COMMITMENT TO THE FU-**
19 **TURE OF PAKISTAN.**

20 (a) SENSE OF CONGRESS.—It is the sense of Congress
21 that the United States should, over a long-term period, help to
22 ensure a promising, stable, and secure future for Pakistan, and
23 should in particular provide assistance to encourage and enable
24 Pakistan—

25 (1) to continue and improve upon its commitment to
26 combating extremists;

27 (2) to seek to resolve any outstanding difficulties with
28 its neighbors and other countries in its region;

29 (3) to continue to make efforts to fully control its ter-
30 ritory and borders;

31 (4) to progress towards becoming a more effective and
32 participatory democracy;

33 (5) to participate more vigorously in the global mar-
34 ketplace and to continue to modernize its economy;

35 (6) to take all necessary steps to halt the spread of
36 weapons of mass destruction;

37 (7) to continue to reform its education system; and



1 (8) to, in other ways, implement a general strategy of
2 moderation.

3 (b) STRATEGY.—Not later than 180 days after the date of
4 the enactment of this Act, the President shall transmit to Con-
5 gress a detailed proposed strategy for the future, long-term, en-
6 gagement of the United States with Pakistan.

7 **SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.**

8 The Act entitled “An Act to authorize the President to ex-
9 ercise waivers of foreign assistance restrictions with respect to
10 Pakistan through September 30, 2003, and for other pur-
11 poses”, approved October 27, 2001 (Public Law 107–57; 115
12 Stat. 403), as amended by section 2213 of the Emergency Sup-
13 plemental Appropriations Act for Defense and for the Recon-
14 struction of Iraq and Afghanistan, 2004 (Public Law 108–106;
15 117 Stat. 1232), is further amended—

16 (1) in section 1(b)—

17 (A) in the heading, by striking “FISCAL YEAR
18 2004” and inserting “FISCAL YEARS 2005 AND 2006”;
19 and

20 (B) in paragraph (1), by striking “2004” and in-
21 serting “2005 or 2006”;

22 (2) in section 3(2), by striking “and 2004,” and in-
23 serting “2004, 2005, and 2006”; and

24 (3) in section 6, by striking “2004” and inserting
25 “2006”.

26 **Subtitle F—Oversight Provisions**

27 **SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

28 (a) AVAILABILITY OF TREATIES AND INTERNATIONAL
29 AGREEMENTS.—Section 112a of title 1, United States Code, is
30 amended by adding at the end the following:

31 “(d) The Secretary of State shall cause to be published in
32 slip form or otherwise made publicly available through the
33 Internet website of the Department of State each treaty or
34 international agreement proposed to be published in the com-
35 pilation entitled ‘United States Treaties and Other Inter-



1 national Agreements’ not later than 180 days after the date on
2 which the treaty or agreement enters into force.”.

3 (b) TRANSMISSION TO CONGRESS.—Section 112b(a) of
4 title 1, United States Code (commonly referred to as the
5 “Case-Zablocki Act”), is amended—

6 (1) in the first sentence, by striking “has entered into
7 force” and inserting “has been signed or entered into
8 force”; and

9 (2) in the second sentence, by striking “Committee on
10 Foreign Affairs” and inserting “Committee on Inter-
11 national Relations”.

12 (c) REPORT.—Section 112b of title 1, United States Code,
13 is amended—

14 (1) by redesignating subsections (d) and (e) as sub-
15 sections (e) and (f), respectively; and

16 (2) by inserting after subsection (c) the following:

17 “(d)(1) The Secretary of State shall submit to Congress
18 on an annual basis a report that contains an index of all inter-
19 national agreements (including oral agreements), listed by
20 country, date, title, and summary of each such agreement (in-
21 cluding a description of the duration of activities under the
22 agreement and the agreement itself), that the United States—

23 “(A) has signed, proclaimed, or with reference to
24 which any other final formality has been executed, or that
25 has been extended or otherwise modified, during the pre-
26 ceding calendar year; and

27 “(B) has not been published, or is not proposed to be
28 published, in the compilation entitled ‘United States Trea-
29 ties and Other International Agreements’.

30 “(2) The report described in paragraph (1) may be sub-
31 mitted in classified form.”.

32 (d) DETERMINATION OF INTERNATIONAL AGREEMENT.—
33 Subsection (e) of section 112b of title 1, United States Code,
34 (as redesignated) is amended—

35 (1) by striking “(e) The Secretary of State” and in-
36 serting “(e)(1) Subject to paragraph (2), the Secretary of
37 State”; and



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

2 “(2)(A) An arrangement shall constitute an international
3 agreement within the meaning of this section (other than sub-
4 section (c) of this section) irrespective of the duration of activi-
5 ties under the arrangement or the arrangement itself.

6 “(B) Arrangements that constitute an international agree-
7 ment within the meaning of this section (other than subsection
8 (c) of this section) include, but are not limited to, the following:

9 “(i) A bilateral or multilateral counterterrorism agree-
10 ment.

11 “(ii) A bilateral agreement with a country that is sub-
12 ject to a determination under section 6(j)(1)(A) of the Ex-
13 port Administration Act of 1979 (50 U.S.C. App.
14 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance
15 Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the
16 Arms Export Control Act (22 U.S.C. 2780(d)).”.

17 (e) ENFORCEMENT OF REQUIREMENTS.—Section 139(b)
18 of the Foreign Relations Authorization Act, Fiscal Years 1988
19 and 1989 is amended to read as follows:

20 “(b) EFFECTIVE DATE.—Subsection (a) shall take effect
21 60 days after the date of the enactment of the 9/11 Rec-
22 ommendations Implementation Act and shall apply during fis-
23 cal years 2005, 2006, and 2007.”.

24 **Subtitle G—Additional Protections of** 25 **United States Aviation System from** 26 **Terrorist Attacks**

27 **SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW** 28 **MAXIMUM DEPLOYMENT OF FEDERAL** 29 **FLIGHT DECK OFFICERS.**

30 The President is encouraged to pursue aggressively inter-
31 national agreements with foreign governments to allow the
32 maximum deployment of Federal air marshals and Federal
33 flight deck officers on international flights.

34 **SEC. 4102. FEDERAL AIR MARSHAL TRAINING.**

35 Section 44917 of title 49, United States Code, is amended
36 by adding at the end the following:



1 “(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PER-
2 SONNEL.—

3 “(1) IN GENERAL.—The Assistant Secretary for Immi-
4 gration and Customs Enforcement of the Department of
5 Homeland Security, after consultation with the Secretary of
6 State, may direct the Federal Air Marshal Service to pro-
7 vide appropriate air marshal training to law enforcement
8 personnel of foreign countries.

9 “(2) WATCHLIST SCREENING.—The Federal Air Mar-
10 shal Service may only provide appropriate air marshal
11 training to law enforcement personnel of foreign countries
12 after comparing the identifying information and records of
13 law enforcement personnel of foreign countries against ap-
14 propriate records in the consolidated and integrated ter-
15 rorist watchlists of the Federal Government.

16 “(3) FEES.—The Assistant Secretary shall establish
17 reasonable fees and charges to pay expenses incurred in
18 carrying out this subsection. Funds collected under this
19 subsection shall be credited to the account in the Treasury
20 from which the expenses were incurred and shall be avail-
21 able to the Assistant Secretary for purposes for which
22 amounts in such account are available.”.

23 **SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS**
24 **(MANPADS).**

25 (a) UNITED STATES POLICY ON NONPROLIFERATION AND
26 EXPORT CONTROL.—

27 (1) TO LIMIT AVAILABILITY AND TRANSFER OF
28 MANPADS.—The President shall pursue, on an urgent
29 basis, further strong international diplomatic and coopera-
30 tive efforts, including bilateral and multilateral treaties, in
31 the appropriate forum to limit the availability, transfer,
32 and proliferation of MANPADSs worldwide.

33 (2) TO LIMIT THE PROLIFERATION OF MANPADS.—
34 The President is encouraged to seek to enter into agree-
35 ments with the governments of foreign countries that, at a
36 minimum, would—



1 (A) prohibit the entry into force of a MANPADS
2 manufacturing license agreement and MANPADS co-
3 production agreement, other than the entry into force
4 of a manufacturing license or co-production agreement
5 with a country that is party to such an agreement;

6 (B) prohibit, except pursuant to transfers between
7 governments, the export of a MANPADS, including
8 any component, part, accessory, or attachment thereof,
9 without an individual validated license; and

10 (C) prohibit the reexport or retransfer of a
11 MANPADS, including any component, part, accessory,
12 or attachment thereof, to a third person, organization,
13 or government unless the written consent of the govern-
14 ment that approved the original export or transfer is
15 first obtained.

16 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—The
17 President should continue to pursue further strong inter-
18 national diplomatic and cooperative efforts, including bilat-
19 eral and multilateral treaties, in the appropriate forum to
20 assure the destruction of excess, obsolete, and illicit stocks
21 of MANPADSs worldwide.

22 (4) REPORTING AND BRIEFING REQUIREMENT.—

23 (A) PRESIDENT’S REPORT.—Not later than 180
24 days after the date of enactment of this Act, the Presi-
25 dent shall transmit to the appropriate congressional
26 committees a report that contains a detailed description
27 of the status of diplomatic efforts under paragraphs
28 (1), (2), and (3) and of efforts by the appropriate
29 United States agencies to comply with the rec-
30 ommendations of the General Accounting Office set
31 forth in its report GAO–04–519, entitled “Non-
32 proliferation: Further Improvements Needed in U.S.
33 Efforts to Counter Threats from Man-Portable Air De-
34 fense Systems”.

35 (B) ANNUAL BRIEFINGS.—Annually after the date
36 of submission of the report under subparagraph (A)
37 and until completion of the diplomatic and compliance



1 efforts referred to in subparagraph (A), the Secretary
2 of State shall brief the appropriate congressional com-
3 mittees on the status of such efforts.

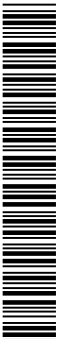
4 (b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE
5 DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

6 (1) IN GENERAL.—As soon as practicable, but not
7 later than the date of completion of Phase II of the De-
8 partment of Homeland Security's counter-man-portable air
9 defense system (MANPADS) development and demonstra-
10 tion program, the Administrator of the Federal Aviation
11 Administration shall establish a process for conducting air-
12 worthiness and safety certification of missile defense sys-
13 tems for commercial aircraft certified as effective and func-
14 tional by the Department of Homeland Security. The proc-
15 ess shall require a certification by the Administrator that
16 such systems can be safely integrated into aircraft systems
17 and ensure airworthiness and aircraft system integrity.

18 (2) CERTIFICATION ACCEPTANCE.—Under the process,
19 the Administrator shall accept the certification of the De-
20 partment of Homeland Security that a missile defense sys-
21 tem is effective and functional to defend commercial air-
22 craft against MANPADSs.

23 (3) EXPEDITIOUS CERTIFICATION.—Under the proc-
24 ess, the Administrator shall expedite the airworthiness and
25 safety certification of missile defense systems for commer-
26 cial aircraft certified by the Department of Homeland Se-
27 curity.

28 (4) REPORTS.—Not later than 90 days after the first
29 airworthiness and safety certification for a missile defense
30 system for commercial aircraft is issued by the Adminis-
31 trator, and annually thereafter until December 31, 2008,
32 the Federal Aviation Administration shall transmit to the
33 Committee on Transportation and Infrastructure of the
34 House of Representatives and the Committee on Com-
35 merce, Science, and Transportation of the Senate a report
36 that contains a detailed description of each airworthiness



1 and safety certification issued for a missile defense system
2 for commercial aircraft.

3 (c) PROGRAMS TO REDUCE MANPADS.—

4 (1) IN GENERAL.—The President is encouraged to
5 pursue strong programs to reduce the number of
6 MANPADSs worldwide so that fewer MANPADSs will be
7 available for trade, proliferation, and sale.

8 (2) REPORTING AND BRIEFING REQUIREMENTS.—Not
9 later than 180 days after the date of enactment of this Act,
10 the President shall transmit to the appropriate congress-
11 sional committees a report that contains a detailed descrip-
12 tion of the status of the programs being pursued under
13 subsection (a). Annually thereafter until the programs are
14 no longer needed, the Secretary of State shall brief the ap-
15 propriate congressional committees on the status of pro-
16 grams.

17 (3) FUNDING.—There are authorized to be appro-
18 priated such sums as may be necessary to carry out this
19 section.

20 (d) MANPADS VULNERABILITY ASSESSMENTS RE-
21 PORT.—

22 (1) IN GENERAL.—Not later than one year after the
23 date of enactment of this Act, the Secretary of Homeland
24 Security shall transmit to the Committee on Transportation
25 and Infrastructure of the House of Representatives and the
26 Committee on Commerce, Science, and Transportation of
27 the Senate a report describing the Department of Home-
28 land Security's plans to secure airports and the aircraft ar-
29 riving and departing from airports against MANPADSs at-
30 tacks.

31 (2) MATTERS TO BE ADDRESSED.—The Secretary's
32 report shall address, at a minimum, the following:

33 (A) The status of the Department's efforts to con-
34 duct MANPADSs vulnerability assessments at United
35 States airports at which the Department is conducting
36 assessments.



1 (B) How intelligence is shared between the United
2 States intelligence agencies and Federal, State, and
3 local law enforcement to address the MANPADS threat
4 and potential ways to improve such intelligence shar-
5 ing.

6 (C) Contingency plans that the Department has
7 developed in the event that it receives intelligence indi-
8 cating a high threat of a MANPADS attack on aircraft
9 at or near United States airports.

10 (D) The feasibility and effectiveness of imple-
11 menting public education and neighborhood watch pro-
12 grams in areas surrounding United States airports in
13 cases in which intelligence reports indicate there is a
14 high risk of MANPADS attacks on aircraft.

15 (E) Any other issues that the Secretary deems rel-
16 evant.

17 (3) FORMAT.—The report required by this subsection
18 may be submitted in a classified format.

19 (e) DEFINITIONS.—In this section, the following defini-
20 tions apply:

21 (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—
22 The term “appropriate congressional committees” means—

23 (A) the Committee on Armed Services, the Com-
24 mittee on International Relations, and the Committee
25 on Transportation and Infrastructure of the House of
26 Representatives; and

27 (B) the Committee on Armed Services, the Com-
28 mittee on Foreign Relations, and the Committee on
29 Commerce, Science, and Transportation of the Senate.

30 (2) MANPADS.—The term “MANPADS” means—

31 (A) a surface-to-air missile system designed to be
32 man-portable and carried and fired by a single indi-
33 vidual; and

34 (B) any other surface-to-air missile system de-
35 signed to be operated and fired by more than one indi-
36 vidual acting as a crew and portable by several individ-
37 uals.



1 **Subtitle H—Improving International**
2 **Standards and Cooperation to**
3 **Fight Terrorist Financing**

4 **SEC. 4111. SENSE OF THE CONGRESS REGARDING SUC-**
5 **CESS IN MULTILATERAL ORGANIZATIONS.**

6 (a) COMMENDATION.—The Congress commends the Sec-
7 retary of the Treasury for success and leadership in estab-
8 lishing international standards for fighting terrorist finance
9 through multilateral organizations, including the Financial Ac-
10 tion Task Force (FATF) at the Organization for Economic Co-
11 operation and Development, the International Monetary Fund,
12 the International Bank for Reconstruction and Development,
13 and the regional multilateral development banks.

14 (b) POLICY GUIDANCE.—The Congress encourages the
15 Secretary of the Treasury to direct the United States Executive
16 Director at each international financial institution to use the
17 voice and vote of the United States to urge the institution, and
18 encourages the Secretary of the Treasury to use the voice and
19 vote of the United States in other multilateral financial policy-
20 making bodies, to—

21 (1) provide funding for the implementation of FATF
22 anti-money laundering and anti-terrorist financing stand-
23 ards; and

24 (2) promote economic development in the Middle East.

25 **SEC. 4112. EXPANDED REPORTING REQUIREMENT FOR**
26 **THE SECRETARY OF THE TREASURY.**

27 (a) IN GENERAL.—Section 1701(b) of the International
28 Financial Institutions Act (22 U.S.C. 262r(b)) is amended—

29 (1) by striking “and” at the end of paragraph (10);
30 and

31 (2) by redesignating paragraph (11) as paragraph
32 (12) and inserting after paragraph (10) the following:

33 “(11) an assessment of—

34 “(A) the progress made by the International Ter-
35 rorist Finance Coordinating Council in developing poli-
36 cies to be pursued with the international financial insti-



1 tutions and other multilateral financial policymaking
2 bodies regarding anti-terrorist financing initiatives;

3 “(B) the progress made by the United States in
4 negotiations with the international financial institutions
5 and other multilateral financial policymaking bodies to
6 set common anti-terrorist financing standards;

7 “(C) the extent to which the international finan-
8 cial institutions and other multilateral financial policy-
9 making bodies have adopted anti-terrorist financing
10 standards advocated by the United States; and

11 “(D) whether and how the international financial
12 institutions are contributing to the fight against the fi-
13 nancing of terrorist activities; and”.

14 (b) OTHER MULTILATERAL POLICYMAKING BODIES DE-
15 FINED.—Section 1701(c) of such Act (22 U.S.C. 262r(c)) is
16 amended by adding at the end the following:

17 “(5) OTHER MULTILATERAL FINANCIAL POLICY-
18 MAKING BODIES.—The term ‘other multilateral financial
19 policymaking bodies’ means—

20 “(A) the Financial Action Task Force at the Or-
21 ganization for Economic Cooperation and Development;

22 “(B) the international network of financial intel-
23 ligence units known as the ‘Egmont Group’;

24 “(C) the United States, Canada, the United King-
25 dom, France, Germany, Italy, Japan, and Russia, when
26 meeting as the Group of Eight; and

27 “(D) any other multilateral financial policymaking
28 group in which the Secretary of the Treasury rep-
29 represents the United States.”.

30 **SEC. 4113. INTERNATIONAL TERRORIST FINANCE CO-**
31 **ORDINATING COUNCIL.**

32 (a) ESTABLISHMENT.—The Secretary of the Treasury
33 shall establish and convene an interagency council, to be known
34 as the “International Terrorist Finance Coordinating Council”
35 (in this section referred to as the “Council”), which shall advise
36 the Secretary on policies to be pursued by the United States
37 at meetings of the international financial institutions and other



1 multilateral financial policymaking bodies, regarding the devel-
2 opment of international anti-terrorist financing standards.

3 (b) MEETINGS.—

4 (1) ATTENDEES.—

5 (A) GENERAL ATTENDEES.—The Secretary of the
6 Treasury (or a representative of the Secretary of the
7 Treasury) and the Secretary of State (or a representa-
8 tive of the Secretary of State) shall attend each Council
9 meeting.

10 (B) OTHER ATTENDEES.—The Secretary of the
11 Treasury shall determine which other officers of the
12 Federal Government shall attend a Council meeting, on
13 the basis of the issues to be raised for consideration at
14 the meeting. The Secretary shall include in the meeting
15 representatives from all relevant Federal agencies with
16 authority to address the issues.

17 (2) SCHEDULE.—Not less frequently than annually,
18 the Secretary of the Treasury shall convene Council meet-
19 ings at such times as the Secretary deems appropriate,
20 based on the notice, schedule, and agenda items of the
21 international financial institutions and other multilateral fi-
22 nancial policymaking bodies.

23 **SEC. 4114. DEFINITIONS.**

24 In this subtitle:

25 (1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The
26 term “international financial institutions” has the meaning
27 given in section 1701(c)(2) of the International Financial
28 Institutions Act.

29 (2) OTHER MULTILATERAL FINANCIAL POLICYMAKING
30 BODIES.—The term “other multilateral financial policy-
31 making bodies” means—

32 (A) the Financial Action Task Force at the Orga-
33 nization for Economic Cooperation and Development;

34 (B) the international network of financial intel-
35 ligence units known as the “Egmont Group”;



1 (C) the United States, Canada, the United King-
2 dom, France, Germany, Italy, Japan, and Russia, when
3 meeting as the Group of Eight; and

4 (D) any other multilateral financial policymaking
5 group in which the Secretary of the Treasury rep-
6 represents the United States.

7 **TITLE V—GOVERNMENT**
8 **RESTRUCTURING**
9 **Subtitle A—Faster and Smarter**
10 **Funding for First Responders**

11 **SEC. 5001. SHORT TITLE.**

12 This subtitle may be cited as the “Faster and Smarter
13 Funding for First Responders Act of 2004”.

14 **SEC. 5002. FINDINGS.**

15 The Congress finds the following:

16 (1) In order to achieve its objective of minimizing the
17 damage, and assisting in the recovery, from terrorist at-
18 tacks, the Department of Homeland Security must play a
19 leading role in assisting communities to reach the level of
20 preparedness they need to respond to a terrorist attack.

21 (2) First responder funding is not reaching the men
22 and women of our Nation’s first response teams quickly
23 enough, and sometimes not at all.

24 (3) To reform the current bureaucratic process so that
25 homeland security dollars reach the first responders who
26 need it most, it is necessary to clarify and consolidate the
27 authority and procedures of the Department of Homeland
28 Security that support first responders.

29 (4) Ensuring adequate resources for the new national
30 mission of homeland security, without degrading the ability
31 to address effectively other types of major disasters and
32 emergencies, requires a discrete and separate grant making
33 process for homeland security funds for first response to
34 terrorist acts, on the one hand, and for first responder pro-
35 grams designed to meet pre-September 11 priorities, on the
36 other.



1 (5) While a discrete homeland security grant making
2 process is necessary to ensure proper focus on the unique
3 aspects of terrorism prevention, preparedness, and re-
4 sponse, it is essential that State and local strategies for uti-
5 lizing such grants be integrated, to the greatest extent
6 practicable, with existing State and local emergency man-
7 agement plans.

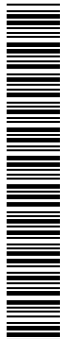
8 (6) Homeland security grants to first responders must
9 be based on the best intelligence concerning the capabilities
10 and intentions of our terrorist enemies, and that intel-
11 ligence must be used to target resources to the Nation's
12 greatest threats, vulnerabilities, and consequences.

13 (7) The Nation's first response capabilities will be im-
14 proved by sharing resources, training, planning, personnel,
15 and equipment among neighboring jurisdictions through
16 mutual aid agreements and regional cooperation. Such re-
17 gional cooperation should be supported, where appropriate,
18 through direct grants from the Department of Homeland
19 Security.

20 (8) An essential prerequisite to achieving the Nation's
21 homeland security objectives for first responders is the es-
22 tablishment of well-defined national goals for terrorism pre-
23 paredness. These goals should delineate the essential capa-
24 bilities that every jurisdiction in the United States should
25 possess or to which it should have access.

26 (9) A national determination of essential capabilities is
27 needed to identify levels of State and local government ter-
28 rorism preparedness, to determine the nature and extent of
29 State and local first responder needs, to identify the human
30 and financial resources required to fulfill them, and to di-
31 rect funding to meet those needs and to measure prepared-
32 ness levels on a national scale.

33 (10) To facilitate progress in achieving, maintaining,
34 and enhancing essential capabilities for State and local first
35 responders, the Department of Homeland Security should
36 seek to allocate homeland security funding for first re-
37 sponders to meet nationwide needs.



1 (11) Private sector resources and citizen volunteers
2 can perform critical functions in assisting in preventing
3 and responding to terrorist attacks, and should be inte-
4 grated into State and local planning efforts to ensure that
5 their capabilities and roles are understood, so as to provide
6 enhanced State and local operational capability and surge
7 capacity.

8 (12) Public-private partnerships, such as the partner-
9 ships between the Business Executives for National Secu-
10 rity and the States of New Jersey and Georgia, can be use-
11 ful to identify and coordinate private sector support for
12 State and local first responders. Such models should be ex-
13 panded to cover all States and territories.

14 (13) An important aspect of essential capabilities is
15 measurability, so that it is possible to determine how pre-
16 pared a State or local government is now, and what addi-
17 tional steps it needs to take, in order to respond to acts
18 of terrorism.

19 (14) The Department of Homeland Security should es-
20 tablish, publish, and regularly update national voluntary
21 consensus standards for both equipment and training, in
22 cooperation with both public and private sector standard
23 setting organizations, to assist State and local governments
24 in obtaining the equipment and training to attain the es-
25 sential capabilities for first response to acts of terrorism,
26 and to ensure that first responder funds are spent wisely.

27 **SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST**
28 **RESPONDERS.**

29 (a) IN GENERAL.—The Homeland Security Act of 2002
30 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

31 (1) in section 1(b) in the table of contents by adding
32 at the end the following:

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

“Sec. 1801. Definitions.

“Sec. 1802. Faster and smarter funding for first responders.

“Sec. 1803. Essential capabilities for first responders.

“Sec. 1804. Task Force on Essential Capabilities for First Responders.

“Sec. 1805. Covered grant eligibility and criteria.

“Sec. 1806. Use of funds and accountability requirements.

“Sec. 1807. National standards for first responder equipment and training.”; and

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

2 **“TITLE XVIII—FUNDING FOR FIRST**
3 **RESPONDERS**

4 **“SEC. 1801. DEFINITIONS.**

5 “In this title:

6 “(1) BOARD.—The term ‘Board’ means the First Re-
7 sponder Grants Board established under section 1805(f).

8 “(2) COVERED GRANT.—The term ‘covered grant’
9 means any grant to which this title applies under section
10 1802.

11 “(3) DIRECTLY ELIGIBLE TRIBE.—The term ‘directly
12 eligible tribe’ means any Indian tribe or consortium of In-
13 dian tribes that—

14 “(A) meets the criteria for inclusion in the quali-
15 fied applicant pool for Self-Governance that are set
16 forth in section 402(e) of the Indian Self-Determina-
17 tion and Education Assistance Act (25 U.S.C.
18 458bb(c));

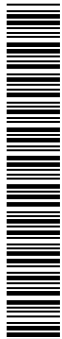
19 “(B) employs at least 10 full-time personnel in a
20 law enforcement or emergency response agency with
21 the capacity to respond to calls for law enforcement or
22 emergency services; and

23 “(C)(i) is located on, or within 5 miles of, an
24 international border or waterway;

25 “(ii) is located within 5 miles of a facility within
26 a critical infrastructure sector identified in section
27 1803(c)(2);

28 “(iii) is located within or contiguous to one of the
29 50 largest metropolitan statistical areas in the United
30 States; or

31 “(iv) has more than 1,000 square miles of Indian
32 country, as that term is defined in section 1151 of title
33 18, United States Code.



1 “(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—
2 The term ‘elevations in the threat alert level’ means any
3 designation (including those that are less than national in
4 scope) that raises the homeland security threat level to ei-
5 ther the highest or second highest threat level under the
6 Homeland Security Advisory System referred to in section
7 201(d)(7).

8 “(5) EMERGENCY PREPAREDNESS.—The term ‘emer-
9 gency preparedness’ shall have the same meaning that term
10 has under section 602 of the Robert T. Stafford Disaster
11 Relief and Emergency Assistance Act (42 U.S.C. 5195a).

12 “(6) ESSENTIAL CAPABILITIES.—The term ‘essential
13 capabilities’ means the levels, availability, and competence
14 of emergency personnel, planning, training, and equipment
15 across a variety of disciplines needed to effectively and effi-
16 ciently prevent, prepare for, and respond to acts of ter-
17 rorism consistent with established practices.

18 “(7) FIRST RESPONDER.—The term ‘first responder’
19 shall have the same meaning as the term ‘emergency re-
20 sponse provider’.

21 “(8) INDIAN TRIBE.—The term ‘Indian tribe’ means
22 any Indian tribe, band, nation, or other organized group or
23 community, including any Alaskan Native village or re-
24 gional or village corporation as defined in or established
25 pursuant to the Alaskan Native Claims Settlement Act (43
26 U.S.C. 1601 et seq.), which is recognized as eligible for the
27 special programs and services provided by the United
28 States to Indians because of their status as Indians.

29 “(9) REGION.—The term ‘region’ means—

30 “(A) any geographic area consisting of all or parts
31 of 2 or more contiguous States, counties, municipali-
32 ties, or other local governments that have a combined
33 population of at least 1,650,000 or have an area of not
34 less than 20,000 square miles, and that, for purposes
35 of an application for a covered grant, is represented by
36 1 or more governments or governmental agencies with-
37 in such geographic area, and that is established by law



1 or by agreement of 2 or more such governments or gov-
2 ernmental agencies in a mutual aid agreement; or

3 “(B) any other combination of contiguous local
4 government units (including such a combination estab-
5 lished by law or agreement of two or more governments
6 or governmental agencies in a mutual aid agreement)
7 that is formally certified by the Secretary as a region
8 for purposes of this Act with the consent of—

9 “(i) the State or States in which they are lo-
10 cated, including a multi-State entity established by
11 a compact between two or more States; and

12 “(ii) the incorporated municipalities, counties,
13 and parishes that they encompass.

14 “(10) TASK FORCE.—The term ‘Task Force’ means
15 the Task Force on Essential Capabilities for First Re-
16 sponders established under section 1804.

17 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST**
18 **RESPONDERS.**

19 “(a) COVERED GRANTS.—This title applies to grants pro-
20 vided by the Department to States, regions, or directly eligible
21 tribes for the primary purpose of improving the ability of first
22 responders to prevent, prepare for, respond to, or mitigate
23 threatened or actual terrorist attacks, especially those involving
24 weapons of mass destruction, administered under the following:

25 “(1) STATE HOMELAND SECURITY GRANT PROGRAM.—
26 The State Homeland Security Grant Program of the De-
27 partment, or any successor to such grant program.

28 “(2) URBAN AREA SECURITY INITIATIVE.—The Urban
29 Area Security Initiative of the Department, or any suc-
30 cessor to such grant program.

31 “(3) LAW ENFORCEMENT TERRORISM PREVENTION
32 PROGRAM.—The Law Enforcement Terrorism Prevention
33 Program of the Department, or any successor to such
34 grant program.

35 “(4) CITIZEN CORPS PROGRAM.—The Citizen Corps
36 Program of the Department, or any successor to such
37 grant program.



1 “(b) EXCLUDED PROGRAMS.—This title does not apply to
2 or otherwise affect the following Federal grant programs or any
3 grant under such a program:

4 “(1) NONDEPARTMENT PROGRAMS.—Any Federal
5 grant program that is not administered by the Department.

6 “(2) FIRE GRANT PROGRAMS.—The fire grant pro-
7 grams authorized by sections 33 and 34 of the Federal
8 Fire Prevention and Control Act of 1974 (15 U.S.C. 2229,
9 2229a).

10 “(3) EMERGENCY MANAGEMENT PLANNING AND AS-
11 SISTANCE ACCOUNT GRANTS.—The Emergency Manage-
12 ment Performance Grant program and the Urban Search
13 and Rescue Grants program authorized by title VI of the
14 Robert T. Stafford Disaster Relief and Emergency Assist-
15 ance Act (42 U.S.C. 5195 et seq.); the Departments of
16 Veterans Affairs and Housing and Urban Development,
17 and Independent Agencies Appropriations Act, 2000 (113
18 Stat. 1047 et seq.); and the Earthquake Hazards Reduc-
19 tion Act of 1977 (42 U.S.C. 7701 et seq.).

20 **“SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RE-**
21 **SPONDERS.**

22 “(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

23 “(1) IN GENERAL.—For purposes of covered grants,
24 the Secretary shall establish clearly defined essential capa-
25 bilities for State and local government preparedness for ter-
26 rorism, in consultation with—

27 “(A) the Task Force on Essential Capabilities for
28 First Responders established under section 1804;

29 “(B) the Under Secretaries for Emergency Pre-
30 paredness and Response, Border and Transportation
31 Security, Information Analysis and Infrastructure Pro-
32 tection, and Science and Technology, and the Director
33 of the Office for Domestic Preparedness;

34 “(C) the Secretary of Health and Human Services;

35 “(D) other appropriate Federal agencies;

36 “(E) State and local first responder agencies and
37 officials; and



1 “(F) consensus-based standard making organiza-
2 tions responsible for setting standards relevant to the
3 first responder community.

4 “(2) DEADLINES.—The Secretary shall—

5 “(A) establish essential capabilities under para-
6 graph (1) within 30 days after receipt of the report
7 under section 1804(b); and

8 “(B) regularly update such essential capabilities as
9 necessary, but not less than every 3 years.

10 “(3) PROVISION OF ESSENTIAL CAPABILITIES.—The
11 Secretary shall ensure that a detailed description of the es-
12 sential capabilities established under paragraph (1) is pro-
13 vided promptly to the States and to the Congress. The
14 States shall make the essential capabilities available as nec-
15 essary and appropriate to local governments within their
16 jurisdictions.

17 “(b) OBJECTIVES.—The Secretary shall ensure that essen-
18 tial capabilities established under subsection (a)(1) meet the
19 following objectives:

20 “(1) SPECIFICITY.—The determination of essential ca-
21 pabilities specifically shall describe the training, planning,
22 personnel, and equipment that different types of commu-
23 nities in the Nation should possess, or to which they should
24 have access, in order to meet the Department’s goals for
25 terrorism preparedness based upon—

26 “(A) the most current risk assessment available by
27 the Directorate for Information Analysis and Infra-
28 structure Protection of the threats of terrorism against
29 the United States;

30 “(B) the types of threats, vulnerabilities, geog-
31 raphy, size, and other factors that the Secretary has
32 determined to be applicable to each different type of
33 community; and

34 “(C) the principles of regional coordination and
35 mutual aid among State and local governments.

36 “(2) FLEXIBILITY.—The establishment of essential ca-
37 pabilities shall be sufficiently flexible to allow State and



1 local government officials to set priorities based on par-
2 ticular needs, while reaching nationally determined ter-
3 rorism preparedness levels within a specified time period.

4 “(3) MEASURABILITY.—The establishment of essential
5 capabilities shall be designed to enable measurement of
6 progress towards specific terrorism preparedness goals.

7 “(4) COMPREHENSIVENESS.—The determination of es-
8 sential capabilities for terrorism preparedness shall be
9 made within the context of a comprehensive State emer-
10 gency management system.

11 “(c) FACTORS TO BE CONSIDERED.—

12 “(1) IN GENERAL.—In establishing essential capabili-
13 ties under subsection (a)(1), the Secretary specifically shall
14 consider the variables of threat, vulnerability, and con-
15 sequences with respect to the Nation’s population (includ-
16 ing transient commuting and tourist populations) and crit-
17 ical infrastructure. Such consideration shall be based upon
18 the most current risk assessment available by the Direc-
19 torate for Information Analysis and Infrastructure Protec-
20 tion of the threats of terrorism against the United States.

21 “(2) CRITICAL INFRASTRUCTURE SECTORS.—The Sec-
22 retary specifically shall consider threats of terrorism
23 against the following critical infrastructure sectors in all
24 areas of the Nation, urban and rural:

25 “(A) Agriculture.

26 “(B) Banking and finance.

27 “(C) Chemical industries.

28 “(D) The defense industrial base.

29 “(E) Emergency services.

30 “(F) Energy.

31 “(G) Food.

32 “(H) Government.

33 “(I) Postal and shipping.

34 “(J) Public health.

35 “(K) Information and telecommunications net-
36 works.

37 “(L) Transportation.



1 “(M) Water.

2 The order in which the critical infrastructure sectors are
3 listed in this paragraph shall not be construed as an order
4 of priority for consideration of the importance of such sec-
5 tors.

6 “(3) TYPES OF THREAT.—The Secretary specifically
7 shall consider the following types of threat to the critical
8 infrastructure sectors described in paragraph (2), and to
9 populations in all areas of the Nation, urban and rural:

10 “(A) Biological threats.

11 “(B) Nuclear threats.

12 “(C) Radiological threats.

13 “(D) Incendiary threats.

14 “(E) Chemical threats.

15 “(F) Explosives.

16 “(G) Suicide bombers.

17 “(H) Cyber threats.

18 “(I) Any other threats based on proximity to spe-
19 cific past acts of terrorism or the known activity of any
20 terrorist group.

21 The order in which the types of threat are listed in this
22 paragraph shall not be construed as an order of priority for
23 consideration of the importance of such threats.

24 “(4) CONSIDERATION OF ADDITIONAL FACTORS.—In
25 establishing essential capabilities under subsection (a)(1),
26 the Secretary shall take into account any other specific
27 threat to a population (including a transient commuting or
28 tourist population) or critical infrastructure sector that the
29 Secretary has determined to exist.

30 **“SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES**
31 **FOR FIRST RESPONDERS.**

32 “(a) ESTABLISHMENT.—To assist the Secretary in estab-
33 lishing essential capabilities under section 1803(a)(1), the Sec-
34 retary shall establish an advisory body pursuant to section
35 871(a) not later than 60 days after the date of the enactment
36 of this section, which shall be known as the Task Force on Es-
37 sential Capabilities for First Responders.



1 “(b) REPORT.—

2 “(1) IN GENERAL.—The Task Force shall submit to
3 the Secretary, not later than 9 months after its establish-
4 ment by the Secretary under subsection (a) and every 3
5 years thereafter, a report on its recommendations for es-
6 sential capabilities for preparedness for terrorism.

7 “(2) CONTENTS.—The report shall—

8 “(A) include a priority ranking of essential capa-
9 bilities in order to provide guidance to the Secretary
10 and to the Congress on determining the appropriate al-
11 location of, and funding levels for, first responder
12 needs;

13 “(B) set forth a methodology by which any State
14 or local government will be able to determine the extent
15 to which it possesses or has access to the essential ca-
16 pabilities that States and local governments having
17 similar risks should obtain;

18 “(C) describe the availability of national voluntary
19 consensus standards, and whether there is a need for
20 new national voluntary consensus standards, with re-
21 spect to first responder training and equipment;

22 “(D) include such additional matters as the Sec-
23 retary may specify in order to further the terrorism
24 preparedness capabilities of first responders; and

25 “(E) include such revisions to the contents of past
26 reports as are necessary to take into account changes
27 in the most current risk assessment available by the
28 Directorate for Information Analysis and Infrastruc-
29 ture Protection or other relevant information as deter-
30 mined by the Secretary.

31 “(3) CONSISTENCY WITH FEDERAL WORKING
32 GROUP.—The Task Force shall ensure that its rec-
33 ommendations for essential capabilities are, to the extent
34 feasible, consistent with any preparedness goals or rec-
35 ommendations of the Federal working group established
36 under section 319F(a) of the Public Health Service Act (42
37 U.S.C. 247d–6(a)).



1 “(4) COMPREHENSIVENESS.—The Task Force shall
2 ensure that its recommendations regarding essential capa-
3 bilities for terrorism preparedness are made within the con-
4 text of a comprehensive State emergency management sys-
5 tem.

6 “(5) PRIOR MEASURES.—The Task Force shall ensure
7 that its recommendations regarding essential capabilities
8 for terrorism preparedness take into account any capabili-
9 ties that State or local officials have determined to be es-
10 sential and have undertaken since September 11, 2001, to
11 prevent or prepare for terrorist attacks.

12 “(c) MEMBERSHIP.—

13 “(1) IN GENERAL.—The Task Force shall consist of
14 25 members appointed by the Secretary, and shall, to the
15 extent practicable, represent a geographic and substantive
16 cross section of governmental and nongovernmental first re-
17 sponder disciplines from the State and local levels, includ-
18 ing as appropriate—

19 “(A) members selected from the emergency re-
20 sponse field, including fire service and law enforcement,
21 hazardous materials response, emergency medical serv-
22 ices, and emergency management personnel (including
23 public works personnel routinely engaged in emergency
24 response);

25 “(B) health scientists, emergency and inpatient
26 medical providers, and public health professionals, in-
27 cluding experts in emergency health care response to
28 chemical, biological, radiological, and nuclear terrorism,
29 and experts in providing mental health care during
30 emergency response operations;

31 “(C) experts from Federal, State, and local gov-
32 ernments, and the private sector, representing stand-
33 ards-setting organizations, including representation
34 from the voluntary consensus codes and standards de-
35 velopment community, particularly those with expertise
36 in first responder disciplines; and



1 “(D) State and local officials with expertise in ter-
2 rorism preparedness, subject to the condition that if
3 any such official is an elected official representing one
4 of the two major political parties, an equal number of
5 elected officials shall be selected from each such party.

6 “(2) COORDINATION WITH THE DEPARTMENT OF
7 HEALTH AND HEALTH SERVICES.—In the selection of mem-
8 bers of the Task Force who are health professionals, in-
9 cluding emergency medical professionals, the Secretary
10 shall coordinate the selection with the Secretary of Health
11 and Human Services.

12 “(3) EX OFFICIO MEMBERS.—The Secretary and the
13 Secretary of Health and Human Services shall each des-
14 ignate one or more officers of their respective Departments
15 to serve as ex officio members of the Task Force. One of
16 the ex officio members from the Department of Homeland
17 Security shall be the designated officer of the Federal Gov-
18 ernment for purposes of subsection (e) of section 10 of the
19 Federal Advisory Committee Act (5 App. U.S.C.).

20 “(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE
21 ACT.—Notwithstanding section 871(a), the Federal Advisory
22 Committee Act (5 U.S.C. App.), including subsections (a), (b),
23 and (d) of section 10 of such Act, and section 552b(e) of title
24 5, United States Code, shall apply to the Task Force.

25 **“SEC. 1805. COVERED GRANT ELIGIBILITY AND CRI-**
26 **TERIA.**

27 “(a) GRANT ELIGIBILITY.—Any State, region, or directly
28 eligible tribe shall be eligible to apply for a covered grant.

29 “(b) GRANT CRITERIA.—In awarding covered grants, the
30 Secretary shall assist States and local governments in achiev-
31 ing, maintaining, and enhancing the essential capabilities for
32 first responders established by the Secretary under section
33 1803.

34 “(c) STATE HOMELAND SECURITY PLANS.—

35 “(1) SUBMISSION OF PLANS.—The Secretary shall re-
36 quire that any State applying to the Secretary for a cov-



1 ered grant must submit to the Secretary a 3-year State
2 homeland security plan that—

3 “(A) demonstrates the extent to which the State
4 has achieved the essential capabilities that apply to the
5 State;

6 “(B) demonstrates the needs of the State nec-
7 essary to achieve, maintain, or enhance the essential
8 capabilities that apply to the State;

9 “(C) includes a prioritization of such needs based
10 on threat, vulnerability, and consequence assessment
11 factors applicable to the State;

12 “(D) describes how the State intends—

13 “(i) to address such needs at the city, county,
14 regional, tribal, State, and interstate level, includ-
15 ing a precise description of any regional structure
16 the State has established for the purpose of orga-
17 nizing homeland security preparedness activities
18 funded by covered grants;

19 “(ii) to use all Federal, State, and local re-
20 sources available for the purpose of addressing
21 such needs; and

22 “(iii) to give particular emphasis to regional
23 planning and cooperation, including the activities of
24 multijurisdictional planning agencies governed by
25 local officials, both within its jurisdictional borders
26 and with neighboring States;

27 “(E) is developed in consultation with and subject
28 to appropriate comment by local governments within
29 the State; and

30 “(F) with respect to the emergency preparedness
31 of first responders, addresses the unique aspects of ter-
32 rorism as part of a comprehensive State emergency
33 management plan.

34 “(2) APPROVAL BY SECRETARY.—The Secretary may
35 not award any covered grant to a State unless the Sec-
36 retary has approved the applicable State homeland security
37 plan.



1 “(d) CONSISTENCY WITH STATE PLANS.—The Secretary
2 shall ensure that each covered grant is used to supplement and
3 support, in a consistent and coordinated manner, the applicable
4 State homeland security plan or plans.

5 “(e) APPLICATION FOR GRANT.—

6 “(1) IN GENERAL.—Except as otherwise provided in
7 this subsection, any State, region, or directly eligible tribe
8 may apply for a covered grant by submitting to the Sec-
9 retary an application at such time, in such manner, and
10 containing such information as is required under this sub-
11 section, or as the Secretary may reasonably require.

12 “(2) DEADLINES FOR APPLICATIONS AND AWARDS.—
13 All applications for covered grants must be submitted at
14 such time as the Secretary may reasonably require for the
15 fiscal year for which they are submitted. The Secretary
16 shall award covered grants pursuant to all approved appli-
17 cations for such fiscal year as soon as practicable, but not
18 later than March 1 of such year.

19 “(3) AVAILABILITY OF FUNDS.—All funds awarded by
20 the Secretary under covered grants in a fiscal year shall be
21 available for obligation through the end of the subsequent
22 fiscal year.

23 “(4) MINIMUM CONTENTS OF APPLICATION.—The Sec-
24 retary shall require that each applicant include in its appli-
25 cation, at a minimum—

26 “(A) the purpose for which the applicant seeks
27 covered grant funds and the reasons why the applicant
28 needs the covered grant to meet the essential capabili-
29 ties for terrorism preparedness within the State, region,
30 or directly eligible tribe to which the application per-
31 tains;

32 “(B) a description of how, by reference to the ap-
33 plicable State homeland security plan or plans under
34 subsection (c), the allocation of grant funding proposed
35 in the application, including, where applicable, the
36 amount not passed through under section 1806(g)(1),



1 would assist in fulfilling the essential capabilities speci-
2 fied in such plan or plans;

3 “(C) a statement of whether a mutual aid agree-
4 ment applies to the use of all or any portion of the cov-
5 ered grant funds;

6 “(D) if the applicant is a State, a description of
7 how the State plans to allocate the covered grant funds
8 to regions, local governments, and Indian tribes;

9 “(E) if the applicant is a region—

10 “(i) a precise geographical description of the
11 region and a specification of all participating and
12 nonparticipating local governments within the geo-
13 graphical area comprising that region;

14 “(ii) a specification of what governmental enti-
15 ty within the region will administer the expenditure
16 of funds under the covered grant; and

17 “(iii) a designation of a specific individual to
18 serve as regional liaison;

19 “(F) a capital budget showing how the applicant
20 intends to allocate and expend the covered grant funds;

21 “(G) if the applicant is a directly eligible tribe, a
22 designation of a specific individual to serve as the tribal
23 liaison; and

24 “(H) a statement of how the applicant intends to
25 meet the matching requirement, if any, that applies
26 under section 1806(g)(2).

27 “(5) REGIONAL APPLICATIONS.—

28 “(A) RELATIONSHIP TO STATE APPLICATIONS.—A
29 regional application—

30 “(i) shall be coordinated with an application
31 submitted by the State or States of which such re-
32 gion is a part;

33 “(ii) shall supplement and avoid duplication
34 with such State application; and

35 “(iii) shall address the unique regional aspects
36 of such region’s terrorism preparedness needs be-



1 yond those provided for in the application of such
2 State or States.

3 “(B) STATE REVIEW AND SUBMISSION.—To en-
4 sure the consistency required under subsection (d) and
5 the coordination required under subparagraph (A) of
6 this paragraph, an applicant that is a region must sub-
7 mit its application to each State of which any part is
8 included in the region for review and concurrence prior
9 to the submission of such application to the Secretary.
10 The regional application shall be transmitted to the
11 Secretary through each such State within 30 days of its
12 receipt, unless the Governor of such a State notifies the
13 Secretary, in writing, that such regional application is
14 inconsistent with the State’s homeland security plan
15 and provides an explanation of the reasons therefor.

16 “(C) DISTRIBUTION OF REGIONAL AWARDS.—If
17 the Secretary approves a regional application, then the
18 Secretary shall distribute a regional award to the State
19 or States submitting the applicable regional application
20 under subparagraph (B), and each such State shall, not
21 later than the end of the 45-day period beginning on
22 the date after receiving a regional award, pass through
23 to the region all covered grant funds or resources pur-
24 chased with such funds, except those funds necessary
25 for the State to carry out its responsibilities with re-
26 spect to such regional application; *Provided That*, in no
27 such case shall the State or States pass through to the
28 region less than 80 percent of the regional award.

29 “(D) CERTIFICATIONS REGARDING DISTRIBUTION
30 OF GRANT FUNDS TO REGIONS.—Any State that re-
31 ceives a regional award under subparagraph (C) shall
32 certify to the Secretary, by not later than 30 days after
33 the expiration of the period described in subparagraph
34 (C) with respect to the grant, that the State has made
35 available to the region the required funds and resources
36 in accordance with subparagraph (C).



1 “(E) DIRECT PAYMENTS TO REGIONS.—If any
2 State fails to pass through a regional award to a region
3 as required by subparagraph (C) within 45 days after
4 receiving such award and does not request or receive an
5 extension of such period under section 1806(h)(2), the
6 region may petition the Secretary to receive directly the
7 portion of the regional award that is required to be
8 passed through to such region under subparagraph (C).

9 “(F) REGIONAL LIAISONS.—A regional liaison des-
10 ignated under paragraph (4)(E)(iii) shall—

11 “(i) coordinate with Federal, State, local, re-
12 gional, and private officials within the region con-
13 cerning terrorism preparedness;

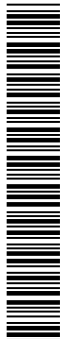
14 “(ii) develop a process for receiving input from
15 Federal, State, local, regional, and private sector
16 officials within the region to assist in the develop-
17 ment of the regional application and to improve the
18 region’s access to covered grants; and

19 “(iii) administer, in consultation with State,
20 local, regional, and private officials within the re-
21 gion, covered grants awarded to the region.

22 “(6) TRIBAL APPLICATIONS.—

23 “(A) SUBMISSION TO THE STATE OR STATES.—To
24 ensure the consistency required under subsection (d),
25 an applicant that is a directly eligible tribe must sub-
26 mit its application to each State within the boundaries
27 of which any part of such tribe is located for direct
28 submission to the Department along with the applica-
29 tion of such State or States.

30 “(B) OPPORTUNITY FOR STATE COMMENT.—Be-
31 fore awarding any covered grant to a directly eligible
32 tribe, the Secretary shall provide an opportunity to
33 each State within the boundaries of which any part of
34 such tribe is located to comment to the Secretary on
35 the consistency of the tribe’s application with the
36 State’s homeland security plan. Any such comments



1 shall be submitted to the Secretary concurrently with
2 the submission of the State and tribal applications.

3 “(C) FINAL AUTHORITY.—The Secretary shall
4 have final authority to determine the consistency of any
5 application of a directly eligible tribe with the applica-
6 ble State homeland security plan or plans, and to ap-
7 prove any application of such tribe. The Secretary shall
8 notify each State within the boundaries of which any
9 part of such tribe is located of the approval of an appli-
10 cation by such tribe.

11 “(D) TRIBAL LIAISON.—A tribal liaison des-
12 ignated under paragraph (4)(G) shall—

13 “(i) coordinate with Federal, State, local, re-
14 gional, and private officials concerning terrorism
15 preparedness;

16 “(ii) develop a process for receiving input from
17 Federal, State, local, regional, and private sector
18 officials to assist in the development of the applica-
19 tion of such tribe and to improve the tribe’s access
20 to covered grants; and

21 “(iii) administer, in consultation with State,
22 local, regional, and private officials, covered grants
23 awarded to such tribe.

24 “(E) LIMITATION ON THE NUMBER OF DIRECT
25 GRANTS.—The Secretary may make covered grants di-
26 rectly to not more than 20 directly eligible tribes per
27 fiscal year.

28 “(F) TRIBES NOT RECEIVING DIRECT GRANTS.—
29 An Indian tribe that does not receive a grant directly
30 under this section is eligible to receive funds under a
31 covered grant from the State or States within the
32 boundaries of which any part of such tribe is located,
33 consistent with the homeland security plan of the State
34 as described in subsection (c). If a State fails to comply
35 with section 1806(g)(1), the tribe may request payment
36 under section 1806(h)(3) in the same manner as a local
37 government.



1 “(7) EQUIPMENT STANDARDS.—If an applicant for a
2 covered grant proposes to upgrade or purchase, with assist-
3 ance provided under the grant, new equipment or systems
4 that do not meet or exceed any applicable national vol-
5 untary consensus standards established by the Secretary
6 under section 1807(a), the applicant shall include in the
7 application an explanation of why such equipment or sys-
8 tems will serve the needs of the applicant better than
9 equipment or systems that meet or exceed such standards.

10 “(f) FIRST RESPONDER GRANTS BOARD.—

11 “(1) ESTABLISHMENT OF BOARD.—The Secretary
12 shall establish a First Responder Grants Board, consisting
13 of—

14 “(A) the Secretary;

15 “(B) the Under Secretary for Emergency Pre-
16 paredness and Response;

17 “(C) the Under Secretary for Border and Trans-
18 portation Security;

19 “(D) the Under Secretary for Information Anal-
20 ysis and Infrastructure Protection;

21 “(E) the Under Secretary for Science and Tech-
22 nology; and

23 “(F) the Director of the Office for Domestic Pre-
24 paredness.

25 “(2) CHAIRMAN.—

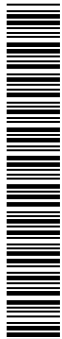
26 “(A) IN GENERAL.—The Secretary shall be the
27 Chairman of the Board.

28 “(B) EXERCISE OF AUTHORITIES BY DEPUTY SEC-
29 RETARY.—The Deputy Secretary of Homeland Security
30 may exercise the authorities of the Chairman, if the
31 Secretary so directs.

32 “(3) RANKING OF GRANT APPLICATIONS.—

33 “(A) PRIORITIZATION OF GRANTS.—The Board—

34 “(i) shall evaluate and annually prioritize all
35 pending applications for covered grants based upon
36 the degree to which they would, by achieving, main-
37 taining, or enhancing the essential capabilities of



1 the applicants on a nationwide basis, lessen the
2 threat to, vulnerability of, and consequences for
3 persons and critical infrastructure; and

4 “(ii) in evaluating the threat to persons and
5 critical infrastructure for purposes of prioritizing
6 covered grants, shall give greater weight to threats
7 of terrorism based on their specificity and credi-
8 bility, including any pattern of repetition.

9 “(B) MINIMUM AMOUNTS.—After evaluating and
10 prioritizing grant applications under subparagraph (A),
11 the Board shall ensure that, for each fiscal year—

12 “(i) each of the States, other than the Virgin
13 Islands, American Samoa, Guam, and the Northern
14 Mariana Islands, that has an approved State home-
15 land security plan receives no less than 0.25 per-
16 cent of the funds available for covered grants for
17 that fiscal year for purposes of implementing its
18 homeland security plan in accordance with the
19 prioritization of needs under subsection (c)(1)(C);

20 “(ii) each of the States, other than the Virgin
21 Islands, American Samoa, Guam, and the Northern
22 Mariana Islands, that has an approved State home-
23 land security plan and that meets one or both of
24 the additional high-risk qualifying criteria under
25 subparagraph (C) receives no less than 0.45 per-
26 cent of the funds available for covered grants for
27 that fiscal year for purposes of implementing its
28 homeland security plan in accordance with the
29 prioritization of needs under subsection (c)(1)(C);

30 “(iii) the Virgin Islands, American Samoa,
31 Guam, and the Northern Mariana Islands each re-
32 ceives no less than 0.08 percent of the funds avail-
33 able for covered grants for that fiscal year for pur-
34 poses of implementing its approved State homeland
35 security plan in accordance with the prioritization
36 of needs under subsection (c)(1)(C); and



1 “(iv) directly eligible tribes collectively receive
2 no less than 0.08 percent of the funds available for
3 covered grants for such fiscal year for purposes of
4 addressing the needs identified in the applications
5 of such tribes, consistent with the homeland secu-
6 rity plan of each State within the boundaries of
7 which any part of any such tribe is located, except
8 that this clause shall not apply with respect to
9 funds available for a fiscal year if the Secretary re-
10 ceives less than 5 applications for such fiscal year
11 from such tribes under subsection (e)(6)(A) or does
12 not approve at least one such application.

13 “(C) ADDITIONAL HIGH-RISK QUALIFYING CRI-
14 TERIA.—For purposes of subparagraph (B)(ii), addi-
15 tional high-risk qualifying criteria consist of—

16 “(i) having a significant international land
17 border; or

18 “(ii) adjoining a body of water within North
19 America through which an international boundary
20 line extends.

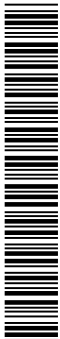
21 “(4) EFFECT OF REGIONAL AWARDS ON STATE MIN-
22 IMUM.—Any regional award, or portion thereof, provided to
23 a State under subsection (e)(5)(C) shall not be considered
24 in calculating the minimum State award under paragraph
25 (3)(B) of this subsection.

26 “(5) FUNCTIONS OF UNDER SECRETARIES.—The
27 Under Secretaries referred to in paragraph (1) shall seek
28 to ensure that the relevant expertise and input of the staff
29 of their directorates are available to and considered by the
30 Board.

31 **“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY RE-**
32 **QUIREMENTS.**

33 “(a) IN GENERAL.—A covered grant may be used for—

34 “(1) purchasing or upgrading equipment, including
35 computer software, to enhance terrorism preparedness and
36 response;



1 “(2) exercises to strengthen terrorism preparedness
2 and response;

3 “(3) training for prevention (including detection) of,
4 preparedness for, or response to attacks involving weapons
5 of mass destruction, including training in the use of equip-
6 ment and computer software;

7 “(4) developing or updating response plans;

8 “(5) establishing or enhancing mechanisms for sharing
9 terrorism threat information;

10 “(6) systems architecture and engineering, program
11 planning and management, strategy formulation and stra-
12 tegic planning, life-cycle systems design, product and tech-
13 nology evaluation, and prototype development for terrorism
14 preparedness and response purposes;

15 “(7) additional personnel costs resulting from—

16 “(A) elevations in the threat alert level of the
17 Homeland Security Advisory System by the Secretary,
18 or a similar elevation in threat alert level issued by a
19 State, region, or local government with the approval of
20 the Secretary;

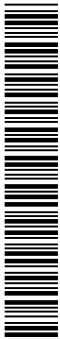
21 “(B) travel to and participation in exercises and
22 training in the use of equipment and on prevention ac-
23 tivities; and

24 “(C) the temporary replacement of personnel dur-
25 ing any period of travel to and participation in exer-
26 cises and training in the use of equipment and on pre-
27 vention activities;

28 “(8) the costs of equipment (including software) re-
29 quired to receive, transmit, handle, and store classified in-
30 formation;

31 “(9) protecting critical infrastructure against potential
32 attack by the addition of barriers, fences, gates, and other
33 such devices, except that the cost of such measures may
34 not exceed the greater of—

35 “(A) \$1,000,000 per project; or



1 “(B) such greater amount as may be approved by
2 the Secretary, which may not exceed 10 percent of the
3 total amount of the covered grant;

4 “(10) the costs of commercially available interoperable
5 communications equipment (which, where applicable, is
6 based on national, voluntary consensus standards) that the
7 Secretary, in consultation with the Chairman of the Fed-
8 eral Communications Commission, deems best suited to fa-
9 cilitate interoperability, coordination, and integration be-
10 tween and among emergency communications systems, and
11 that complies with prevailing grant guidance of the Depart-
12 ment for interoperable communications;

13 “(11) educational curricula development for first re-
14 sponders to ensure that they are prepared for terrorist at-
15 tacks;

16 “(12) training and exercises to assist public elemen-
17 tary and secondary schools in developing and implementing
18 programs to instruct students regarding age-appropriate
19 skills to prepare for and respond to an act of terrorism;

20 “(13) paying of administrative expenses directly re-
21 lated to administration of the grant, except that such ex-
22 penses may not exceed 3 percent of the amount of the
23 grant; and

24 “(14) other appropriate activities as determined by the
25 Secretary.

26 “(b) PROHIBITED USES.—Funds provided as a covered
27 grant may not be used—

28 “(1) to supplant State or local funds;

29 “(2) to construct buildings or other physical facilities;

30 “(3) to acquire land; or

31 “(4) for any State or local government cost sharing
32 contribution.

33 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this sec-
34 tion shall be construed to preclude State and local governments
35 from using covered grant funds in a manner that also enhances
36 first responder preparedness for emergencies and disasters un-
37 related to acts of terrorism, if such use assists such govern-



1 ments in achieving essential capabilities for terrorism prepared-
2 ness established by the Secretary under section 1803.

3 “(d) REIMBURSEMENT OF COSTS.—In addition to the ac-
4 tivities described in subsection (a), a covered grant may be
5 used to provide a reasonable stipend to paid-on-call or volun-
6 teer first responders who are not otherwise compensated for
7 travel to or participation in training covered by this section.
8 Any such reimbursement shall not be considered compensation
9 for purposes of rendering such a first responder an employee
10 under the Fair Labor Standards Act of 1938 (29 U.S.C. 201
11 et seq.).

12 “(e) ASSISTANCE REQUIREMENT.—The Secretary may not
13 request that equipment paid for, wholly or in part, with funds
14 provided as a covered grant be made available for responding
15 to emergencies in surrounding States, regions, and localities,
16 unless the Secretary undertakes to pay the costs directly attrib-
17 utable to transporting and operating such equipment during
18 such response.

19 “(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY
20 GRANT FUNDS.—Upon request by the recipient of a covered
21 grant, the Secretary may authorize the grantee to transfer all
22 or part of funds provided as the covered grant from uses speci-
23 fied in the grant agreement to other uses authorized under this
24 section, if the Secretary determines that such transfer is in the
25 interests of homeland security.

26 “(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
27 ITIES.—

28 “(1) PASS-THROUGH.—The Secretary shall require a
29 recipient of a covered grant that is a State to obligate or
30 otherwise make available to local governments, first re-
31 sponders, and other local groups, to the extent required
32 under the State homeland security plan or plans specified
33 in the application for the grant, not less than 80 percent
34 of the grant funds, resources purchased with the grant
35 funds having a value equal to at least 80 percent of the
36 amount of the grant, or a combination thereof, by not later



1 than the end of the 45-day period beginning on the date
2 the grant recipient receives the grant funds.

3 “(2) COST SHARING.—

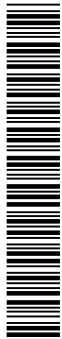
4 “(A) IN GENERAL.—The Federal share of the
5 costs of an activity carried out with a covered grant to
6 a State, region, or directly eligible tribe awarded after
7 the 2-year period beginning on the date of the enact-
8 ment of this section shall not exceed 75 percent.

9 “(B) INTERIM RULE.—The Federal share of the
10 costs of an activity carried out with a covered grant
11 awarded before the end of the 2-year period beginning
12 on the date of the enactment of this section shall be
13 100 percent.

14 “(C) IN-KIND MATCHING.—Each recipient of a
15 covered grant may meet the matching requirement
16 under subparagraph (A) by making in-kind contribu-
17 tions of goods or services that are directly linked with
18 the purpose for which the grant is made, including, but
19 not limited to, any necessary personnel overtime, con-
20 tractor services, administrative costs, equipment fuel
21 and maintenance, and rental space.

22 “(3) CERTIFICATIONS REGARDING DISTRIBUTION OF
23 GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that
24 receives a covered grant shall certify to the Secretary, by
25 not later than 30 days after the expiration of the period
26 described in paragraph (1) with respect to the grant, that
27 the State has made available for expenditure by local gov-
28 ernments, first responders, and other local groups the re-
29 quired amount of grant funds pursuant to paragraph (1).

30 “(4) QUARTERLY REPORT ON HOMELAND SECURITY
31 SPENDING.—The Federal share described in paragraph
32 (2)(A) may be increased by up to 2 percent for any State,
33 region, or directly eligible tribe that, not later than 30 days
34 after the end of each fiscal quarter, submits to the Sec-
35 retary a report on that fiscal quarter. Each such report
36 must include, for each recipient of a covered grant or a
37 pass-through under paragraph (1)—



1 “(A) the amount obligated to that recipient in that
2 quarter;

3 “(B) the amount expended by that recipient in
4 that quarter; and

5 “(C) a summary description of the items pur-
6 chased by such recipient with such amount.

7 “(5) ANNUAL REPORT ON HOMELAND SECURITY
8 SPENDING.—Each recipient of a covered grant shall submit
9 an annual report to the Secretary not later than 60 days
10 after the end of each fiscal year. Each recipient of a cov-
11 ered grant that is a region must simultaneously submit its
12 report to each State of which any part is included in the
13 region. Each recipient of a covered grant that is a directly
14 eligible tribe must simultaneously submit its report to each
15 State within the boundaries of which any part of such tribe
16 is located. Each report must include the following:

17 “(A) The amount, ultimate recipients, and dates
18 of receipt of all funds received under the grant during
19 the previous fiscal year.

20 “(B) The amount and the dates of disbursements
21 of all such funds expended in compliance with para-
22 graph (1) or pursuant to mutual aid agreements or
23 other sharing arrangements that apply within the
24 State, region, or directly eligible tribe, as applicable,
25 during the previous fiscal year.

26 “(C) How the funds were utilized by each ultimate
27 recipient or beneficiary during the preceding fiscal
28 year.

29 “(D) The extent to which essential capabilities
30 identified in the applicable State homeland security
31 plan or plans were achieved, maintained, or enhanced
32 as the result of the expenditure of grant funds during
33 the preceding fiscal year.

34 “(E) The extent to which essential capabilities
35 identified in the applicable State homeland security
36 plan or plans remain unmet.



1 “(6) INCLUSION OF RESTRICTED ANNEXES.—A recipi-
2 ent of a covered grant may submit to the Secretary an
3 annex to the annual report under paragraph (5) that is
4 subject to appropriate handling restrictions, if the recipient
5 believes that discussion in the report of unmet needs would
6 reveal sensitive but unclassified information.

7 “(7) PROVISION OF REPORTS.—The Secretary shall
8 ensure that each annual report under paragraph (5) is pro-
9 vided to the Under Secretary for Emergency Preparedness
10 and Response and the Director of the Office for Domestic
11 Preparedness.

12 “(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF
13 HOMELAND SECURITY GRANTS.—

14 “(1) PENALTIES FOR DELAY IN PASSING THROUGH
15 LOCAL SHARE.—If a recipient of a covered grant that is a
16 State fails to pass through to local governments, first re-
17 sponders, and other local groups funds or resources re-
18 quired by subsection (g)(1) within 45 days after receiving
19 funds under the grant, the Secretary may—

20 “(A) reduce grant payments to the grant recipient
21 from the portion of grant funds that is not required to
22 be passed through under subsection (g)(1);

23 “(B) terminate payment of funds under the grant
24 to the recipient, and transfer the appropriate portion of
25 those funds directly to local first responders that were
26 intended to receive funding under that grant; or

27 “(C) impose additional restrictions or burdens on
28 the recipient’s use of funds under the grant, which may
29 include—

30 “(i) prohibiting use of such funds to pay the
31 grant recipient’s grant-related overtime or other ex-
32 penses;

33 “(ii) requiring the grant recipient to distribute
34 to local government beneficiaries all or a portion of
35 grant funds that are not required to be passed
36 through under subsection (g)(1); or



1 “(iii) for each day that the grant recipient
2 fails to pass through funds or resources in accord-
3 ance with subsection (g)(1), reducing grant pay-
4 ments to the grant recipient from the portion of
5 grant funds that is not required to be passed
6 through under subsection (g)(1), except that the
7 total amount of such reduction may not exceed 20
8 percent of the total amount of the grant.

9 “(2) EXTENSION OF PERIOD.—The Governor of a
10 State may request in writing that the Secretary extend the
11 45-day period under section 1805(e)(5)(E) or paragraph
12 (1) for an additional 15-day period. The Secretary may ap-
13 prove such a request, and may extend such period for addi-
14 tional 15-day periods, if the Secretary determines that the
15 resulting delay in providing grant funding to the local gov-
16 ernment entities that will receive funding under the grant
17 will not have a significant detrimental impact on such enti-
18 ties’ terrorism preparedness efforts.

19 “(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOV-
20 ERNMENT.—

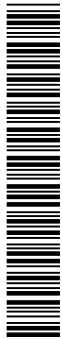
21 “(A) IN GENERAL.—The Secretary may upon re-
22 quest by a local government pay to the local govern-
23 ment a portion of the amount of a covered grant
24 awarded to a State in which the local government is lo-
25 cated, if—

26 “(i) the local government will use the amount
27 paid to expedite planned enhancements to its ter-
28 rorism preparedness as described in any applicable
29 State homeland security plan or plans;

30 “(ii) the State has failed to pass through
31 funds or resources in accordance with subsection
32 (g)(1); and

33 “(iii) the local government complies with sub-
34 paragraphs (B) and (C).

35 “(B) SHOWING REQUIRED.—To receive a payment
36 under this paragraph, a local government must dem-
37 onstrate that—



1 “(i) it is identified explicitly as an ultimate re-
2 cipient or intended beneficiary in the approved
3 grant application;

4 “(ii) it was intended by the grantee to receive
5 a severable portion of the overall grant for a spe-
6 cific purpose that is identified in the grant applica-
7 tion;

8 “(iii) it petitioned the grantee for the funds or
9 resources after expiration of the period within
10 which the funds or resources were required to be
11 passed through under subsection (g)(1); and

12 “(iv) it did not receive the portion of the over-
13 all grant that was earmarked or designated for its
14 use or benefit.

15 “(C) EFFECT OF PAYMENT.—Payment of grant
16 funds to a local government under this paragraph—

17 “(i) shall not affect any payment to another
18 local government under this paragraph; and

19 “(ii) shall not prejudice consideration of a re-
20 quest for payment under this paragraph that is
21 submitted by another local government.

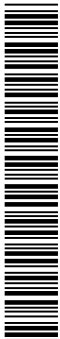
22 “(D) DEADLINE FOR ACTION BY SECRETARY.—
23 The Secretary shall approve or disapprove each request
24 for payment under this paragraph by not later than 15
25 days after the date the request is received by the De-
26 partment.

27 “(i) REPORTS TO CONGRESS.—The Secretary shall submit
28 an annual report to the Congress by December 31 of each
29 year—

30 “(1) describing in detail the amount of Federal funds
31 provided as covered grants that were directed to each
32 State, region, and directly eligible tribe in the preceding fis-
33 cal year;

34 “(2) containing information on the use of such grant
35 funds by grantees; and

36 “(3) describing—



1 “(A) the Nation’s progress in achieving, maintain-
2 ing, and enhancing the essential capabilities established
3 under section 1803(a) as a result of the expenditure of
4 covered grant funds during the preceding fiscal year;
5 and

6 “(B) an estimate of the amount of expenditures
7 required to attain across the United States the essen-
8 tial capabilities established under section 1803(a).

9 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RE-**
10 **SPONDER EQUIPMENT AND TRAINING.**

11 “(a) EQUIPMENT STANDARDS.—

12 “(1) IN GENERAL.—The Secretary, in consultation
13 with the Under Secretaries for Emergency Preparedness
14 and Response and Science and Technology and the Direc-
15 tor of the Office for Domestic Preparedness, shall, not later
16 than 6 months after the date of enactment of this section,
17 support the development of, promulgate, and update as
18 necessary national voluntary consensus standards for the
19 performance, use, and validation of first responder equip-
20 ment for purposes of section 1805(e)(7). Such standards—

21 “(A) shall be, to the maximum extent practicable,
22 consistent with any existing voluntary consensus stand-
23 ards;

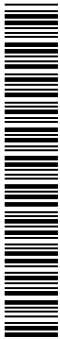
24 “(B) shall take into account, as appropriate, new
25 types of terrorism threats that may not have been con-
26 templated when such existing standards were devel-
27 oped;

28 “(C) shall be focused on maximizing interoper-
29 ability, interchangeability, durability, flexibility, effi-
30 ciency, efficacy, portability, sustainability, and safety;
31 and

32 “(D) shall cover all appropriate uses of the equip-
33 ment.

34 “(2) REQUIRED CATEGORIES.—In carrying out para-
35 graph (1), the Secretary shall specifically consider the fol-
36 lowing categories of first responder equipment:

37 “(A) Thermal imaging equipment.



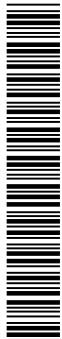
- 1 “(B) Radiation detection and analysis equipment.
2 “(C) Biological detection and analysis equipment.
3 “(D) Chemical detection and analysis equipment.
4 “(E) Decontamination and sterilization equipment.
5 “(F) Personal protective equipment, including gar-
6 ments, boots, gloves, and hoods and other protective
7 clothing.
8 “(G) Respiratory protection equipment.
9 “(H) Interoperable communications, including
10 wireless and wireline voice, video, and data networks.
11 “(I) Explosive mitigation devices and explosive de-
12 tection and analysis equipment.
13 “(J) Containment vessels.
14 “(K) Contaminant-resistant vehicles.
15 “(L) Such other equipment for which the Sec-
16 retary determines that national voluntary consensus
17 standards would be appropriate.

18 “(b) TRAINING STANDARDS.—

19 “(1) IN GENERAL.—The Secretary, in consultation
20 with the Under Secretaries for Emergency Preparedness
21 and Response and Science and Technology and the Direc-
22 tor of the Office for Domestic Preparedness, shall support
23 the development of, promulgate, and regularly update as
24 necessary national voluntary consensus standards for first
25 responder training carried out with amounts provided
26 under covered grant programs, that will enable State and
27 local government first responders to achieve optimal levels
28 of terrorism preparedness as quickly as practicable. Such
29 standards shall give priority to providing training to—

30 “(A) enable first responders to prevent, prepare
31 for, respond to, and mitigate terrorist threats, includ-
32 ing threats from chemical, biological, nuclear, and radi-
33 ological weapons and explosive devices capable of in-
34 flicting significant human casualties; and

35 “(B) familiarize first responders with the proper
36 use of equipment, including software, developed pursu-
37 ant to the standards established under subsection (a).



1 “(2) REQUIRED CATEGORIES.—In carrying out para-
2 graph (1), the Secretary specifically shall include the fol-
3 lowing categories of first responder activities:

4 “(A) Regional planning.

5 “(B) Joint exercises.

6 “(C) Intelligence collection, analysis, and sharing.

7 “(D) Emergency notification of affected popu-
8 lations.

9 “(E) Detection of biological, nuclear, radiological,
10 and chemical weapons of mass destruction.

11 “(F) Such other activities for which the Secretary
12 determines that national voluntary consensus training
13 standards would be appropriate.

14 “(3) CONSISTENCY.—In carrying out this subsection,
15 the Secretary shall ensure that such training standards are
16 consistent with the principles of emergency preparedness
17 for all hazards.

18 “(c) CONSULTATION WITH STANDARDS ORGANIZA-
19 TIONS.—In establishing national voluntary consensus standards
20 for first responder equipment and training under this section,
21 the Secretary shall consult with relevant public and private sec-
22 tor groups, including—

23 “(1) the National Institute of Standards and Tech-
24 nology;

25 “(2) the National Fire Protection Association;

26 “(3) the National Association of County and City
27 Health Officials;

28 “(4) the Association of State and Territorial Health
29 Officials;

30 “(5) the American National Standards Institute;

31 “(6) the National Institute of Justice;

32 “(7) the Inter-Agency Board for Equipment Standard-
33 ization and Interoperability;

34 “(8) the National Public Health Performance Stand-
35 ards Program;

36 “(9) the National Institute for Occupational Safety
37 and Health;



1 “(10) ASTM International;
2 “(11) the International Safety Equipment Association;
3 “(12) the Emergency Management Accreditation Pro-
4 gram; and
5 “(13) to the extent the Secretary considers appro-
6 priate, other national voluntary consensus standards devel-
7 opment organizations, other interested Federal, State, and
8 local agencies, and other interested persons.

9 “(d) COORDINATION WITH SECRETARY OF HHS.—In es-
10 tablishing any national voluntary consensus standards under
11 this section for first responder equipment or training that in-
12 volve or relate to health professionals, including emergency
13 medical professionals, the Secretary shall coordinate activities
14 under this section with the Secretary of Health and Human
15 Services.”.

16 (b) DEFINITION OF EMERGENCY RESPONSE PRO-
17 VIDERS.—Paragraph (6) of section 2 of the Homeland Security
18 Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amend-
19 ed by striking “includes” and all that follows and inserting “in-
20 cludes Federal, State, and local governmental and nongovern-
21 mental emergency public safety, law enforcement, fire, emer-
22 gency response, emergency medical (including hospital emer-
23 gency facilities), and related personnel, organizations, agencies,
24 and authorities.”.

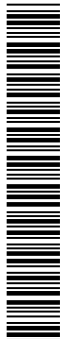
25 (c) TEMPORARY LIMITATIONS ON APPLICATION.—

26 (1) 1-YEAR DELAY IN APPLICATION.—The following
27 provisions of title XVIII of the Homeland Security Act of
28 2002, as amended by subsection (a), shall not apply during
29 the 1-year period beginning on the date of the enactment
30 of this Act:

31 (A) Subsections (b), (c), and (e)(4)(A) and (B) of
32 section 1805.

33 (B) In section 1805(f)(3)(A), the phrase “, by en-
34 hancing the essential capabilities of the applicants,”.

35 (2) 2-YEAR DELAY IN APPLICATION.—The following
36 provisions of title XVIII of the Homeland Security Act of
37 2002, as amended by subsection (a), shall not apply during



1 the 2-year period beginning on the date of the enactment
2 of this Act:

3 (A) Subparagraphs (D) and (E) of section 1806(g)(5).

4 (B) Section 1806(i)(3).

5 **SEC. 5004. MODIFICATION OF HOMELAND SECURITY AD-**
6 **VISORY SYSTEM.**

7 (a) IN GENERAL.—Subtitle A of title II of the Homeland
8 Security Act of 2002 (Public Law 107–296; 6 U.S.C. 121 et
9 seq.) is amended by adding at the end the following:

10 **“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

11 “(a) IN GENERAL.—The Secretary shall revise the Home-
12 land Security Advisory System referred to in section 201(d)(7)
13 to require that any designation of a threat level or other warn-
14 ing shall be accompanied by a designation of the geographic re-
15 gions or economic sectors to which the designation applies.

16 “(b) REPORTS.—The Secretary shall report to the Con-
17 gress annually by not later than December 31 each year re-
18 garding the geographic region-specific warnings and economic
19 sector-specific warnings issued during the preceding fiscal year
20 under the Homeland Security Advisory System referred to in
21 section 201(d)(7), and the bases for such warnings. The report
22 shall be submitted in unclassified form and may, as necessary,
23 include a classified annex.”.

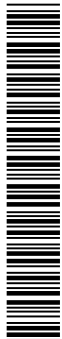
24 (b) CLERICAL AMENDMENT.—The table of contents in sec-
25 tion 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101
26 et seq.) is amended by inserting after the item relating to sec-
27 tion 202 the following:

“203. Homeland Security Advisory System.”.

28 **SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.**

29 Section 102(f) of the Homeland Security Act of 2002
30 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking
31 “and” after the semicolon at the end of paragraph (6), by
32 striking the period at the end of paragraph (7) and inserting
33 “; and”, and by adding at the end the following:

34 “(8) coordinating industry efforts, with respect to
35 functions of the Department of Homeland Security, to
36 identify private sector resources and capabilities that could



1 be effective in supplementing Federal, State, and local gov-
2 ernment agency efforts to prevent or respond to a terrorist
3 attack.”.

4 **SEC. 5006. SUPERSEDED PROVISION.**

5 This subtitle supersedes section 1014 of Public Law 107-
6 56.

7 **SEC. 5007. SENSE OF CONGRESS REGARDING INTER-**
8 **OPERABLE COMMUNICATIONS.**

9 (a) FINDING.—The Congress finds that—

10 (1) many first responders working in the same juris-
11 diction or in different jurisdictions cannot effectively and
12 efficiently communicate with one another; and

13 (2) their inability to do so threatens the public’s safety
14 and may result in unnecessary loss of lives and property.

15 (b) SENSE OF CONGRESS.—It is the sense of the Congress
16 that interoperable emergency communications systems and ra-
17 dios should continue to be deployed as soon as practicable for
18 use by the first responder community, and that upgraded and
19 new digital communications systems and new digital radios
20 must meet prevailing national, voluntary consensus standards
21 for interoperability.

22 **SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN**
23 **CORPS COUNCILS.**

24 (a) FINDING.—The Congress finds that Citizen Corps
25 councils help to enhance local citizen participation in terrorism
26 preparedness by coordinating multiple Citizen Corps programs,
27 developing community action plans, assessing possible threats,
28 and identifying local resources.

29 (b) SENSE OF CONGRESS.—It is the sense of the Congress
30 that individual Citizen Corps councils should seek to enhance
31 the preparedness and response capabilities of all organizations
32 participating in the councils, including by providing funding to
33 as many of their participating organizations as practicable to
34 promote local terrorism preparedness programs.



1 **SEC. 5009. STUDY REGARDING NATIONWIDE EMER-**
2 **GENCY NOTIFICATION SYSTEM.**

3 (a) STUDY.—The Secretary of Homeland Security, in con-
4 sultation with the heads of other appropriate Federal agencies
5 and representatives of providers and participants in the tele-
6 communications industry, shall conduct a study to determine
7 whether it is cost-effective, efficient, and feasible to establish
8 and implement an emergency telephonic alert notification sys-
9 tem that will—

10 (1) alert persons in the United States of imminent or
11 current hazardous events caused by acts of terrorism; and

12 (2) provide information to individuals regarding appro-
13 priate measures that may be undertaken to alleviate or
14 minimize threats to their safety and welfare posed by such
15 events.

16 (b) TECHNOLOGIES TO CONSIDER.—In conducting the
17 study, the Secretary shall consider the use of the telephone,
18 wireless communications, and other existing communications
19 networks to provide such notification.

20 (c) REPORT.—Not later than 9 months after the date of
21 the enactment of this Act, the Secretary shall submit to the
22 Congress a report regarding the conclusions of the study.

23 **SEC. 5010. REQUIRED COORDINATION.**

24 The Secretary of Homeland Security shall ensure that
25 there is effective and ongoing coordination of Federal efforts to
26 prevent, prepare for, and respond to acts of terrorism and
27 other major disasters and emergencies among the divisions of
28 the Department of Homeland Security, including the Direc-
29 torate of Emergency Preparedness and Response and the Office
30 for State and Local Government Coordination and Prepared-
31 ness.

32 **Subtitle B—Government**
33 **Reorganization Authority**

34 **SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMU-**
35 **NITY REORGANIZATION PLANS.**

36 (a) REORGANIZATION PLANS.—Section 903(a)(2) of title
37 5, United States Code, is amended to read as follows:



1 “(2) the abolition of all or a part of the functions of
2 an agency;”.

3 (b) REPEAL OF LIMITATIONS.—Section 905 of title 5,
4 United States Code, is amended to read as follows:

5 **“§ 905. Limitation on authority.**

6 “The authority to submit reorganization plans under this
7 chapter is limited to the following organizational units:

8 “(1) The Office of the National Intelligence Director.

9 “(2) The Central Intelligence Agency.

10 “(3) The National Security Agency.

11 “(4) The Defense Intelligence Agency.

12 “(5) The National Geospatial-Intelligence Agency.

13 “(6) The National Reconnaissance Office.

14 “(7) Other offices within the Department of Defense
15 for the collection of specialized national intelligence through
16 reconnaissance programs.

17 “(8) The intelligence elements of the Army, the Navy,
18 the Air Force, the Marine Corps, the Federal Bureau of In-
19 vestigation, and the Department of Energy.

20 “(9) The Bureau of Intelligence and Research of the
21 Department of State.

22 “(10) The Office of Intelligence Analysis of the De-
23 partment of Treasury.

24 “(11) The elements of the Department of Homeland
25 Security concerned with the analysis of intelligence infor-
26 mation, including the Office of Intelligence of the Coast
27 Guard.

28 “(12) Such other elements of any other department or
29 agency as may be designated by the President, or des-
30 ignated jointly by the National Intelligence Director and
31 the head of the department or agency concerned, as an ele-
32 ment of the intelligence community.”.

33 (c) REORGANIZATION PLANS.—903(a) of title 5, United
34 States Code, is amended—

35 (1) in paragraph (5), by striking “or” after the semi-
36 colon;



1 (2) in paragraph (6), by striking the period and insert-
2 ing “; or”; and

3 (3) by inserting after paragraph (6) the following:

4 “(7) the creation of an agency.”.

5 (d) APPLICATION OF CHAPTER.—Chapter 9 of title 5,
6 United States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 913. Application of chapter**

9 “This chapter shall apply to any reorganization plan
10 transmitted to Congress in accordance with section 903(b) on
11 or after the date of enactment of this section.”.

12 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) TABLE OF SECTIONS.—The table of sections for
14 chapter 9 of title 5, United States Code, is amended by
15 adding after the item relating to section 912 the following:

“913. Application of chapter.”.

16 (2) REFERENCES.—Chapter 9 of title 5, United States
17 Code, is amended—

18 (A) in section 908(1), by striking “on or before
19 December 31, 1984”; and (B) in section 910, by strik-
20 ing “Government Operations” each place it appears
21 and inserting “Government Reform”.

22 (3) DATE MODIFICATION.—Section 909 of title 5,
23 United States Code, is amended in the first sentence by
24 striking “19” and inserting “20”.

25 **Subtitle C—Restructuring Relating to**
26 **the Department of Homeland Secu-**
27 **rity and Congressional Oversight**

28 **SEC. 5025. RESPONSIBILITIES OF COUNTERNARCOTICS**
29 **OFFICE.**

30 (a) AMENDMENT.—Section 878 of the Homeland Security
31 Act of 2002 (6 U.S.C. 458) is amended to read as follows:

32 **“SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCE-**
33 **MENT.**

34 “(a) OFFICE.—There shall be in the Department an Office
35 of Counternarcotics Enforcement, which shall be headed by a



1 Director appointed by the President, by and with the advice
2 and consent of the Senate.

3 “(b) ASSIGNMENT OF PERSONNEL.—(1) The Secretary
4 shall assign to the Office permanent staff and other appro-
5 priate personnel detailed from other subdivisions of the Depart-
6 ment to carry out responsibilities under this section.

7 “(2) The Secretary shall designate senior employees from
8 each appropriate subdivision of the Department that has sig-
9 nificant counternarcotics responsibilities to act as a liaison be-
10 tween that subdivision and the Office of Counternarcotics En-
11 forcement.

12 “(c) LIMITATION ON CONCURRENT EMPLOYMENT.—Ex-
13 cept as provided in subsection (d), the Director of the Office
14 of Counternarcotics Enforcement shall not be employed by, as-
15 signed to, or serve as the head of, any other branch of the Fed-
16 eral Government, any State or local government, or any sub-
17 division of the Department other than the Office of Counter-
18 narcotics Enforcement.

19 “(d) ELIGIBILITY TO SERVE AS THE UNITED STATES
20 INTERDICTION COORDINATOR.—The Director of the Office of
21 Counternarcotics Enforcement may be appointed as the United
22 States Interdiction Coordinator by the Director of the Office of
23 National Drug Control Policy, and shall be the only person at
24 the Department eligible to be so appointed.

25 “(e) RESPONSIBILITIES.—The Secretary shall direct the
26 Director of the Office of Counternarcotics Enforcement—

27 “(1) to coordinate policy and operations within the
28 Department, between the Department and other Federal
29 departments and agencies, and between the Department
30 and State and local agencies with respect to stopping the
31 entry of illegal drugs into the United States;

32 “(2) to ensure the adequacy of resources within the
33 Department for stopping the entry of illegal drugs into the
34 United States;

35 “(3) to recommend the appropriate financial and per-
36 sonnel resources necessary to help the Department better



1 fulfill its responsibility to stop the entry of illegal drugs
2 into the United States;

3 “(4) to track and sever connections between illegal
4 drug trafficking and terrorism; and

5 “(5) to be a representative of the Department on all
6 task forces, committees, or other entities whose purpose is
7 to coordinate the counternarcotics enforcement activities of
8 the Department and other Federal, state or local agencies.

9 “(f) REPORTS TO CONGRESS.—

10 “(1) ANNUAL BUDGET REVIEW.—The Director of the
11 Office of Counternarcotics Enforcement shall, not later
12 than 30 days after the submission by the President to Con-
13 gress of any request for expenditures for the Department,
14 submit to the Committees on Appropriations and the au-
15 thORIZING committees of jurisdiction of the House of Rep-
16 resentatives and the Senate a review and evaluation of such
17 request. The review and evaluation shall—

18 “(A) identify any request or subpart of any re-
19 quest that affects or may affect the counternarcotics
20 activities of the Department or any of its subdivisions,
21 or that affects the ability of the Department or any
22 subdivision of the Department to meet its responsibility
23 to stop the entry of illegal drugs into the United
24 States;

25 “(B) describe with particularity how such re-
26 quested funds would be or could be expended in fur-
27 therance of counternarcotics activities; and

28 “(C) compare such requests with requests for ex-
29 penditures and amounts appropriated by Congress in
30 the previous fiscal year.

31 “(2) EVALUATION OF COUNTERNARCOTICS ACTIVI-
32 TIES.—The Director of the Office of Counternarcotics En-
33 forcement shall, not later than February 1 of each year,
34 submit to the Committees on Appropriations and the au-
35 thORIZING committees of jurisdiction of the House of Rep-
36 resentatives and the Senate a review and evaluation of the



1 counternarcotics activities of the Department for the pre-
2 vious fiscal year. The review and evaluation shall—

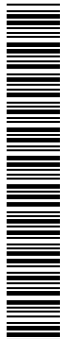
3 “(A) describe the counternarcotics activities of the
4 Department and each subdivision of the Department
5 (whether individually or in cooperation with other sub-
6 divisions of the Department, or in cooperation with
7 other branches of the Federal Government or with
8 State or local agencies), including the methods, proce-
9 dures, and systems (including computer systems) for
10 collecting, analyzing, sharing, and disseminating infor-
11 mation concerning narcotics activity within the Depart-
12 ment and between the Department and other Federal,
13 State, and local agencies;

14 “(B) describe the results of those activities, using
15 quantifiable data whenever possible;

16 “(C) state whether those activities were sufficient
17 to meet the responsibility of the Department to stop
18 the entry of illegal drugs into the United States, in-
19 cluding a description of the performance measures of
20 effectiveness that were used in making that determina-
21 tion; and

22 “(D) recommend, where appropriate, changes to
23 those activities to improve the performance of the De-
24 partment in meeting its responsibility to stop the entry
25 of illegal drugs into the United States.

26 “(3) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE
27 INFORMATION.—Any content of a review and evaluation de-
28 scribed in the reports required in this subsection that in-
29 volves information classified under criteria established by
30 an Executive order, or whose public disclosure, as deter-
31 mined by the Secretary, would be detrimental to the law
32 enforcement or national security activities of the Depart-
33 ment or any other Federal, State, or local agency, shall be
34 presented to Congress separately from the rest of the re-
35 view and evaluation.”.



1 (b) CONFORMING AMENDMENT.—Section 103(a) of the
2 Homeland Security Act of 2002 (6 U.S.C. 113(a)) is
3 amended—

4 (1) by redesignating paragraphs (8) and (9) as para-
5 graphs (9) and (10), respectively; and

6 (2) by inserting after paragraph (7) the following new
7 paragraph (8):

8 “(8) A Director of the Office of Counternarcotics En-
9 forcement.”.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—Of the
11 amounts appropriated for the Department of Homeland Secu-
12 rity for Departmental management and operations for fiscal
13 year 2005, there is authorized up to \$6,000,000 to carry out
14 section 878 of the Department of Homeland Security Act of
15 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 Home-
20 land Security Act of 2002 (6 U.S.C. 411 and following) is
21 amended by adding at the end the following:

22 **“SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT**
23 **ACTIVITIES IN CERTAIN EMPLOYEE PER-**
24 **FORMANCE APPRAISALS.**

25 “(a) IN GENERAL.—Each subdivision of the Department
26 that is a National Drug Control Program Agency shall include
27 as one of the criteria in its performance appraisal system, for
28 each employee directly or indirectly involved in the enforcement
29 of Federal, State, or local narcotics laws, the performance of
30 that employee with respect to the enforcement of Federal,
31 State, or local narcotics laws, relying to the greatest extent
32 practicable on objective performance measures, including—

33 “(1) the contribution of that employee to seizures of
34 narcotics and arrests of violators of Federal, State, or local
35 narcotics laws; and

36 “(2) the degree to which that employee cooperated
37 with or contributed to the efforts of other employees, either



1 within the Department or other Federal, State, or local
2 agencies, in counternarcotics enforcement.

3 “(b) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘National Drug Control Program Agen-
5 cy’ means—

6 “(A) a National Drug Control Program Agency, as
7 defined in section 702(7) of the Office of National
8 Drug Control Policy Reauthorization Act of 1998 (as
9 last in effect); and

10 “(B) any subdivision of the Department that has
11 a significant counternarcotics responsibility, as deter-
12 mined by—

13 “(i) the counternarcotics officer, appointed
14 under section 878; or

15 “(ii) if applicable, the counternarcotics offi-
16 cer’s successor in function (as determined by the
17 Secretary); and

18 “(2) the term ‘performance appraisal system’ means a
19 system under which periodic appraisals of job performance
20 of employees are made, whether under chapter 43 of title
21 5, United States Code, or otherwise.”.

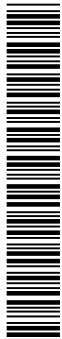
22 (b) CLERICAL AMENDMENT.—The table of contents for
23 the Homeland Security Act of 2002 is amended by inserting
24 after the item relating to section 842 the following:

“Sec. 843. Use of counternarcotics enforcement activities in certain em-
ployee performance appraisals.”.

25 **SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES**
26 **ON ADDRESSING HOMELAND SECURITY FOR**
27 **THE AMERICAN PEOPLE.**

28 (a) FINDINGS.—The House of Representatives finds
29 that—

30 (1) the House of Representatives created a Select
31 Committee on Homeland Security at the start of the 108th
32 Congress to provide for vigorous congressional oversight for
33 the implementation and operation of the Department of
34 Homeland Security;



1 (2) the House of Representatives also charged the Se-
2 lect Committee on Homeland Security, including its Sub-
3 committee on Rules, with undertaking a thorough and com-
4 plete study of the operation and implementation of the
5 rules of the House, including the rule governing committee
6 jurisdiction, with respect to the issue of homeland security
7 and to make their recommendations to the Committee on
8 Rules;

9 (3) on February 11, 2003, the Committee on Appro-
10 priations of the House of Representatives created a new
11 Subcommittee on Homeland Security with jurisdiction over
12 the Transportation Security Administration, the Coast
13 Guard, and other entities within the Department of Home-
14 land Security to help address the integration of the Depart-
15 ment of Homeland Security's 22 legacy agencies; and

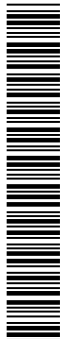
16 (4) during the 108th Congress, the House of Rep-
17 resentatives has taken several steps to help ensure its con-
18 tinuity in the event of a terrorist attack, including—

19 (A) adopting H.R. 2844, the Continuity of Rep-
20 resentation Act, a bill to require States to hold expe-
21 dited special elections to fill vacancies in the House of
22 Representatives not later than 45 days after the va-
23 cancy is announced by the Speaker in extraordinary
24 circumstances;

25 (B) granting authority for joint-leadership recalls
26 from a period of adjournment to an alternate place;

27 (C) allowing for anticipatory consent with the Sen-
28 ate to assemble in an alternate place;

29 (D) establishing the requirement that the Speaker
30 submit to the Clerk a list of Members in the order in
31 which each shall act as Speaker pro tempore in the
32 case of a vacancy in the Office of Speaker (including
33 physical inability of the Speaker to discharge his du-
34 ties) until the election of a Speaker or a Speaker pro
35 tempore, exercising such authorities of the Speaker as
36 may be necessary and appropriate to that end;



1 (E) granting authority for the Speaker to declare
2 an emergency recess of the House subject to the call
3 of the Chair when notified of an imminent threat to the
4 safety of the House;

5 (F) granting authority for the Speaker, during any
6 recess or adjournment of not more than three days, in
7 consultation with the Minority Leader, to postpone the
8 time for reconvening or to reconvene before the time
9 previously appointed solely to declare the House in re-
10 cess, in each case within the constitutional three-day
11 limit;

12 (G) establishing the authority for the Speaker to
13 convene the House in an alternate place within the seat
14 of Government; and

15 (H) codifying the long-standing practice that the
16 death, resignation, expulsion, disqualification, or re-
17 moval of a Member results in an adjustment of the
18 quorum of the House, which the Speaker shall an-
19 nounce to the House and which shall not be subject to
20 appeal.

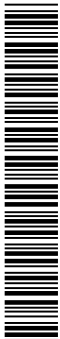
21 (b) SENSE OF THE HOUSE.—It is the sense of the House
22 of Representatives that the Committee on Rules should act
23 upon the recommendations provided by the Select Committee
24 on Homeland Security, and other committees of existing juris-
25 diction, regarding the jurisdiction over proposed legislation,
26 messages, petitions, memorials and other matters relating to
27 homeland security prior to or at the start of the 109th Con-
28 gress.

29 **Subtitle D—Improvements to**
30 **Information Security**

31 **SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVI-**
32 **SIONS TO ENHANCE AGENCY PLANNING FOR**
33 **INFORMATION SECURITY NEEDS.**

34 Chapter 113 of title 40, United States Code, is amended—

35 (1) in section 11302(b), by inserting “security,” after
36 “use,”;



1 (2) in section 11302(c), by inserting “, including infor-
2 mation security risks,” after “risks” both places it appears;

3 (3) in section 11312(b)(1), by striking “information
4 technology investments” and inserting “investments in in-
5 formation technology (including information security
6 needs)”;

7 (4) in section 11315(b)(2), by inserting “, secure,”
8 after “sound”.

9 **Subtitle E—Personnel Management** 10 **Improvements**

11 **CHAPTER 1—APPOINTMENTS PROCESS REFORM**

12 **SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY PO-** 13 **SITIONS.**

14 (a) **DEFINITION OF NATIONAL SECURITY POSITION.**—For
15 purposes of this section, the term “national security position”
16 shall include—

17 (1) those positions that involve activities of the United
18 States Government that are concerned with the protection
19 of the Nation from foreign aggression, terrorism, or espio-
20 nage, including development of defense plans or policies, in-
21 telligence or counterintelligence activities, and related ac-
22 tivities concerned with the preservation of military strength
23 of the United States and protection of the homeland; and

24 (2) positions that require regular use of, or access to,
25 classified information.

26 (b) **PUBLICATION IN THE FEDERAL REGISTER.**—Not later
27 than 60 days after the effective date of this section, the Direc-
28 tor of the Office of Personnel Management shall publish in the
29 Federal Register a list of offices that constitute national secu-
30 rity positions under section (a) for which Senate confirmation
31 is required by law, and the Director shall revise such list from
32 time to time as appropriate.

33 (c) **PRESIDENTIAL APPOINTMENTS.**—(1) With respect to
34 appointment of individuals to offices identified under section
35 (b) and listed in sections 5315 or 5316 of title 5, United States
36 Code, which shall arise after the publication of the list required
37 by section (b), and notwithstanding any other provision of law,



1 the advice and consent of the Senate shall not be required, but
2 rather such appointment shall be made by the President alone.

3 (2) With respect to appointment of individuals to offices
4 identified under section (b) and listed in sections 5313 or 5314
5 of title 5, United States Code, which shall arise after the publi-
6 cation of the list required by section (b), and notwithstanding
7 any other provision of law, the advice and consent of the Sen-
8 ate shall be required, except that if 30 legislative days shall
9 have expired from the date on which a nomination is submitted
10 to the Senate without a confirmation vote occurring in the Sen-
11 ate, such appointment shall be made by the President alone.

12 (3) For the purposes of this subsection, the term “legisla-
13 tive day” means a day on which the Senate is in session.

14 **SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.**

15 Subsections (a) and (b) of section 3349a of title 5, United
16 States Code, are amended to read as follows:

17 “(a) As used in this section—

18 “(1) the term ‘inauguration day’ means the date on
19 which any person swears or affirms the oath of office as
20 President; and

21 “(2) the term ‘specified national security position’
22 shall mean not more than 20 positions requiring Senate
23 confirmation, not to include more than 3 heads of Execu-
24 tive Departments, which are designated by the President on
25 or after an inauguration day as positions for which the du-
26 ties involve substantial responsibility for national security.

27 “(b) With respect to any vacancy that exists during the
28 60-day period beginning on an inauguration day, except where
29 the person swearing or affirming the oath of office was the
30 President on the date preceding the date of swearing or affirm-
31 ing such oath of office, the 210-day period under section 3346
32 or 3348 shall be deemed to begin on the later of the date
33 occurring—

34 “(1) 90 days after such transitional inauguration day;

35 or

36 “(2) 90 days after the date on which the vacancy oc-
37 curs.



1 “(c) With respect to any vacancy in any specified national
2 security position that exists during the 60-day period beginning
3 on an inauguration day, the requirements of subparagraphs (A)
4 and (B) of section 3345(a)(3) shall not apply.”.

5 **SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE IN-**
6 **TELLIGENCE COMMUNITY.**

7 (a) IN GENERAL.—The Ethics in Government Act of 1978
8 (5 U.S.C. App.) is amended by inserting before title IV the fol-
9 lowing:

10 **“TITLE III—INTELLIGENCE PER-**
11 **SONNEL FINANCIAL DISCLO-**
12 **SURE REQUIREMENTS**

13 **“SEC. 301. PERSONS REQUIRED TO FILE.**

14 “(a) Within 30 days of assuming the position of an officer
15 or employee described in subsection (e), an individual shall file
16 a report containing the information described in section 302(b)
17 unless the individual has left another position described in sub-
18 section (e) within 30 days prior to assuming such new position
19 or has already filed a report under this title with respect to
20 nomination for the new position or as a candidate for the posi-
21 tion.

22 “(b)(1) Within 5 days of the transmittal by the President
23 to the Senate of the nomination of an individual to a position
24 in the executive branch, appointment to which requires the ad-
25 vice and consent of the Senate, such individual shall file a re-
26 port containing the information described in section 302(b).
27 Such individual shall, not later than the date of the first hear-
28 ing to consider the nomination of such individual, make current
29 the report filed pursuant to this paragraph by filing the infor-
30 mation required by section 302(a)(1)(A) with respect to income
31 and honoraria received as of the date which occurs 5 days be-
32 fore the date of such hearing. Nothing in this Act shall prevent
33 any congressional committee from requesting, as a condition of
34 confirmation, any additional financial information from any
35 Presidential nominee whose nomination has been referred to
36 that committee.



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

6 “(c) Any individual who is an officer or employee described
7 in subsection (e) during any calendar year and performs the
8 duties of his position or office for a period in excess of 60 days
9 in that calendar year shall file on or before May 15 of the suc-
10 ceeding year a report containing the information described in
11 section 302(a).

12 “(d) Any individual who occupies a position described in
13 subsection (e) shall, on or before the 30th day after termi-
14 nation of employment in such position, file a report containing
15 the information described in section 302(a) covering the pre-
16 ceeding calendar year if the report required by subsection (c)
17 has not been filed and covering the portion of the calendar year
18 in which such termination occurs up to the date the individual
19 left such office or position, unless such individual has accepted
20 employment in or takes the oath of office for another position
21 described in subsection (e) or section 101(f).

22 “(e) The officers and employees referred to in subsections
23 (a), (c), and (d) are those employed in or under—

24 “(1) the Office of the National Intelligence Director;
25 or

26 “(2) an element of the intelligence community, as de-
27 fined in section 3(4) of the National Security Act of 1947
28 (50 U.S.C. 401a(4)).

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

33 “(2)(A) In the case of an individual who is serving in the
34 Armed Forces, or serving in support of the Armed Forces, in
35 an area while that area is designated by the President by Exec-
36 utive order as a combat zone for purposes of section 112 of the
37 Internal Revenue Code of 1986, the date for the filing of any



1 report shall be extended so that the date is 180 days after the
2 later of—

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

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

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

11 “(g) The Director of the Office of Government Ethics may
12 grant a publicly available request for a waiver of any reporting
13 requirement under this title with respect to an individual if the
14 Director determines that—

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

17 “(2) such individual is able to provide special services
18 needed by the Government;

19 “(3) it is unlikely that such individual’s outside em-
20 ployment or financial interests will create a conflict of in-
21 terest; and

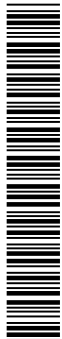
22 “(4) public financial disclosure by such individual is
23 not necessary in the circumstances.

24 “(h)(1) The Director of the Office of Government Ethics
25 may establish procedures under which an incoming individual
26 can take actions to avoid conflicts of interest while in office if
27 the individual has holdings or other financial interests that
28 raise conflict concerns.

29 “(2) The actions referenced in paragraph (1) may include,
30 but are not limited to, signed agreements with the individual’s
31 employing agency, the establishment of blind trusts, or require-
32 ments for divesting interests or holdings while in office.

33 **“SEC. 302. CONTENTS OF REPORTS.**

34 “(a) Each report filed pursuant to section 301 (c) and (d)
35 shall include a full and complete statement with respect to the
36 following:



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

9 “(B) The source and description of investment income
10 which may include but is not limited to dividends, rents, in-
11 terest, and capital gains, received during the preceding cal-
12 endar year which exceeds \$500 in amount or value.

13 “(C) The categories for reporting the amount for in-
14 come covered in subparagraphs (A) and (B) are—

15 “(i) greater than \$500 but not more than
16 \$20,000;

17 “(ii) greater than \$20,000 but not more than
18 \$100,000;

19 “(iii) greater than \$100,000 but not more than
20 \$1,000,000;

21 “(iv) greater than \$1,000,000 but not more than
22 \$2,500,000; and

23 “(v) greater than \$2,500,000.

24 “(2)(A) The identity of the source, a brief description,
25 and the value of all gifts aggregating more than the mini-
26 mal value as established by section 7342(a)(5) of title 5,
27 United States Code, or \$250, whichever is greater, received
28 from any source other than a relative of the reporting indi-
29 vidual during the preceding calendar year, except that any
30 food, lodging, or entertainment received as personal hospi-
31 tality of an individual need not be reported, and any gift
32 with a fair market value of \$100 or less, as adjusted at the
33 same time and by the same percentage as the minimal
34 value is adjusted, need not be aggregated for purposes of
35 this subparagraph.

36 “(B) The identity of the source and a brief description
37 (including dates of travel and nature of expenses provided)



1 of reimbursements received from any source aggregating
2 more than the minimal value as established by section
3 7342(a)(5) of title 5, United States Code, or \$250, which-
4 ever is greater and received during the preceding calendar
5 year.

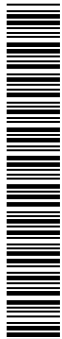
6 “(3) The identity and category of value of any interest
7 in property held during the preceding calendar year in a
8 trade or business, or for investment or the production of
9 income, which has a fair market value which exceeds
10 \$5,000 as of the close of the preceding calendar year, ex-
11 cluding any personal liability owed to the reporting indi-
12 vidual by a spouse, or by a parent, brother, sister, or child
13 of the reporting individual or of the reporting individual’s
14 spouse, or any deposit accounts aggregating \$100,000 or
15 less in a financial institution, or any Federal Government
16 securities aggregating \$100,000 or less.

17 “(4) The identity and category of value of the total li-
18 abilities owed to any creditor other than a spouse, or a par-
19 ent, brother, sister, or child of the reporting individual or
20 of the reporting individual’s spouse which exceed \$20,000
21 at any time during the preceding calendar year,
22 excluding—

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

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

29 With respect to revolving charge accounts, only those with
30 an outstanding liability which exceeds \$20,000 as of the
31 close of the preceding calendar year need be reported under
32 this paragraph. Notwithstanding the preceding sentence,
33 individuals required to file pursuant to section 301(b) shall
34 also report the aggregate sum of the outstanding balances
35 of all revolving charge accounts as of any date that is with-
36 in 30 days of the date of filing if the aggregate sum of
37 those balances exceeds \$20,000.



1 “(5) Except as provided in this paragraph, a brief de-
2 scription of any real property, other than property used
3 solely as a personal residence of the reporting individual or
4 his spouse, or stocks, bonds, commodities futures, and
5 other forms of securities, if—

6 “(A) purchased, sold, or exchanged during the pre-
7 ceding calendar year;

8 “(B) the value of the transaction exceeded \$5,000;
9 and

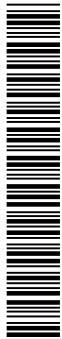
10 “(C) the property or security is not already re-
11 quired to be reported as a source of income pursuant
12 to paragraph (1)(B) or as an asset pursuant to para-
13 graph (3).

14 “(6)(A) The identity of all positions held on or before
15 the date of filing during the current calendar year (and, for
16 the first report filed by an individual, during the 1-year pe-
17 riod preceding such calendar year) as an officer, director,
18 trustee, partner, proprietor, representative, employee, or
19 consultant of any corporation, company, firm, partnership,
20 or other business enterprise, any nonprofit organization,
21 any labor organization, or any educational or other institu-
22 tion other than the United States Government. This sub-
23 paragraph shall not require the reporting of positions held
24 in any religious, social, fraternal, or political entity and po-
25 sitions solely of an honorary nature.

26 “(B) If any person, other than a person reported as
27 a source of income under paragraph (1)(A) or the United
28 States Government, paid a nonelected reporting individual
29 compensation in excess of \$25,000 in the calendar year in
30 which, or the calendar year prior to the calendar year in
31 which, the individual files his first report under this title,
32 the individual shall include in the report—

33 “(i) the identity of each source of such compensa-
34 tion; and

35 “(ii) a brief description of the nature of the duties
36 performed or services rendered by the reporting indi-
37 vidual for each such source.



1 The preceding sentence shall not require any individual to in-
2 clude in such report any information which is considered con-
3 fidential as a result of a privileged relationship, established by
4 law, between such individual and any person or any information
5 which the person for whom the services are provided has a rea-
6 sonable expectation of privacy, nor shall it require an individual
7 to report any information with respect to any person for whom
8 services were provided by any firm or association of which such
9 individual was a member, partner, or employee unless such in-
10 dividual was directly involved in the provision of such services.

11 “(7) A description of parties to and terms of any
12 agreement or arrangement with respect to (A) future em-
13 ployment; (B) a leave of absence during the period of the
14 reporting individual’s Government service; (C) continuation
15 of payments by a former employer other than the United
16 States Government; and (D) continuing participation in an
17 employee welfare or benefit plan maintained by a former
18 employer. The description of any formal agreement for fu-
19 ture employment shall include the date on which that
20 agreement was entered into.

21 “(8) The category of the total cash value of any inter-
22 est of the reporting individual in a qualified blind trust.

23 “(b)(1) Each report filed pursuant to subsections (a) and
24 (b) of section 301 shall include a full and complete statement
25 with respect to the information required by—

26 “(A) paragraphs (1) and (6) of subsection (a) for the
27 year of filing and the preceding calendar year,

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

31 “(C) paragraph (7) of subsection (a) as of the filing
32 date but for periods described in such paragraph.

33 “(2)(A) In lieu of filling out 1 or more schedules of a fi-
34 nancial disclosure form, an individual may supply the required
35 information in an alternative format, pursuant to either rules
36 adopted by the Office of Government Ethics or pursuant to a



1 specific written determination by the Director of the Office of
2 Government Ethics for a reporting individual.

3 “(B) In lieu of indicating the category of amount or value
4 of any item contained in any report filed under this title, a re-
5 porting individual may indicate the exact dollar amount of such
6 item.

7 “(c)(1) In the case of any individual referred to in section
8 301(c), the Office of Government Ethics may by regulation re-
9 quire a reporting period to include any period in which the in-
10 dividual served as an officer or employee described in section
11 301(e) and the period would not otherwise be covered by any
12 public report filed pursuant to this title.

13 “(2) In the case of any individual referred to in section
14 301(d), any reference to the preceding calendar year shall be
15 considered also to include that part of the calendar year of fil-
16 ing up to the date of the termination of employment.

17 “(d)(1) The categories for reporting the amount or value
18 of the items covered in subsection (a)(3) are—

19 “(A) greater than \$5,000 but not more than \$15,000;

20 “(B) greater than \$15,000 but not more than
21 \$100,000;

22 “(C) greater than \$100,000 but not more than
23 \$1,000,000;

24 “(D) greater than \$1,000,000 but not more than
25 \$2,500,000; and

26 “(E) greater than \$2,500,000.

27 “(2) For the purposes of subsection (a)(3) if the current
28 value of an interest in real property (or an interest in a real
29 estate partnership) is not ascertainable without an appraisal,
30 an individual may list (A) the date of purchase and the pur-
31 chase price of the interest in the real property, or (B) the as-
32 sessed value of the real property for tax purposes, adjusted to
33 reflect the market value of the property used for the assess-
34 ment if the assessed value is computed at less than 100 percent
35 of such market value, but such individual shall include in his
36 report a full and complete description of the method used to
37 determine such assessed value, instead of specifying a category



1 of value pursuant to paragraph (1). If the current value of any
2 other item required to be reported under subsection (a)(3) is
3 not ascertainable without an appraisal, such individual may list
4 the book value of a corporation whose stock is not publicly
5 traded, the net worth of a business partnership, the equity
6 value of an individually owned business, or with respect to
7 other holdings, any recognized indication of value, but such in-
8 dividual shall include in his report a full and complete descrip-
9 tion of the method used in determining such value. In lieu of
10 any value referred to in the preceding sentence, an individual
11 may list the assessed value of the item for tax purposes, ad-
12 justed to reflect the market value of the item used for the as-
13 sessment if the assessed value is computed at less than 100
14 percent of such market value, but a full and complete descrip-
15 tion of the method used in determining such assessed value
16 shall be included in the report.

17 “(3) The categories for reporting the amount or value of
18 the items covered in paragraphs (4) and (8) of subsection (a)
19 are—

20 “(A) greater than \$20,000 but not more than
21 \$100,000;

22 “(B) greater than \$100,000 but not more than
23 \$500,000;

24 “(C) greater than \$500,000 but not more than
25 \$1,000,000; and

26 “(D) greater than \$1,000,000.

27 “(e)(1) Except as provided in subparagraph (F), each re-
28 port required by section 301 shall also contain information list-
29 ed in paragraphs (1) through (5) of subsection (a) respecting
30 the spouse or dependent child of the reporting individual as fol-
31 lows:

32 “(A) The sources of earned income earned by a spouse
33 including honoraria which exceed \$500 except that, with re-
34 spect to earned income if the spouse is self-employed in
35 business or a profession, only the nature of such business
36 or profession need be reported.



1 “(B) All information required to be reported in sub-
2 section (a)(1)(B) with respect to investment income derived
3 by a spouse or dependent child.

4 “(C) In the case of any gifts received by a spouse or
5 dependent child which are not received totally independent
6 of the relationship of the spouse or dependent child to the
7 reporting individual, the identity of the source and a brief
8 description of gifts of transportation, lodging, food, or en-
9 tertainment and a brief description and the value of other
10 gifts.

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

16 “(E) In the case of items described in paragraphs (3)
17 through (5) of subsection (a), all information required to
18 be reported under these paragraphs other than items which
19 the reporting individual certifies (i) represent the spouse’s
20 or dependent child’s sole financial interest or responsibility
21 and which the reporting individual has no knowledge of, (ii)
22 are not in any way, past or present, derived from the in-
23 come, assets, or activities of the reporting individual, and
24 (iii) that he neither derives, nor expects to derive, any fi-
25 nancial or economic benefit.

26 “(F) Reports required by subsections (a), (b), and (c)
27 of section 301 shall, with respect to the spouse and depend-
28 ent child of the reporting individual, only contain informa-
29 tion listed in paragraphs (1), (3), and (4) of subsection (a).

30 “(2) No report shall be required with respect to a spouse
31 living separate and apart from the reporting individual with the
32 intention of terminating the marriage or providing for perma-
33 nent separation, or with respect to any income or obligations
34 of an individual arising from the dissolution of his marriage or
35 the permanent separation from his spouse.

36 “(f)(1) Except as provided in paragraph (2), each report-
37 ing individual shall report the information required to be re-



1 reported pursuant to subsections (a), (b), and (c) with respect to
2 the holdings of and the income from a trust or other financial
3 arrangement from which income is received by, or with respect
4 to which a beneficial interest in principal or income is held by,
5 such individual, his spouse, or any dependent child.

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

8 “(A) any qualified blind trust (as defined in paragraph
9 (3));

10 “(B) a trust—

11 “(i) which was not created directly by such indi-
12 vidual, his spouse, or any dependent child, and

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

16 “(C) an entity described under the provisions of para-
17 graph (8), but such individual shall report the category of
18 the amount of income received by him, his spouse, or any
19 dependent child from the entity under subsection (a)(1)(B).

20 “(3) For purposes of this subsection, the term ‘qualified
21 blind trust’ includes any trust in which a reporting individual,
22 his spouse, or any minor or dependent child has a beneficial in-
23 terest in the principal or income, and which meets the following
24 requirements:

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

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

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

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



1 “(ii) Any officer or employee of a trustee or other enti-
2 ty who is involved in the management or control of the
3 trust—

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

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

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

12 “(B) Any asset transferred to the trust by an inter-
13 ested party is free of any restriction with respect to its
14 transfer or sale unless such restriction is expressly ap-
15 proved by the Office of Government Ethics.

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

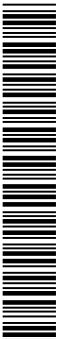
18 “(i) except to the extent provided in subparagraph
19 (B), the trustee in the exercise of his authority and dis-
20 cretion to manage and control the assets of the trust
21 shall not consult or notify any interested party;

22 “(ii) the trust shall not contain any asset the hold-
23 ing of which by an interested party is prohibited by any
24 law or regulation;

25 “(iii) the trustee shall promptly notify the report-
26 ing individual and the Office of Government Ethics
27 when the holdings of any particular asset transferred to
28 the trust by any interested party are disposed of or
29 when the value of such holding is less than \$1,000;

30 “(iv) the trust tax return shall be prepared by the
31 trustee or his designee, and such return and any infor-
32 mation relating thereto (other than the trust income
33 summarized in appropriate categories necessary to com-
34 plete an interested party’s tax return), shall not be dis-
35 closed to any interested party;

36 “(v) an interested party shall not receive any re-
37 port on the holdings and sources of income of the trust,



1 except a report at the end of each calendar quarter
2 with respect to the total cash value of the interest of
3 the interested party in the trust or the net income or
4 loss of the trust or any reports necessary to enable the
5 interested party to complete an individual tax return
6 required by law or to provide the information required
7 by subsection (a)(1) of this section, but such report
8 shall not identify any asset or holding;

9 “(vi) except for communications which solely con-
10 sist of requests for distributions of cash or other un-
11 specified assets of the trust, there shall be no direct or
12 indirect communication between the trustee and an in-
13 terested party with respect to the trust unless such
14 communication is in writing and unless it relates only
15 (I) to the general financial interest and needs of the in-
16 terested party (including, but not limited to, an interest
17 in maximizing income or long-term capital gain), (II)
18 to the notification of the trustee of a law or regulation
19 subsequently applicable to the reporting individual
20 which prohibits the interested party from holding an
21 asset, which notification directs that the asset not be
22 held by the trust, or (III) to directions to the trustee
23 to sell all of an asset initially placed in the trust by an
24 interested party which in the determination of the re-
25 porting individual creates a conflict of interest or the
26 appearance thereof due to the subsequent assumption
27 of duties by the reporting individual (but nothing here-
28 in shall require any such direction); and

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

34 “(D) The proposed trust instrument and the proposed
35 trustee is approved by the Office of Government Ethics.

36 “(E) For purposes of this subsection, ‘interested
37 party’ means a reporting individual, his spouse, and any



1 minor or dependent child; ‘broker’ has the meaning set
2 forth in section 3(a)(4) of the Securities and Exchange Act
3 of 1934 (15 U.S.C. 78c(a)(4)); and ‘investment adviser’ in-
4 cludes any investment adviser who, as determined under
5 regulations prescribed by the supervising ethics office, is
6 generally involved in his role as such an adviser in the
7 management or control of trusts.

8 “(4)(A) An asset placed in a trust by an interested party
9 shall be considered a financial interest of the reporting indi-
10 vidual, for the purposes of any applicable conflict of interest
11 statutes, regulations, or rules of the Federal Government (in-
12 cluding section 208 of title 18, United States Code), until such
13 time as the reporting individual is notified by the trustee that
14 such asset has been disposed of, or has a value of less than
15 \$1,000.

16 “(B)(i) The provisions of subparagraph (A) shall not apply
17 with respect to a trust created for the benefit of a reporting
18 individual, or the spouse, dependent child, or minor child of
19 such a person, if the Office of Government Ethics finds that—

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

22 “(II) none of the assets consist of securities of entities
23 having substantial activities in the area of the reporting in-
24 dividual’s primary area of responsibility;

25 “(III) the trust instrument prohibits the trustee, not-
26 withstanding the provisions of paragraph (3)(C) (iii) and
27 (iv), from making public or informing any interested party
28 of the sale of any securities;

29 “(IV) the trustee is given power of attorney, notwith-
30 standing the provisions of paragraph (3)(C)(v), to prepare
31 on behalf of any interested party the personal income tax
32 returns and similar returns which may contain information
33 relating to the trust; and

34 “(V) except as otherwise provided in this paragraph,
35 the trust instrument provides (or in the case of a trust
36 which by its terms does not permit amendment, the trustee,
37 the reporting individual, and any other interested party



1 agree in writing) that the trust shall be administered in ac-
2 cordance with the requirements of this subsection and the
3 trustee of such trust meets the requirements of paragraph
4 (3)(A).

5 “(ii) In any instance covered by subparagraph (B) in
6 which the reporting individual is an individual whose nomina-
7 tion is being considered by a congressional committee, the re-
8 porting individual shall inform the congressional committee
9 considering his nomination before or during the period of such
10 individual’s confirmation hearing of his intention to comply
11 with this paragraph.

12 “(5)(A) The reporting individual shall, within 30 days
13 after a qualified blind trust is approved by the Office of Gov-
14 ernment Ethics, file with such office a copy of—

15 “(i) the executed trust instrument of such trust (other
16 than those provisions which relate to the testamentary dis-
17 position of the trust assets), and

18 “(ii) a list of the assets which were transferred to such
19 trust, including the category of value of each asset as de-
20 termined under subsection (d).

21 This subparagraph shall not apply with respect to a trust meet-
22 ing the requirements for being considered a qualified blind
23 trust under paragraph (7).

24 “(B) The reporting individual shall, within 30 days of
25 transferring an asset (other than cash) to a previously estab-
26 lished qualified blind trust, notify the Office of Government
27 Ethics of the identity of each such asset and the category of
28 value of each asset as determined under subsection (d) of this
29 section.

30 “(C) Within 30 days of the dissolution of a qualified blind
31 trust, a reporting individual shall notify the Office of Govern-
32 ment Ethics of such dissolution.

33 “(D) Documents filed under subparagraphs (A), (B), and
34 (C) and the lists provided by the trustee of assets placed in the
35 trust by an interested party which have been sold shall be made
36 available to the public in the same manner as a report is made



1 available under section 305 and the provisions of that section
2 shall apply with respect to such documents and lists.

3 “(E) A copy of each written communication with respect
4 to the trust under paragraph (3)(C)(vi) shall be filed by the
5 person initiating the communication with the Office of Govern-
6 ment Ethics within 5 days of the date of the communication.

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

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

21 “(C)(i) The Attorney General may bring a civil action in
22 any appropriate United States district court against any indi-
23 vidual who knowingly and willfully violates the provisions of
24 subparagraph (A) or (B). The court in which such action is
25 brought may assess against such individual a civil penalty in
26 any amount not to exceed \$10,000.

27 “(ii) The Attorney General may bring a civil action in any
28 appropriate United States district court against any individual
29 who negligently violates the provisions of subparagraph (A) or
30 (B). The court in which such action is brought may assess
31 against such individual a civil penalty in any amount not to ex-
32 ceed \$5,000.

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

35 “(A) the trust instrument is amended to comply with
36 the requirements of paragraph (3) or, in the case of a trust
37 instrument which does not by its terms permit amendment,



1 the trustee, the reporting individual, and any other inter-
2 ested party agree in writing that the trust shall be adminis-
3 tered in accordance with the requirements of this sub-
4 section and the trustee of such trust meets the require-
5 ments of paragraph (3)(A); except that in the case of any
6 interested party who is a dependent child, a parent or
7 guardian of such child may execute the agreement referred
8 to in this subparagraph;

9 “(B) a copy of the trust instrument (except testa-
10 mentary provisions) and a copy of the agreement referred
11 to in subparagraph (A), and a list of the assets held by the
12 trust at the time of approval by the Office of Government
13 Ethics, including the category of value of each asset as de-
14 termined under subsection (d), are filed with such office
15 and made available to the public as provided under para-
16 graph (5)(D); and

17 “(C) the Director of the Office of Government Ethics
18 determines that approval of the trust arrangement as a
19 qualified blind trust is in the particular case appropriate to
20 assure compliance with applicable laws and regulations.

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

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

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

28 “(B) the reporting individual neither exercises control
29 over nor has the ability to exercise control over the finan-
30 cial interests held by the fund.

31 “(9)(A)(i) A reporting individual described in subsection
32 (a) or (b) of section 301 shall not be required to report the
33 holdings or sources of income of any trust or investment fund
34 where—

35 “(I) reporting would result in the disclosure of assets
36 or sources of income of another person whose interests are



1 not required to be reported by the reporting individual
2 under this title;

3 “(II) the disclosure of such assets and sources of in-
4 come is prohibited by contract or the assets and sources of
5 income are not otherwise publicly available; and

6 “(III) the reporting individual has executed a written
7 ethics agreement which contains a general description of
8 the trust or investment fund and a commitment to divest
9 the interest in the trust or investment fund not later than
10 90 days after the date of the agreement.

11 “(ii) An agreement described under clause (i)(III) shall be
12 attached to the public financial disclosure which would other-
13 wise include a listing of the holdings or sources of income from
14 this trust or investment fund.

15 “(B)(i) The provisions of subparagraph (A) shall apply to
16 an individual described in subsection (c) or (d) of section 301
17 if—

18 “(I) the interest in the trust or investment fund is ac-
19 quired involuntarily during the period to be covered by the
20 report, such as through marriage or inheritance, and

21 “(II) for an individual described in subsection (c), the
22 individual executes a written ethics agreement containing a
23 commitment to divest the interest no later than 90 days
24 after the date on which the report is due.

25 “(ii) An agreement described under clause (i)(II) shall be
26 attached to the public financial disclosure which would other-
27 wise include a listing of the holdings or sources of income from
28 this trust or investment fund.

29 “(iii) Failure to divest within the time specified or after
30 an extension granted by the Director of the Office of Govern-
31 ment Ethics for good cause shown shall result in an immediate
32 requirement to report as specified in paragraph (1).

33 “(g) Political campaign funds, including campaign receipts
34 and expenditures, need not be included in any report filed pur-
35 suant to this title.

36 “(h) A report filed pursuant to subsection (a), (c), or (d)
37 of section 301 need not contain the information described in



1 subparagraphs (A), (B), and (C) of subsection (a)(2) with re-
2 spect to gifts and reimbursements received in a period when the
3 reporting individual was not an officer or employee of the Fed-
4 eral Government.

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

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

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

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

15 “(2) benefits received under the Social Security Act
16 (42 U.S.C. 301 et seq.).

17 “(j)(1) Every month, each designated agency ethics officer
18 shall submit to the Office of Government Ethics notification of
19 any waiver of criminal conflict of interest laws granted to any
20 individual in the preceding month with respect to a filing under
21 this title that is not confidential.

22 “(2) Every month, the Office of Government Ethics shall
23 make publicly available on the Internet—

24 “(A) all notifications of waivers submitted under para-
25 graph (1) in the preceding month; and

26 “(B) notification of all waivers granted by the Office
27 of Government Ethics in the preceding month.

28 “(k) A full copy of any waiver of criminal conflict of inter-
29 est laws granted shall be included with any filing required
30 under this title with respect to the year in which the waiver is
31 granted.

32 “(l) The Office of Government Ethics shall provide upon
33 request any waiver on file for which notice has been published.

34 **“SEC. 303. FILING OF REPORTS.**

35 “(a) Except as otherwise provided in this section, the re-
36 ports required under this title shall be filed by the reporting
37 individual with the designated agency ethics official at the



1 agency by which he is employed (or in the case of an individual
2 described in section 301(d), was employed) or in which he will
3 serve. The date any report is received (and the date of receipt
4 of any supplemental report) shall be noted on such report by
5 such official.

6 “(b) Reports required to be filed under this title by the
7 Director of the Office of Government Ethics shall be filed in
8 the Office of Government Ethics and, immediately after being
9 filed, shall be made available to the public in accordance with
10 this title.

11 “(c) Reports required of members of the uniformed serv-
12 ices shall be filed with the Secretary concerned.

13 “(d) The Office of Government Ethics shall develop and
14 make available forms for reporting the information required by
15 this title.

16 **“SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

17 “(a) The Attorney General may bring a civil action in any
18 appropriate United States district court against any individual
19 who knowingly and willfully falsifies or who knowingly and will-
20 fully fails to file or report any information that such individual
21 is required to report pursuant to section 302. The court in
22 which such action is brought may assess against such indi-
23 vidual a civil penalty in any amount, not to exceed \$10,000.

24 “(b) The head of each agency, each Secretary concerned,
25 or the Director of the Office of Government Ethics, as the case
26 may be, shall refer to the Attorney General the name of any
27 individual which such official has reasonable cause to believe
28 has willfully failed to file a report or has willfully falsified or
29 willfully failed to file information required to be reported.

30 “(c) The President, the Vice President, the Secretary con-
31 cerned, or the head of each agency may take any appropriate
32 personnel or other action in accordance with applicable law or
33 regulation against any individual failing to file a report or fal-
34 sifying or failing to report information required to be reported.

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



1 “(A) the date such report is required to be filed pursu-
2 ant to the provisions of this title and the rules and regula-
3 tions promulgated thereunder; or

4 “(B) if a filing extension is granted to such individual
5 under section 301(g), the last day of the filing extension
6 period, shall, at the direction of and pursuant to regula-
7 tions issued by the Office of Government Ethics, pay a fil-
8 ing fee of \$500. All such fees shall be deposited in the mis-
9 cellaneous receipts of the Treasury. The authority under
10 this paragraph to direct the payment of a filing fee may
11 be delegated by the Office of Government Ethics to other
12 agencies in the executive branch.

13 “(2) The Office of Government Ethics may waive the filing
14 fee under this subsection for good cause shown.

15 **“SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO RE-**
16 **PORTS.**

17 “Any report filed with or transmitted to an agency or the
18 Office of Government Ethics pursuant to this title shall be re-
19 tained by such agency or Office, as the case may be, for a pe-
20 riod of 6 years after receipt of the report. After such 6-year
21 period the report shall be destroyed unless needed in an ongo-
22 ing investigation, except that in the case of an individual who
23 filed the report pursuant to section 301(b) and was not subse-
24 quently confirmed by the Senate, such reports shall be de-
25 stroyed 1 year after the individual is no longer under consider-
26 ation by the Senate, unless needed in an ongoing investigation.

27 **“SEC. 306. REVIEW OF REPORTS.**

28 “(a) Each designated agency ethics official or Secretary
29 concerned shall make provisions to ensure that each report filed
30 with him under this title is reviewed within 60 days after the
31 date of such filing, except that the Director of the Office of
32 Government Ethics shall review only those reports required to
33 be transmitted to him under this title within 60 days after the
34 date of transmittal.

35 “(b)(1) If after reviewing any report under subsection (a),
36 the Director of the Office of Government Ethics, the Secretary
37 concerned, or the designated agency ethics official, as the case



1 may be, is of the opinion that on the basis of information con-
2 tained in such report the individual submitting such report is
3 in compliance with applicable laws and regulations, he shall
4 state such opinion on the report, and shall sign such report.

5 “(2) If the Director of the Office of Government Ethics,
6 the Secretary concerned, or the designated agency ethics offi-
7 cial after reviewing any report under subsection (a)—

8 “(A) believes additional information is required to be
9 submitted to complete the form or to perform a conflict of
10 interest analysis, he shall notify the individual submitting
11 such report what additional information is required and the
12 time by which it must be submitted, or

13 “(B) is of the opinion, on the basis of information sub-
14 mitted, that the individual is not in compliance with appli-
15 cable laws and regulations, he shall notify the individual,
16 afford a reasonable opportunity for a written or oral re-
17 sponse, and after consideration of such response, reach an
18 opinion as to whether or not, on the basis of information
19 submitted, the individual is in compliance with such laws
20 and regulations.

21 “(3) If the Director of the Office of Government Ethics,
22 the Secretary concerned, or the designated agency ethics offi-
23 cial reaches an opinion under paragraph (2)(B) that an indi-
24 vidual is not in compliance with applicable laws and regula-
25 tions, the official shall notify the individual of that opinion and,
26 after an opportunity for personal consultation (if practicable),
27 determine and notify the individual of which steps, if any,
28 would in the opinion of such official be appropriate for assuring
29 compliance with such laws and regulations and the date by
30 which such steps should be taken. Such steps may include, as
31 appropriate—

32 “(A) divestiture,

33 “(B) restitution,

34 “(C) the establishment of a blind trust,

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



1 “(E) voluntary request for transfer, reassignment, lim-
2 itation 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 may
5 prescribe.

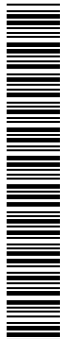
6 “(4) If steps for assuring compliance with applicable laws
7 and regulations are not taken by the date set under paragraph
8 (3) by a member of the Foreign Service or the uniformed serv-
9 ices, the Secretary concerned shall take appropriate action.

10 “(5) If steps for assuring compliance with applicable laws
11 and regulations are not taken by the date set under paragraph
12 (3) by any other officer or employee, the matter shall be re-
13 ferred to the head of the appropriate agency for appropriate ac-
14 tion.

15 “(6) The Office of Government Ethics may render advi-
16 sory opinions interpreting this title. Notwithstanding any other
17 provision of law, the individual to whom a public advisory opin-
18 ion is rendered in accordance with this paragraph, and any
19 other individual covered by this title who is involved in a fact
20 situation which is indistinguishable in all material aspects, and
21 who acts in good faith in accordance with the provisions and
22 findings of such advisory opinion shall not, as a result of such
23 act, be subject to any penalty or sanction provided by this title.

24 **“SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDI-**
25 **TIONAL REQUIREMENTS.**

26 “(a)(1) The Office of Government Ethics may require offi-
27 cers and employees of the executive branch (including special
28 Government employees as defined in section 202 of title 18,
29 United States Code) to file confidential financial disclosure re-
30 ports, in such form as it may prescribe. The information re-
31 quired to be reported under this subsection by the officers and
32 employees of any department or agency listed in section 301(e)
33 shall be set forth in rules or regulations prescribed by the Of-
34 fice of Government Ethics, and may be less extensive than oth-
35 erwise required by this title, or more extensive when determined
36 by the Office of Government Ethics to be necessary and appro-
37 priate in light of sections 202 through 209 of title 18, United



1 States Code, regulations promulgated thereunder, or the au-
2 thorized activities of such officers or employees. Any individual
3 required to file a report pursuant to section 301 shall not be
4 required to file a confidential report pursuant to this sub-
5 section, except with respect to information which is more exten-
6 sive than information otherwise required by this title. Section
7 305 shall not apply with respect to any such report.

8 “(2) Any information required to be provided by an indi-
9 vidual under this subsection shall be confidential and shall not
10 be disclosed to the public.

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

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

21 “(c) Nothing in this Act requiring reporting of information
22 shall be deemed to authorize the receipt of income, gifts, or re-
23 imbursements; the holding of assets, liabilities, or positions; or
24 the participation in transactions that are prohibited by law, Ex-
25 ecutive order, rule, or regulation.

26 **“SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.**

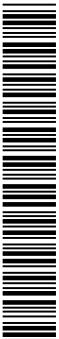
27 “The Comptroller General shall have access to financial
28 disclosure reports filed under this title for the purposes of car-
29 rying out his statutory responsibilities.

30 **“SEC. 309. DEFINITIONS.**

31 “For the purposes of this title—

32 “(1) the term ‘dependent child’ means, when used with
33 respect to any reporting individual, any individual who is
34 a son, daughter, stepson, or stepdaughter and who—

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



1 “(B) is a dependent of such reporting individual
2 within the meaning of section 152 of the Internal Rev-
3 enue Code of 1986 (26 U.S.C. 152);

4 “(2) the term ‘designated agency ethics official’ means
5 an officer or employee who is designated to administer the
6 provisions of this title within an agency;

7 “(3) the term ‘executive branch’ includes—

8 “(A) each Executive agency (as defined in section
9 105 of title 5, United States Code), other than the
10 General Accounting Office; and

11 “(B) any other entity or administrative unit in the
12 executive branch;

13 “(4) the term ‘gift’ means a payment, advance, for-
14 bearance, rendering, or deposit of money, or any thing of
15 value, unless consideration of equal or greater value is re-
16 ceived by the donor, but does not include—

17 “(A) bequests and other forms of inheritance;

18 “(B) suitable mementos of a function honoring the
19 reporting individual;

20 “(C) food, lodging, transportation, and entertain-
21 ment provided by a foreign government within a foreign
22 country or by the United States Government, the Dis-
23 trict of Columbia, or a State or local government or po-
24 litical subdivision thereof;

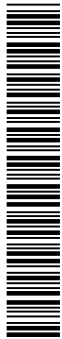
25 “(D) food and beverages which are not consumed
26 in connection with a gift of overnight lodging;

27 “(E) communications to the offices of a reporting
28 individual, including subscriptions to newspapers and
29 periodicals; or

30 “(F) items that are accepted pursuant to or are
31 required to be reported by the reporting individual
32 under section 7342 of title 5, United States Code.

33 “(5) the term ‘honorarium’ means a payment of
34 money or anything of value for an appearance, speech, or
35 article;

36 “(6) the term ‘income’ means all income from what-
37 ever source derived, including but not limited to the fol-



1 lowing items: compensation for services, including fees,
2 commissions, and similar items; gross income derived from
3 business (and net income if the individual elects to include
4 it); gains derived from dealings in property; interest; rents;
5 royalties; prizes and awards; dividends; annuities; income
6 from life insurance and endowment contracts; pensions; in-
7 come from discharge of indebtedness; distributive share of
8 partnership income; and income from an interest in an es-
9 tate or trust;

10 “(7) the term ‘personal hospitality of any individual’
11 means hospitality extended for a nonbusiness purpose by
12 an individual, not a corporation or organization, at the per-
13 sonal residence of that individual or his family or on prop-
14 erty or facilities owned by that individual or his family;

15 “(8) the term ‘reimbursement’ means any payment or
16 other thing of value received by the reporting individual,
17 other than gifts, to cover travel-related expenses of such in-
18 dividual other than those which are—

19 “(A) provided by the United States Government,
20 the District of Columbia, or a State or local govern-
21 ment or political subdivision thereof;

22 “(B) required to be reported by the reporting indi-
23 vidual under section 7342 of title 5, United States
24 Code; or

25 “(C) required to be reported under section 304 of
26 the Federal Election Campaign Act of 1971 (2 U.S.C.
27 434);

28 “(9) the term ‘relative’ means an individual who is re-
29 lated to the reporting individual, as father, mother, son,
30 daughter, brother, sister, uncle, aunt, great aunt, great
31 uncle, first cousin, nephew, niece, husband, wife, grand-
32 father, grandmother, grandson, granddaughter, father-in-
33 law, mother-in-law, son-in-law, daughter-in-law, brother-in-
34 law, sister-in-law, stepfather, stepmother, stepson, step-
35 daughter, stepbrother, stepsister, half brother, half sister,
36 or who is the grandfather or grandmother of the spouse of



1 the reporting individual, and shall be deemed to include the
2 fiancé or fiancée of the reporting individual;

3 “(10) the term ‘Secretary concerned’ has the meaning
4 set forth in section 101(a)(9) of title 10, United States
5 Code; and

6 “(11) the term ‘value’ means a good faith estimate of
7 the dollar value if the exact value is neither known nor eas-
8 ily obtainable by the reporting individual.

9 **“SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY**
10 **WITH ETHICS AGREEMENTS.**

11 “(a) In any case in which an individual agrees with that
12 individual’s designated agency ethics official, the Office of Gov-
13 ernment Ethics, or a Senate confirmation committee, to take
14 any action to comply with this Act or any other law or regula-
15 tion governing conflicts of interest of, or establishing standards
16 of conduct applicable with respect to, officers or employees of
17 the Government, that individual shall notify in writing the des-
18 ignated agency ethics official, the Office of Government Ethics,
19 or the appropriate committee of the Senate, as the case may
20 be, of any action taken by the individual pursuant to that
21 agreement. Such notification shall be made not later than the
22 date specified in the agreement by which action by the indi-
23 vidual must be taken, or not later than 3 months after the date
24 of the agreement, if no date for action is so specified. If all ac-
25 tions agreed to have not been completed by the date of this no-
26 tification, such notification shall continue on a monthly basis
27 thereafter until the individual has met the terms of the agree-
28 ment.

29 “(b) If an agreement described in subsection (a) requires
30 that the individual recuse himself or herself from particular
31 categories of agency or other official action, the individual shall
32 reduce to writing those subjects regarding which the recusal
33 agreement will apply and the process by which it will be deter-
34 mined whether the individual must recuse himself or herself in
35 a specific instance. An individual shall be considered to have
36 complied with the requirements of subsection (a) with respect
37 to such recusal agreement if such individual files a copy of the



1 document setting forth the information described in the pre-
2 ceding sentence with such individual's designated agency ethics
3 official or the Office of Government Ethics within the time pre-
4 scribed in the penultimate sentence of subsection (a).

5 **“SEC. 311. ADMINISTRATION OF PROVISIONS.**

6 “The Office of Government Ethics shall issue regulations,
7 develop forms, and provide such guidance as is necessary to im-
8 plement and interpret this title.”

9 (b) EXEMPTION FROM PUBLIC ACCESS TO FINANCIAL
10 DISCLOSURES.—Section 105(a)(1) of such Act is amended by
11 inserting “the Office of the National Intelligence Director,” be-
12 fore “the Central Intelligence Agency”.

13 (c) CONFORMING AMENDMENT.—Section 101(f) of such
14 Act is amended—

15 (1) in paragraph (12), by striking the period at the
16 end and inserting a semicolon; and

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

18 “but do not include any officer or employee of any department
19 or agency listed in section 301(e).”

20 **SEC. 5044. REDUCTION OF POSITIONS REQUIRING AP-**
21 **POINTMENT WITH SENATE CONFIRMATION.**

22 (a) DEFINITION.—In this section, the term “agency”
23 means an Executive agency, as defined under section 105 of
24 title 5, United States Code.

25 (b) REDUCTION PLAN.—

26 (1) IN GENERAL.—Not later than 180 days after the
27 date of enactment of this Act, the head of each agency
28 shall submit a Presidential appointment reduction plan
29 to—

30 (A) the President;

31 (B) the Committee on Governmental Affairs of the
32 Senate; and

33 (C) the Committee on Government Reform of the
34 House of Representatives.

35 (2) CONTENT.—The plan under this subsection shall
36 provide for the reduction of—



1 (A) the number of positions within that agency
2 that require an appointment by the President, by and
3 with the advice and consent of the Senate; and

4 (B) the number of levels of such positions within
5 that agency.

6 **SEC. 5045. EFFECTIVE DATES.**

7 (a) SECTION 5043.—

8 (1) IN GENERAL.—Subject to paragraph (2), the
9 amendments made by section 5043 shall take effect on
10 January 1 of the year following the year in which occurs
11 the date of enactment of this Act.

12 (2) LATER DATE.—If this Act is enacted on or after
13 July 1 of a year, the amendments made by section 301
14 shall take effect on July 1 of the following year.

15 (b) SECTION 5044.—Section 5044 shall take effect on the
16 date of enactment of this Act.

17 CHAPTER 2—FEDERAL BUREAU OF INVESTIGATION
18 REVITALIZATION

19 **SEC. 5051. MANDATORY SEPARATION AGE.**

20 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section
21 8335(b) of title 5, United States Code, is amended—

22 (1) by striking “(b)” and inserting “(b)(1)”; and

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

24 “(2) In the case of employees of the Federal Bureau of
25 Investigation, the second sentence of paragraph (1) shall be ap-
26 plied by substituting ‘65 years of age’ for ‘60 years of age’.
27 The authority to grant exemptions in accordance with the pre-
28 ceding sentence shall cease to be available after December 31,
29 2009.”.

30 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Sec-
31 tion 8425(b) of title 5, United States Code, is amended—

32 (1) by striking “(b)” and inserting “(b)(1)”; and

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

34 “(2) In the case of employees of the Federal Bureau of
35 Investigation, the second sentence of paragraph (1) shall be ap-
36 plied by substituting ‘65 years of age’ for ‘60 years of age’.
37 The authority to grant exemptions in accordance with the pre-



1 ceding sentence shall cease to be available after December 31,
2 2009.”.

3 **SEC. 5052. RETENTION AND RELOCATION BONUSES.**

4 (a) IN GENERAL.—Subchapter IV of chapter 57 of title 5,
5 United States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 5759. Retention and relocation bonuses for the**
8 **Federal Bureau of Investigation**

9 “(a) AUTHORITY.—The Director of the Federal Bureau of
10 Investigation, after consultation with the Director of the Office
11 of Personnel Management, may pay, on a case-by-case basis, a
12 bonus under this section to an employee of the Bureau if—

13 “(1)(A) the unusually high or unique qualifications of
14 the employee or a special need of the Bureau for the em-
15 ployee’s services makes it essential to retain the employee;
16 and

17 “(B) the Director of the Federal Bureau of Investiga-
18 tion determines that, in the absence of such a bonus, the
19 employee would be likely to leave—

20 “(i) the Federal service; or

21 “(ii) for a different position in the Federal service;

22 or

23 “(2) the individual is transferred to a different geo-
24 graphic area with a higher cost of living (as determined by
25 the Director of the Federal Bureau of Investigation).

26 “(b) SERVICE AGREEMENT.—Payment of a bonus under
27 this section is contingent upon the employee entering into a
28 written service agreement with the Bureau to complete a period
29 of service with the Bureau. Such agreement shall include—

30 “(1) the period of service the individual shall be re-
31 quired to complete in return for the bonus; and

32 “(2) the conditions under which the agreement may be
33 terminated before the agreed-upon service period has been
34 completed, and the effect of the termination.

35 “(c) LIMITATION ON AUTHORITY.—A bonus paid under
36 this section may not exceed 50 percent of the employee’s basic
37 pay.



1 “(d) IMPACT ON BASIC PAY.—A retention bonus is not
2 part of the basic pay of an employee for any purpose.

3 “(e) TERMINATION OF AUTHORITY.—The authority to
4 grant bonuses under this section shall cease to be available
5 after December 31, 2009.”.

6 (b) CLERICAL AMENDMENT.—The analysis for chapter 57
7 of title 5, United States Code, is amended by adding at the end
8 the following:

“5759. Retention and relocation bonuses for the Federal Bureau of Investigation.”.

9 **SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RE-**
10 **SERVE SERVICE.**

11 (a) IN GENERAL.—Chapter 35 of title 5, United States
12 Code, is amended by adding at the end the following:

13 “SUBCHAPTER VII—RETENTION OF RETIRED SPE-
14 CIALIZED EMPLOYEES AT THE FEDERAL BUREAU
15 OF INVESTIGATION

16 **“§ 3598. Federal Bureau of Investigation Reserve**
17 **Service**

18 “(a) ESTABLISHMENT.—The Director of the Federal Bu-
19 reau of Investigation may provide for the establishment and
20 training of a Federal Bureau of Investigation Reserve Service
21 (hereinafter in this section referred to as the ‘FBI Reserve
22 Service’) for temporary reemployment of employees in the Bu-
23 reau during periods of emergency, as determined by the Direc-
24 tor.

25 “(b) MEMBERSHIP.—Membership in the FBI Reserve
26 Service shall be limited to individuals who previously served as
27 full-time employees of the Bureau.

28 “(c) ANNUITANTS.—If an individual receiving an annuity
29 from the Civil Service Retirement and Disability Fund on the
30 basis of such individual’s service becomes temporarily reem-
31 ployed pursuant to this section, such annuity shall not be dis-
32 continued thereby. An individual so reemployed shall not be
33 considered an employee for the purposes of chapter 83 or 84.

34 “(d) NO IMPACT ON BUREAU PERSONNEL CEILING.—FBI
35 Reserve Service members reemployed on a temporary basis pur-



1 suant to this section shall not count against any personnel ceil-
2 ing applicable to the Bureau.

3 “(e) EXPENSES.—The Director may provide members of
4 the FBI Reserve Service transportation and per diem in lieu
5 of subsistence, in accordance with applicable provisions of this
6 title, for the purpose of participating in any training that re-
7 lates to service as a member of the FBI Reserve Service.

8 “(f) LIMITATION ON MEMBERSHIP.—Membership of the
9 FBI Reserve Service is not to exceed 500 members at any
10 given time.”.

11 (b) CLERICAL AMENDMENT.—The analysis for chapter 35
12 of title 5, United States Code, is amended by adding at the end
13 the following:

“SUBCHAPTER VII--RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT
THE FEDERAL BUREAU OF INVESTIGATION
“3598. Federal Bureau of Investigation Reserve Service.”.

14 **SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BU-**
15 **REAU OF INVESTIGATION INTELLIGENCE DI-**
16 **RECTORATE.**

17 Section 5377(a)(2) of title 5, United States Code, is
18 amended—

19 (1) by striking “and” at the end of subparagraph (E);

20 (2) by striking the period at the end of subparagraph
21 (F) and inserting “; and”; and

22 (3) by inserting after subparagraph (F) the following:

23 “(G) a position at the Federal Bureau of Inves-
24 tigation, the primary duties and responsibilities of
25 which relate to intelligence functions (as determined by
26 the Director of the Federal Bureau of Investigation).”.

27 **CHAPTER 3—MANAGEMENT AUTHORITY**

28 **SEC. 5061. MANAGEMENT AUTHORITY.**

29 (a) MANAGEMENT AUTHORITY.—Section 7103(b)(1)(A) of
30 title 5, United States Code, is amended by adding “homeland
31 security,” after “investigative,”.

32 (b) EXCLUSIONARY AUTHORITY.—Section 842 of the
33 Homeland Security Act (Public Law 107–296; 6 U.S.C. 412)
34 is repealed.



Subtitle F—Security Clearance Modernization

SEC. 5071. DEFINITIONS.

In this subtitle:

(1) The term “Director” means the National Intelligence Director.

(2) The term “agency” means—

(A) an executive agency, as defined in section 105 of title 5, United States Code;

(B) a military department, as defined in section 102 of title 5, United States Code; and

(C) elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term “authorized investigative agency” means an agency authorized by law, regulation or direction of the Director to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(4) The term “authorized adjudicative agency” means an agency authorized by law, regulation or direction of the Director to determine eligibility for access to classified information in accordance with Executive Order 12968.

(5) The term “highly sensitive program” means—

(A) a government program designated as a Special Access Program (as defined by section 4.1(h) of Executive Order 12958); and

(B) a government program that applies restrictions required for—

(i) Restricted Data (as defined by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)); or

(ii) other information commonly referred to as “Sensitive Compartmented Information”.



1 (6) The term “current investigation file” means, with
2 respect to a security clearance, a file on an investigation or
3 adjudication that has been conducted during—

4 (A) the 5-year period beginning on the date the se-
5 curity clearance was granted, in the case of a Top Se-
6 cret Clearance, or the date access was granted to a
7 highly sensitive program;

8 (B) the 10-year period beginning on the date the
9 security clearance was granted in the case of a Secret
10 Clearance; and

11 (C) the 15-year period beginning on the date the
12 security clearance was granted in the case of a Con-
13 fidential Clearance.

14 (7) The term “personnel security investigation” means
15 any investigation required for the purpose of determining
16 the eligibility of any military, civilian, or government con-
17 tractor personnel to access classified information.

18 (8) The term “periodic reinvestigations” means—

19 (A) investigations conducted for the purpose of up-
20 dating a previously completed background
21 investigation—

22 (i) every five years in the case of a Top Secret
23 Clearance or access to a highly sensitive program;

24 (ii) every 10 years in the case of a Secret
25 Clearance; and

26 (iii) every 15 years in the case of a Confiden-
27 tial Clearance;

28 (B) on-going investigations to identify personnel
29 security risks as they develop, pursuant to section
30 105(c).

31 (9) The term “appropriate committees of Congress”
32 means—

33 (A) the Permanent Select Committee on Intel-
34 ligence and the Committees on Armed Services, Judici-
35 ary, and Government Reform of the House of Rep-
36 resentatives; and



1 (B) the Select Committee on Intelligence and the
2 Committees on Armed Services, Judiciary, and Govern-
3 mental 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 Community
8 Management and Resources shall have responsibility for the
9 following:

10 (1) Directing day-to-day oversight of investigations
11 and adjudications for personnel security clearances to high-
12 ly sensitive programs throughout the Federal Government.

13 (2) Developing and implementing uniform and con-
14 sistent policies and procedures to ensure the effective, effi-
15 cient, and timely completion of security clearances and de-
16 terminations for access to highly sensitive programs, in-
17 cluding the standardization of security questionnaires, fi-
18 nancial disclosure requirements for security clearance appli-
19 cants, and polygraph policies and procedures.

20 (3) Serving as the final authority to designate an au-
21 thorized investigative agency or authorized adjudicative
22 agency pursuant to section 5074(d).

23 (4) Ensuring reciprocal recognition of access to classi-
24 fied information among agencies, including acting as the
25 final authority to arbitrate and resolve disputes involving
26 the reciprocity of security clearances and access to highly
27 sensitive programs.

28 (5) Ensuring, to the maximum extent practicable, that
29 sufficient resources are available in each agency to achieve
30 clearance and investigative program goals.

31 (6) Reviewing and coordinating the development of
32 tools and techniques for enhancing the conduct of inves-
33 tigation and granting of clearances.

34 **SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND**
35 **ACCESS DETERMINATIONS.**

36 (a) REQUIREMENT FOR RECIPROCITY.—(1) All security
37 clearance background investigations and determinations com-



1 pleted by an authorized investigative agency or authorized adju-
2 dicative agency shall be accepted by all agencies.

3 (2) All security clearance background investigations initi-
4 ated by an authorized investigative agency shall be transferable
5 to any other authorized investigative agency.

6 (b) PROHIBITION ON ESTABLISHING ADDITIONAL RE-
7 QUIREMENTS.—(1) An authorized investigative agency or au-
8 thorized adjudicative agency may not establish additional inves-
9 tigative or adjudicative requirements (other than requirements
10 for the conduct of a polygraph examination) that exceed re-
11 quirements specified in Executive Orders establishing security
12 requirements for access to classified information.

13 (2) Notwithstanding the paragraph (1), the Director may
14 establish additional requirements as needed for national secu-
15 rity purposes.

16 (c) PROHIBITION ON DUPLICATIVE INVESTIGATIONS.—An
17 authorized investigative agency or authorized adjudicative agen-
18 cy may not conduct an investigation for purposes of deter-
19 mining whether to grant a security clearance to an individual
20 where a current investigation or clearance of equal level already
21 exists or has been granted by another authorized adjudicative
22 agency.

23 **SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE .**

24 (a) ESTABLISHMENT.—Not later than 12 months after the
25 date of the enactment of this Act, the Director of the Office
26 of Personnel Management, in cooperation with the Director,
27 shall establish, and begin operating and maintaining, an inte-
28 grated, secure, national database into which appropriate data
29 relevant to the granting, denial, or revocation of a security
30 clearance or access pertaining to military, civilian, or govern-
31 ment contractor personnel shall be entered from all authorized
32 investigative and adjudicative agencies.

33 (b) INTEGRATION.—The national database established
34 under subsection (a) shall function to integrate information
35 from existing Federal clearance tracking systems from other
36 authorized investigative and adjudicative agencies into a single
37 consolidated database.



1 (c) REQUIREMENT TO CHECK DATABASE.—Each author-
2 ized investigative or adjudicative agency shall check the na-
3 tional database established under subsection (a) to determine
4 whether an individual the agency has identified as requiring a
5 security clearance has already been granted or denied a secu-
6 rity clearance, or has had a security clearance revoked, by any
7 other authorized investigative or adjudicative agency.

8 (d) CERTIFICATION OF AUTHORIZED INVESTIGATIVE
9 AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.—The
10 Director shall evaluate the extent to which an agency is submit-
11 ting information to, and requesting information from, the na-
12 tional database established under subsection (a) as part of a
13 determination of whether to certify the agency as an authorized
14 investigative agency or authorized adjudicative agency.

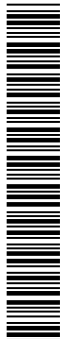
15 (e) EXCLUSION OF CERTAIN INTELLIGENCE
16 OPERATIVES.—The Director may authorize an agency to with-
17 hold information about certain individuals from the database
18 established under subsection (a) if the Director determines it
19 is necessary for national security purposes.

20 (f) COMPLIANCE.—The Director shall establish a review
21 procedure by which agencies can seek review of actions required
22 under section 5073.

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There is au-
24 thorized to be appropriated such sums as may be necessary for
25 fiscal year 2005 and each subsequent fiscal year for the imple-
26 mentation, maintenance and operation of the database estab-
27 lished in subsection (a).

28 **SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEAR-**
29 **ANCE INVESTIGATIONS.**

30 (a) INVESTIGATIONS.—Not later than 12 months after the
31 date of the enactment of this Act, each authorized investigative
32 agency that conducts personnel security clearance investiga-
33 tions shall use, to the maximum extent practicable, available in-
34 formation technology and databases to expedite investigative
35 processes and to verify standard information submitted as part
36 of an application for a security clearance.



1 (b) INTERIM CLEARANCE.—If the application of an appli-
2 cant for an interim clearance has been processed using the
3 technology under subsection (a), the interim clearances for the
4 applicant at the secret, top secret, and special access program
5 levels may be granted before the completion of the appropriate
6 investigation. Any request to process an interim clearance shall
7 be given priority, and the authority granting the interim clear-
8 ance shall ensure that final adjudication on the application is
9 made within 90 days after the initial clearance is granted.

10 (c) ON-GOING MONITORING OF INDIVIDUALS WITH SECUR-
11 ITY CLEARANCES.—(1) Authorized investigative agencies and
12 authorized adjudicative agencies shall establish procedures for
13 the regular, ongoing verification of personnel with security
14 clearances in effect for continued access to classified informa-
15 tion. Such procedures shall include the use of available tech-
16 nology to detect, on a regularly recurring basis, any issues of
17 concern that may arise involving such personnel and such ac-
18 cess.

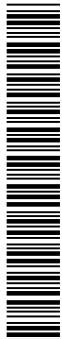
19 (2) Such regularly recurring verification may be used as
20 a basis for terminating a security clearance or access and shall
21 be used in periodic reinvestigations to address emerging threats
22 and adverse events associated with individuals with security
23 clearances in effect to the maximum extent practicable.

24 (3) If the Director certifies that the national security of
25 the United States is not harmed by the discontinuation of peri-
26 odic reinvestigations, the regularly recurring verification under
27 this section may replace periodic reinvestigations.

28 **SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SE-**
29 **CURITY CLEARANCE PROCESS.**

30 (a) 60-Day PERIOD FOR DETERMINATION ON CLEAR-
31 ANCES.—Each authorized adjudicative agency shall make a de-
32 termination on an application for a personnel security clearance
33 within 60 days after the date of receipt of the completed appli-
34 cation for a security clearance by an authorized investigative
35 agency. The 60-day period shall include—

36 (1) a period of not longer than 40 days to complete
37 the investigative phase of the clearance review; and



1 (2) a period of not longer than 20 days to complete
2 the adjudicative phase of the clearance review.

3 (b) EFFECTIVE DATE AND PHASE-IN.—

4 (1) EFFECTIVE DATE.—Subsection (a) shall take ef-
5 fect 5 years after the date of the enactment of this Act.

6 (2) PHASE-IN.—During the period beginning on a date
7 not later than 2 years after the date after the enactment
8 of this Act and ending on the date on which subsection (a)
9 takes effect as specified in paragraph (1), each authorized
10 adjudicative agency shall make a determination on an ap-
11 plication for a personnel security clearance pursuant to this
12 title within 120 days after the date of receipt of the appli-
13 cation for a security clearance by an authorized investiga-
14 tive agency. The 120-day period shall include—

15 (A) a period of not longer than 90 days to com-
16 plete the investigative phase of the clearance review;
17 and

18 (B) a period of not longer than 30 days to com-
19 plete the adjudicative phase of the clearance review.

20 **SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL**
21 **TRANSITION.**

22 (a) CANDIDATES FOR NATIONAL SECURITY POSITIONS.—

23 (1) The President-elect shall submit to the Director the names
24 of candidates for high-level national security positions, for posi-
25 tions at the level of under secretary of executive departments
26 and above, as soon as possible after the date of the general
27 elections held to determine the electors of President and Vice
28 President under section 1 or 2 of title 3, United States Code.

29 (2) The Director shall be responsible for the expeditious
30 completion of the background investigations necessary to pro-
31 vide appropriate security clearances to the individuals who are
32 candidates described under paragraph (1) before the date of
33 the inauguration of the President-elect as President and the in-
34 auguration of the Vice-President-elect as Vice President.

35 (b) SECURITY CLEARANCES FOR TRANSITION TEAM MEM-
36 BERS.—(1) In this section, the term “major party” has the



1 meaning provided under section 9002(6) of the Internal Rev-
2 enue Code of 1986.

3 (2) Each major party candidate for President, except a
4 candidate who is the incumbent President, shall submit, before
5 the date of the general presidential election, requests for secu-
6 rity clearances for prospective transition team members who
7 will have a need for access to classified information to carry out
8 their responsibilities as members of the President-elect's transi-
9 tion team.

10 (3) Necessary background investigations and eligibility de-
11 terminations to permit appropriate prospective transition team
12 members to have access to classified information shall be com-
13 pleted, to the fullest extent practicable, by the day after the
14 date of the general presidential election.

15 **SEC. 5078. REPORTS.**

16 Not later than February 15, 2006, and annually thereafter
17 through 2016, the Director shall submit to the appropriate
18 committees of Congress a report on the progress made during
19 the preceding year toward meeting the requirements specified
20 in this Act. The report shall include—

21 (1) the periods of time required by the authorized in-
22 vestigative agencies and authorized adjudicative agencies
23 during the year covered by the report for conducting inves-
24 tations, adjudicating cases, and granting clearances, from
25 date of submission to ultimate disposition and notification
26 to the subject and the subject's employer;

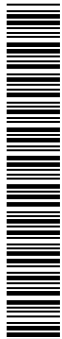
27 (2) a discussion of any impediments to the smooth and
28 timely functioning of the implementation of this title; and

29 (3) such other information or recommendations as the
30 Deputy Director deems appropriate.

31 **Subtitle G—Emergency Financial**
32 **Preparedness**

33 **SEC. 5081. DELEGATION AUTHORITY OF THE SEC-**
34 **RETARY OF THE TREASURY.**

35 Subsection (d) of section 306 of title 31, United States
36 Code, is amended by inserting “or employee” after “another of-
37 ficer”.



1 **SEC. 5082. EXTENSION OF EMERGENCY ORDER AUTHOR-**
2 **ITY OF THE SECURITIES AND EXCHANGE**
3 **COMMISSION.**

4 (a) EXTENSION OF AUTHORITY.—Paragraph (2) of section
5 12(k) of the Securities Exchange Act of 1934 (15 U.S.C.
6 78l(k)(2)) is amended to read as follows:

7 “(2) EMERGENCY ORDERS.—(A) The Commission, in
8 an emergency, may by order summarily take such action to
9 alter, supplement, suspend, or impose requirements or re-
10 strictions with respect to any matter or action subject to
11 regulation by the Commission or a self-regulatory organiza-
12 tion under the securities laws, as the Commission deter-
13 mines is necessary in the public interest and for the protec-
14 tion of investors—

15 “(i) to maintain or restore fair and orderly securi-
16 ties markets (other than markets in exempted securi-
17 ties);

18 “(ii) to ensure prompt, accurate, and safe clear-
19 ance and settlement of transactions in securities (other
20 than exempted securities); or

21 “(iii) to reduce, eliminate, or prevent the substan-
22 tial disruption by the emergency of (I) securities mar-
23 kets (other than markets in exempted securities), in-
24 vestment companies, or any other significant portion or
25 segment of such markets, or (II) the transmission or
26 processing of securities transactions (other than trans-
27 actions in exempted securities).

28 “(B) An order of the Commission under this para-
29 graph (2) shall continue in effect for the period specified
30 by the Commission, and may be extended. Except as pro-
31 vided in subparagraph (C), the Commission’s action may
32 not continue in effect for more than 30 business days, in-
33 cluding extensions.

34 “(C) An order of the Commission under this para-
35 graph (2) may be extended to continue in effect for more
36 than 30 business days if, at the time of the extension, the
37 Commission finds that the emergency still exists and deter-



1 mines that the continuation of the order beyond 30 busi-
2 ness days is necessary in the public interest and for the
3 protection of investors to attain an objective described in
4 clause (i), (ii), or (iii) of subparagraph (A). In no event
5 shall an order of the Commission under this paragraph (2)
6 continue in effect for more than 90 calendar days.

7 “(D) If the actions described in subparagraph (A) in-
8 volve a security futures product, the Commission shall con-
9 sult with and consider the views of the Commodity Futures
10 Trading Commission. In exercising its authority under this
11 paragraph, the Commission shall not be required to comply
12 with the provisions of section 553 of title 5, United States
13 Code, or with the provisions of section 19(c) of this title.

14 “(E) Notwithstanding the exclusion of exempted secu-
15 rities (and markets therein) from the Commission’s author-
16 ity under subparagraph (A), the Commission may use such
17 authority to take action to alter, supplement, suspend, or
18 impose requirements or restrictions with respect to clearing
19 agencies for transactions in such exempted securities. In
20 taking any action under this subparagraph, the Commis-
21 sion shall consult with and consider the views of the Sec-
22 retary of the Treasury.”

23 (b) CONSULTATION; DEFINITION OF EMERGENCY.—Sec-
24 tion 12(k) of the Securities Exchange Act of 1934 (15 U.S.C.
25 78l(k)) is further amended by striking paragraph (6) and in-
26 sserting the following:

27 “(6) CONSULTATION.—Prior to taking any action de-
28 scribed in paragraph (1)(B), the Commission shall consult
29 with and consider the views of the Secretary of the Treas-
30 ury, Board of Governors of the Federal Reserve System,
31 and the Commodity Futures Trading Commission, unless
32 such consultation is impracticable in light of the emer-
33 gency.

34 “(7) DEFINITIONS.—

35 “(A) EMERGENCY.—For purposes of this sub-
36 section, the term ‘emergency’ means—



1 “(i) a major market disturbance characterized
2 by or constituting—

3 “(I) sudden and excessive fluctuations of
4 securities prices generally, or a substantial
5 threat thereof, that threaten fair and orderly
6 markets; or

7 “(II) a substantial disruption of the safe
8 or efficient operation of the national system for
9 clearance and settlement of transactions in se-
10 curities, or a substantial threat thereof; or

11 “(ii) a major disturbance that substantially
12 disrupts, or threatens to substantially disrupt—

13 “(I) the functioning of securities markets,
14 investment companies, or any other significant
15 portion or segment of the securities markets; or

16 “(II) the transmission or processing of se-
17 curities transactions.

18 “(B) SECURITIES LAWS.—Notwithstanding section
19 3(a)(47), for purposes of this subsection, the term ‘se-
20 curities laws’ does not include the Public Utility Hold-
21 ing Company Act of 1935 (15 U.S.C. 79a et seq.).”.

22 **SEC. 5083. PARALLEL AUTHORITY OF THE SECRETARY**
23 **OF THE TREASURY WITH RESPECT TO GOV-**
24 **ERNMENT SECURITIES.**

25 Section 15C of the Securities Exchange Act of 1934 (15
26 U.S.C. 78o-5) is amended by adding at the end the following
27 new subsection:

28 “(h) EMERGENCY AUTHORITY.—The Secretary may by
29 order take any action with respect to a matter or action subject
30 to regulation by the Secretary under this section, or the rules
31 of the Secretary thereunder, involving a government security or
32 a market therein (or significant portion or segment of that
33 market), that the Commission may take under section 12(k)(2)
34 of this title with respect to transactions in securities (other
35 than exempted securities) or a market therein (or significant
36 portion or segment of that market).”.



Subtitle H—Other Matters

Chapter 1—Privacy Matters

SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING TAKE INTO CONSIDERATION IMPACTS ON INDIVIDUAL PRIVACY.

(a) **SHORT TITLE.**—This section may be cited as the “Federal Agency Protection of Privacy Act of 2004”.

(b) **IN GENERAL.**—Title 5, United States Code, is amended by adding after section 553 the following new section:

“§ 553a. Privacy impact assessment in rulemaking

“(a) **INITIAL PRIVACY IMPACT ASSESSMENT.**—

“(1) **IN GENERAL.**—Whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for a proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare and make available for public comment an initial privacy impact assessment that describes the impact of the proposed rule on the privacy of individuals. Such assessment or a summary thereof shall be signed by the senior agency official with primary responsibility for privacy policy and be published in the Federal Register at the time of the publication of a general notice of proposed rulemaking for the rule.

“(2) **CONTENTS.**—Each initial privacy impact assessment required under this subsection shall contain the following:

“(A) A description and analysis of the extent to which the proposed rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

“(i) provides notice of the collection of personally identifiable information, and specifies what



1 personally identifiable information is to be collected
2 and how it is to be collected, maintained, used, and
3 disclosed;

4 “(ii) allows access to such information by the
5 person to whom the personally identifiable informa-
6 tion pertains and provides an opportunity to cor-
7 rect inaccuracies;

8 “(iii) prevents such information, which is col-
9 lected for one purpose, from being used for another
10 purpose; and

11 “(iv) provides security for such information.

12 “(B) A description of any significant alternatives
13 to the proposed rule which accomplish the stated objec-
14 tives of applicable statutes and which minimize any sig-
15 nificant privacy impact of the proposed rule on individ-
16 uals.

17 “(b) FINAL PRIVACY IMPACT ASSESSMENT.—

18 “(1) IN GENERAL.—Whenever an agency promulgates
19 a final rule under section 553 of this title, after being re-
20 quired by that section or any other law to publish a general
21 notice of proposed rulemaking, or promulgates a final inter-
22 pretative rule involving the internal revenue laws of the
23 United States, and such rule or proposed rulemaking per-
24 tains to the collection, maintenance, use, or disclosure of
25 personally identifiable information from 10 or more individ-
26 uals, other than agencies, instrumentalities, or employees of
27 the Federal government, the agency shall prepare a final
28 privacy impact assessment, signed by the senior agency of-
29 ficial with primary responsibility for privacy policy.

30 “(2) CONTENTS.—Each final privacy impact assess-
31 ment required under this subsection shall contain the fol-
32 lowing:

33 “(A) A description and analysis of the extent to
34 which the final rule will impact the privacy interests of
35 individuals, including the extent to which such rule—

36 “(i) provides notice of the collection of person-
37 ally identifiable information, and specifies what



1 personally identifiable information is to be collected
2 and how it is to be collected, maintained, used, and
3 disclosed;

4 “(ii) allows access to such information by the
5 person to whom the personally identifiable informa-
6 tion pertains and provides an opportunity to cor-
7 rect inaccuracies;

8 “(iii) prevents such information, which is col-
9 lected for one purpose, from being used for another
10 purpose; and

11 “(iv) provides security for such information.

12 “(B) A summary of any significant issues raised
13 by the public comments in response to the initial pri-
14 vacy impact assessment, a summary of the analysis of
15 the agency of such issues, and a statement of any
16 changes made in such rule as a result of such issues.

17 “(C) A description of the steps the agency has
18 taken to minimize the significant privacy impact on in-
19 dividuals consistent with the stated objectives of appli-
20 cable statutes, including a statement of the factual, pol-
21 icy, and legal reasons for selecting the alternative
22 adopted in the final rule and why each one of the other
23 significant alternatives to the rule considered by the
24 agency which affect the privacy interests of individuals
25 was rejected.

26 “(3) AVAILABILITY TO PUBLIC.—The agency shall
27 make copies of the final privacy impact assessment avail-
28 able to members of the public and shall publish in the Fed-
29 eral Register such assessment or a summary thereof.

30 “(c) WAIVERS.—

31 “(1) EMERGENCIES.—An agency head may waive or
32 delay the completion of some or all of the requirements of
33 subsections (a) and (b) to the same extent as the agency
34 head may, under section 608, waive or delay the completion
35 of some or all of the requirements of sections 603 and 604,
36 respectively.



1 “(2) NATIONAL SECURITY.—An agency head may, for
2 national security reasons, or to protect from disclosure clas-
3 sified information, confidential commercial information, or
4 information the disclosure of which may adversely affect a
5 law enforcement effort, waive or delay the completion of
6 some or all of the following requirements:

7 “(A) The requirement of subsection (a)(1) to
8 make an assessment available for public comment.

9 “(B) The requirement of subsection (a)(1) to have
10 an assessment or summary thereof published in the
11 Federal Register.

12 “(C) The requirements of subsection (b)(3).

13 “(d) PROCEDURES FOR GATHERING COMMENTS.—When
14 any rule is promulgated which may have a significant privacy
15 impact on individuals, or a privacy impact on a substantial
16 number of individuals, the head of the agency promulgating the
17 rule or the official of the agency with statutory responsibility
18 for the promulgation of the rule shall assure that individuals
19 have been given an opportunity to participate in the rulemaking
20 for the rule through techniques such as—

21 “(1) the inclusion in an advance notice of proposed
22 rulemaking, if issued, of a statement that the proposed rule
23 may have a significant privacy impact on individuals, or a
24 privacy impact on a substantial number of individuals;

25 “(2) the publication of a general notice of proposed
26 rulemaking in publications of national circulation likely to
27 be obtained by individuals;

28 “(3) the direct notification of interested individuals;

29 “(4) the conduct of open conferences or public hear-
30 ings concerning the rule for individuals, including soliciting
31 and receiving comments over computer networks; and

32 “(5) the adoption or modification of agency procedural
33 rules to reduce the cost or complexity of participation in
34 the rulemaking by individuals.

35 “(e) PERIODIC REVIEW OF RULES.—

36 “(1) IN GENERAL.—Each agency shall carry out a
37 periodic review of the rules promulgated by the agency that



1 have a significant privacy impact on individuals, or a pri-
2 vacy impact on a substantial number of individuals. Under
3 such periodic review, the agency shall determine, for each
4 such rule, whether the rule can be amended or rescinded
5 in a manner that minimizes any such impact while remain-
6 ing in accordance with applicable statutes. For each such
7 determination, the agency shall consider the following fac-
8 tors:

9 “(A) The continued need for the rule.

10 “(B) The nature of complaints or comments re-
11 ceived from the public concerning the rule.

12 “(C) The complexity of the rule.

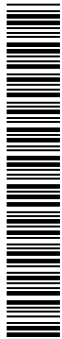
13 “(D) The extent to which the rule overlaps, dupli-
14 cates, or conflicts with other Federal rules, and, to the
15 extent feasible, with State and local governmental
16 rules.

17 “(E) The length of time since the rule was last re-
18 viewed under this subsection.

19 “(F) The degree to which technology, economic
20 conditions, or other factors have changed in the area
21 affected by the rule since the rule was last reviewed
22 under this subsection.

23 “(2) PLAN REQUIRED.—Each agency shall carry out
24 the periodic review required by paragraph (1) in accordance
25 with a plan published by such agency in the Federal Reg-
26 ister. Each such plan shall provide for the review under
27 this subsection of each rule promulgated by the agency not
28 later than 10 years after the date on which such rule was
29 published as the final rule and, thereafter, not later than
30 10 years after the date on which such rule was last re-
31 viewed under this subsection. The agency may amend such
32 plan at any time by publishing the revision in the Federal
33 Register.

34 “(3) ANNUAL PUBLICATION.—Each year, each agency
35 shall publish in the Federal Register a list of the rules to
36 be reviewed by such agency under this subsection during
37 the following year. The list shall include a brief description



1 of each such rule and the need for and legal basis of such
2 rule and shall invite public comment upon the determina-
3 tion to be made under this subsection with respect to such
4 rule.

5 “(f) JUDICIAL REVIEW.—

6 “(1) IN GENERAL.—For any rule subject to this sec-
7 tion, an individual who is adversely affected or aggrieved by
8 final agency action is entitled to judicial review of agency
9 compliance with the requirements of subsections (b) and (c)
10 in accordance with chapter 7. Agency compliance with sub-
11 section (d) shall be judicially reviewable in connection with
12 judicial review of subsection (b).

13 “(2) JURISDICTION.—Each court having jurisdiction
14 to review such rule for compliance with section 553, or
15 under any other provision of law, shall have jurisdiction to
16 review any claims of noncompliance with subsections (b)
17 and (c) in accordance with chapter 7. Agency compliance
18 with subsection (d) shall be judicially reviewable in connec-
19 tion with judicial review of subsection (b).

20 “(3) LIMITATIONS.—

21 “(A) An individual may seek such review during
22 the period beginning on the date of final agency action
23 and ending 1 year later, except that where a provision
24 of law requires that an action challenging a final agen-
25 cy action be commenced before the expiration of 1 year,
26 such lesser period shall apply to an action for judicial
27 review under this subsection.

28 “(B) In the case where an agency delays the
29 issuance of a final privacy impact assessment pursuant
30 to subsection (c), an action for judicial review under
31 this section shall be filed not later than—

32 “(i) 1 year after the date the assessment is
33 made available to the public; or

34 “(ii) where a provision of law requires that an
35 action challenging a final agency regulation be
36 commenced before the expiration of the 1-year pe-
37 riod, the number of days specified in such provision



1 of law that is after the date the assessment is made
2 available to the public.

3 “(4) RELIEF.—In granting any relief in an action
4 under this subsection, the court shall order the agency to
5 take corrective action consistent with this section and chap-
6 ter 7, including, but not limited to—

7 “(A) remanding the rule to the agency; and

8 “(B) deferring the enforcement of the rule against
9 individuals, unless the court finds that continued en-
10 forcement of the rule is in the public interest.

11 “(5) RULE OF CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to limit the authority of any
13 court to stay the effective date of any rule or provision
14 thereof under any other provision of law or to grant any
15 other relief in addition to the requirements of this sub-
16 section.

17 “(6) RECORD OF AGENCY ACTION.—In an action for
18 the judicial review of a rule, the privacy impact assessment
19 for such rule, including an assessment prepared or cor-
20 rected pursuant to paragraph (4), shall constitute part of
21 the entire record of agency action in connection with such
22 review.

23 “(7) EXCLUSIVITY.—Compliance or noncompliance by
24 an agency with the provisions of this section shall be sub-
25 ject to judicial review only in accordance with this sub-
26 section.

27 “(8) SAVINGS CLAUSE.—Nothing in this subsection
28 bars judicial review of any other impact statement or simi-
29 lar assessment required by any other law if judicial review
30 of such statement or assessment is otherwise permitted by
31 law.

32 “(g) DEFINITION.—For purposes of this section, the term
33 ‘personally identifiable information’ means information that can
34 be used to identify an individual, including such individual’s
35 name, address, telephone number, photograph, social security
36 number or other identifying information. It includes informa-
37 tion about such individual’s medical or financial condition.”.



1 (c) PERIODIC REVIEW TRANSITION PROVISIONS.—

2 (1) INITIAL PLAN.—For each agency, the plan re-
3 quired by subsection (e) of section 553a of title 5, United
4 States Code (as added by subsection (a)), shall be pub-
5 lished not later than 180 days after the date of the enact-
6 ment of this Act.

7 (2) In the case of a rule promulgated by an agency be-
8 fore the date of the enactment of this Act, such plan shall
9 provide for the periodic review of such rule before the expi-
10 ration of the 10-year period beginning on the date of the
11 enactment of this Act. For any such rule, the head of the
12 agency may provide for a 1-year extension of such period
13 if the head of the agency, before the expiration of the pe-
14 riod, certifies in a statement published in the Federal Reg-
15 ister that reviewing such rule before the expiration of the
16 period is not feasible. The head of the agency may provide
17 for additional 1-year extensions of the period pursuant to
18 the preceding sentence, but in no event may the period ex-
19 ceed 15 years.

20 (d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B) of
21 title 5, United States Code, is amended—

22 (1) by redesignating clauses (iii) and (iv) as clauses
23 (iv) and (v), respectively; and

24 (2) by inserting after clause (ii) the following new
25 clause:

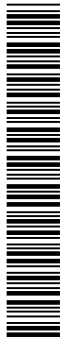
26 “(iii) the agency’s actions relevant to section 553a;”.

27 (e) CLERICAL AMENDMENT.—The table of sections at the
28 beginning of chapter 5 of title 5, United States Code, is amend-
29 ed by adding after the item relating to section 553 the fol-
30 lowing new item:

553a. Privacy impact assessment in rulemaking.”.

31 **SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES**
32 **WITH LAW ENFORCEMENT OR ANTI-TER-**
33 **RORISM FUNCTIONS.**

34 (a) IN GENERAL.—There shall be within each Federal
35 agency with law enforcement or anti-terrorism functions a chief
36 privacy officer, who shall have primary responsibility within



1 that agency for privacy policy. The agency chief privacy officer
2 shall be designated by the head of the agency.

3 (b) RESPONSIBILITIES.—The responsibilities of each agen-
4 cy chief privacy officer shall include—

5 (1) ensuring that the use of technologies sustains, and
6 does not erode, privacy protections relating to the use, col-
7 lection, and disclosure of personally identifiable informa-
8 tion;

9 (2) ensuring that personally identifiable information
10 contained in systems of records is handled in full compli-
11 ance with fair information practices as set out in section
12 552a of title 5, United States Code;

13 (3) evaluating legislative and regulatory proposals in-
14 volving collection, use, and disclosure of personally identifi-
15 able information by the Federal Government;

16 (4) conducting a privacy impact assessment of pro-
17 posed rules of the agency on the privacy of personally iden-
18 tifiable information, including the type of personally identi-
19 fiable information collected and the number of people af-
20 fected;

21 (5) preparing and submitting a report to Congress on
22 an annual basis on activities of the agency that affect pri-
23 vacy, including complaints of privacy violations, implemen-
24 tation of section 552a of title 5, United States Code, inter-
25 nal controls, and other relevant matters;

26 (6) ensuring that the agency protects personally iden-
27 tifiable information and information systems from unau-
28 thorized access, use, disclosure, disruption, modification, or
29 destruction in order to provide—

30 (A) integrity, which means guarding against im-
31 proper information modification or destruction, and in-
32 cludes ensuring information nonrepudiation and au-
33 thenticity;

34 (B) confidentiality, which means preserving author-
35 ized restrictions on access and disclosure, including
36 means for protecting personal privacy and proprietary
37 information;



1 (C) availability, which means ensuring timely and
2 reliable access to and use of that information; and

3 (D) authentication, which means utilizing digital
4 credentials to assure the identity of users and validate
5 their access; and

6 (7) advising the head of the agency and the Director
7 of the Office of Management and Budget on information
8 security and privacy issues pertaining to Federal Govern-
9 ment information systems.

10 CHAPTER 2—MUTUAL AID AND LITIGATION
11 MANAGEMENT

12 **SEC. 5101. SHORT TITLE.**

13 This chapter may be cited as the “Mutual Aid and Litiga-
14 tion Management Authorization Act of 2004”.

15 **SEC. 5102. MUTUAL AID AUTHORIZED.**

16 (a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—

17 (1) IN GENERAL.—The authorized representative of a
18 State, locality, or the Federal Government may enter into
19 an interstate mutual aid agreement or a mutual aid agree-
20 ment with the Federal Government on behalf of the State,
21 locality, or Federal Government under which, at the re-
22 quest of any party to the agreement, the other party to the
23 agreement may—

24 (A) provide law enforcement, fire, rescue, emer-
25 gency health and medical services, transportation, com-
26 munications, public works and engineering, mass care,
27 and resource support in an emergency or public service
28 event occurring in the jurisdiction of the requesting
29 party;

30 (B) provide other services to prepare for, mitigate,
31 manage, respond to, or recover from an emergency or
32 public service event occurring in the jurisdiction of the
33 requesting party; and

34 (C) participate in training events occurring in the
35 jurisdiction of the requesting party.

36 (b) LIABILITY AND ACTIONS AT LAW.—



1 (1) LIABILITY.—A responding party or its officers or
2 employees shall be liable on account of any act or omission
3 occurring while providing assistance or participating in a
4 training event in the jurisdiction of a requesting party
5 under a mutual aid agreement (including any act or omis-
6 sion arising from the maintenance or use of any equipment,
7 facilities, or supplies in connection therewith), but only to
8 the extent permitted under and in accordance with the laws
9 and procedures of the State of the responding party and
10 subject to this chapter.

11 (2) JURISDICTION OF COURTS.—

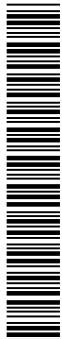
12 (A) IN GENERAL.—Subject to subparagraph (B)
13 and section 3, any action brought against a responding
14 party or its officers or employees on account of an act
15 or omission described in subsection (b)(1) may be
16 brought only under the laws and procedures of the
17 State of the responding party and only in the State
18 courts or United States District Courts located therein.

19 (B) UNITED STATES AS PARTY.—If the United
20 States is the party against whom an action described
21 in paragraph (1) is brought, the action may be brought
22 only in a United States District Court.

23 (c) WORKERS' COMPENSATION AND DEATH BENEFITS.—

24 (1) PAYMENT OF BENEFITS.—A responding party
25 shall provide for the payment of workers' compensation and
26 death benefits with respect to officers or employees of the
27 party who sustain injuries or are killed while providing as-
28 sistance or participating in a training event under a mutual
29 aid agreement in the same manner and on the same terms
30 as if the injury or death were sustained within the jurisdic-
31 tion of the responding party.

32 (2) LIABILITY FOR BENEFITS.—No party shall be lia-
33 ble under the law of any State other than its own (or, in
34 the case of the Federal Government, under any law other
35 than Federal law) for the payment of workers' compensa-
36 tion and death benefits with respect to injured officers or
37 employees of the party who sustain injuries or are killed



1 while providing assistance or participating in a training
2 event under a mutual aid agreement.

3 (d) LICENSES AND PERMITS.—Whenever any person holds
4 a license, certificate, or other permit issued by any responding
5 party evidencing the meeting of qualifications for professional,
6 mechanical, or other skills, such person will be deemed licensed,
7 certified, or permitted by the requesting party to provide assist-
8 ance involving such skill under a mutual aid agreement.

9 (e) SCOPE.—Except to the extent provided in this section,
10 the rights and responsibilities of the parties to a mutual aid
11 agreement shall be as described in the mutual aid agreement.

12 (f) EFFECT ON OTHER AGREEMENTS.—Nothing in this
13 section precludes any party from entering into supplementary
14 mutual aid agreements with fewer than all the parties, or with
15 another, or affects any other agreements already in force
16 among any parties to such an agreement, including the Emer-
17 gency Management Assistance Compact (EMAC) under Public
18 Law 104–321.

19 (g) FEDERAL GOVERNMENT.—Nothing in this section may
20 be construed to limit any other expressed or implied authority
21 of any entity of the Federal Government to enter into mutual
22 aid agreements.

23 (h) CONSISTENCY WITH STATE LAW.—A party may enter
24 into a mutual aid agreement under this chapter only insofar as
25 the agreement is in accord with State law.

26 **SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

27 (a) AUTHORIZATION TO ENTER INTO LITIGATION MAN-
28 AGEMENT AGREEMENTS.—The authorized representative of a
29 State or locality may enter into a litigation management agree-
30 ment on behalf of the State or locality. Such litigation manage-
31 ment agreements may provide that all claims against such
32 Emergency Response Providers arising out of, relating to, or
33 resulting from an act of terrorism when Emergency Response
34 Providers from more than 1 State have acted in defense
35 against, in response to, or recovery from such act shall be gov-
36 erned by the following provisions.

37 (b) FEDERAL CAUSE OF ACTION.—



1 (1) IN GENERAL.—There shall exist a Federal cause
2 of action for claims against Emergency Response Providers
3 arising out of, relating to, or resulting from an act of ter-
4 rorism when Emergency Response Providers from more
5 than 1 State have acted in defense against, in response to,
6 or recovery from such act. As determined by the parties to
7 a litigation management agreement, the substantive law for
8 decision in any such action shall be—

9 (A) derived from the law, including choice of law
10 principles, of the State in which such acts of terrorism
11 occurred, unless such law is inconsistent with or pre-
12 empted by Federal law; or

13 (B) derived from the choice of law principles
14 agreed to by the parties to a litigation management
15 agreement as described in the litigation management
16 agreement, unless such principles are inconsistent with
17 or preempted by Federal law.

18 (2) JURISDICTION.—Such appropriate district court of
19 the United States shall have original and exclusive jurisdic-
20 tion over all actions for any claim against Emergency Re-
21 sponse Providers for loss of property, personal injury, or
22 death arising out of, relating to, or resulting from an act
23 of terrorism when Emergency Response Providers from
24 more than 1 State have acted in defense against, in re-
25 sponse to, or recovery from an act of terrorism.

26 (3) SPECIAL RULES.—In an action brought for dam-
27 ages that is governed by a litigation management agree-
28 ment, the following provisions apply:

29 (A) PUNITIVE DAMAGES.—No punitive damages
30 intended to punish or deter, exemplary damages, or
31 other damages not intended to compensate a plaintiff
32 for actual losses may be awarded, nor shall any party
33 be liable for interest prior to the judgment.

34 (B) COLLATERAL SOURCES.—Any recovery by a
35 plaintiff in an action governed by a litigation manage-
36 ment agreement shall be reduced by the amount of col-
37 lateral source compensation, if any, that the plaintiff



1 has received or is entitled to receive as a result of such
2 acts of terrorism.

3 (4) EXCLUSIONS.—Nothing in this section shall in any
4 way limit the ability of any person to seek any form of re-
5 covery from any person, government, or other entity that—

6 (A) attempts to commit, knowingly participates in,
7 aids and abets, or commits any act of terrorism, or any
8 criminal act related to or resulting from such act of
9 terrorism; or

10 (B) participates in a conspiracy to commit any
11 such act of terrorism or any such criminal act.

12 **SEC. 5104. ADDITIONAL PROVISIONS.**

13 (a) NO ABROGATION OF OTHER IMMUNITIES.—Nothing in
14 this chapter shall abrogate any other immunities from liability
15 that any party may have under any other State or Federal law.

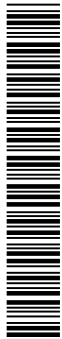
16 (b) EXCEPTION FOR CERTAIN FEDERAL LAW ENFORCE-
17 MENT ACTIVITIES.—A mutual aid agreement or a litigation
18 management agreement may not apply to law enforcement se-
19 curity operations at special events of national significance
20 under section 3056(e) of title 18, United States Code, or to
21 other law enforcement functions of the United States Secret
22 Service.

23 (c) SECRET SERVICE.—Section 3056 of title 18, United
24 States Code, is amended by adding at the end the following
25 new subsection:

26 “(g) The Secret Service shall be maintained as a distinct
27 entity within the Department of Homeland Security and shall
28 not be merged with any other department function. All per-
29 sonnel and operational elements of the United States Secret
30 Service shall report to the Director of the Secret Service, who
31 shall report directly to the Secretary of Homeland Security
32 without being required to report through any other official of
33 the Department.”.

34 **SEC. 5105. DEFINITIONS.**

35 For purposes of this chapter, the following definitions
36 apply:



1 (1) AUTHORIZED REPRESENTATIVE.—The term “au-
2 thorized representative” means—

3 (A) in the case of the Federal Government, any in-
4 dividual designated by the President with respect to the
5 executive branch, the Chief Justice of the United
6 States with respect to the judicial branch, or the Presi-
7 dent pro Tempore of the Senate and Speaker of the
8 House of Representatives with respect to the Congress,
9 or their designees, to enter into a mutual aid agree-
10 ment;

11 (B) in the case of a locality, the official designated
12 by law to declare an emergency in and for the locality,
13 or the official’s designee;

14 (C) in the case of a State, the Governor or the
15 Governor’s designee.

16 (2) EMERGENCY.—The term “emergency” means a
17 major disaster or emergency declared by the President, or
18 a State of Emergency declared by an authorized represent-
19 ative of a State or locality, in response to which assistance
20 may be provided under a mutual aid agreement.

21 (3) EMERGENCY RESPONSE PROVIDER.—The term
22 “Emergency Response Provider” means State or local
23 emergency public safety, law enforcement, emergency re-
24 sponse, emergency medical (including hospital emergency
25 facilities), and related personnel, agencies, and authorities
26 that are a party to a litigation management agreement.

27 (4) EMPLOYEE.—The term “employee” means, with
28 respect to a party to a mutual aid agreement, the employ-
29 ees of the party, including its agents or authorized volun-
30 teers, who are committed to provide assistance under the
31 agreement.

32 (5) LITIGATION MANAGEMENT AGREEMENT.—The
33 term “litigation management agreement” means an agree-
34 ment entered into pursuant to the authority granted under
35 section 5103.

36 (6) LOCALITY.—The term “locality” means a county,
37 city, or town.



1 (7) MUTUAL AID AGREEMENT.—The term “mutual aid
2 agreement” means an agreement entered into pursuant to
3 the authority granted under section 5102.

4 (8) PUBLIC SERVICE EVENT.—The term “public serv-
5 ice event” means any undeclared emergency, incident, or
6 situation in preparation for or response to which assistance
7 may be provided under a mutual aid agreement.

8 (9) REQUESTING PARTY.—The term “requesting
9 party” means, with respect to a mutual aid agreement, the
10 party in whose jurisdiction assistance is provided, or a
11 training event is held, under the agreement.

12 (10) RESPONDING PARTY.—The term “responding
13 party” means, with respect to a mutual aid agreement, the
14 party providing assistance, or participating in a training
15 event, under the agreement, but does not include the re-
16 questing party.

17 (11) STATE.—The term “State” includes each of the
18 several States of the United States, the District of Colum-
19 bia, the Commonwealth of Puerto Rico, the Virgin Islands,
20 Guam, American Samoa, and the Commonwealth of the
21 Northern Mariana Islands, and any other territory or pos-
22 session of the United States, and any political subdivision
23 of any such place.

24 (12) TRAINING EVENT.—The term “training event”
25 means an emergency and public service event-related exer-
26 cise, test, or other activity using equipment and personnel
27 to prepare for or simulate performance of any aspect of the
28 giving or receiving of assistance during emergencies or pub-
29 lic service events, but does not include an actual emergency
30 or public service event.

31 Chapter 3—Miscellaneous Matters

32 **SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMU-**
33 **NICATIONS INTEROPERABILITY.**

34 (a) COORDINATION OF PUBLIC SAFETY INTEROPERABLE
35 COMMUNICATIONS PROGRAMS.—

36 (1) PROGRAM.—The Secretary of Homeland Security,
37 in consultation with the Secretary of Commerce and the



1 Chairman of the Federal Communications Commission,
2 shall establish a program to enhance public safety inter-
3 operable communications at all levels of government. Such
4 program shall—

5 (A) establish a comprehensive national approach
6 to achieving public safety interoperable communica-
7 tions;

8 (B) coordinate with other Federal agencies in car-
9 rying out subparagraph (A);

10 (C) develop, in consultation with other appropriate
11 Federal agencies and State and local authorities, ap-
12 propriate minimum capabilities for communications
13 interoperability for Federal, State, and local public
14 safety agencies;

15 (D) accelerate, in consultation with other Federal
16 agencies, including the National Institute of Standards
17 and Technology, the private sector, and nationally rec-
18 ognized standards organizations as appropriate, the de-
19 velopment of national voluntary consensus standards
20 for public safety interoperable communications;

21 (E) encourage the development and implementa-
22 tion of flexible and open architectures, with appropriate
23 levels of security, for short-term and long-term solu-
24 tions to public safety communications interoperability;

25 (F) assist other Federal agencies in identifying
26 priorities for research, development, and testing and
27 evaluation with regard to public safety interoperable
28 communications;

29 (G) identify priorities within the Department of
30 Homeland Security for research, development, and test-
31 ing and evaluation with regard to public safety inter-
32 operable communications;

33 (H) establish coordinated guidance for Federal
34 grant programs for public safety interoperable commu-
35 nications;

36 (I) provide technical assistance to State and local
37 public safety agencies regarding planning, acquisition



1 strategies, interoperability architectures, training, and
2 other functions necessary to achieve public safety com-
3 munications interoperability;

4 (J) develop and disseminate best practices to im-
5 prove public safety communications interoperability;
6 and

7 (K) develop appropriate performance measures
8 and milestones to systematically measure the Nation's
9 progress towards achieving public safety communica-
10 tions interoperability, including the development of na-
11 tional voluntary consensus standards.

12 (2) OFFICE FOR INTEROPERABILITY AND COMPAT-
13 IBILITY.—

14 (A) ESTABLISHMENT OF OFFICE.—The Secretary
15 may establish an Office for Interoperability and Com-
16 patibility to carry out this subsection.

17 (B) FUNCTIONS.—If the Secretary establishes
18 such office, the Secretary shall, through such office—

19 (i) carry out Department of Homeland Secu-
20 rity responsibilities and authorities relating to the
21 SAFECOM Program; and

22 (ii) carry out subsection (c) (relating to rapid
23 interoperable communications capabilities for high
24 risk jurisdictions).

25 (3) APPLICABILITY OF FEDERAL ADVISORY COM-
26 MITTEE ACT.—The Federal Advisory Committee Act (5
27 U.S.C. App.) shall not apply to advisory groups established
28 and maintained by the Secretary for purposes of carrying
29 out this subsection.

30 (b) REPORT.—Not later than 120 days after the date of
31 the enactment of this Act, the Secretary shall report to the
32 Congress on Department of Homeland Security plans for accel-
33 erating the development of national voluntary consensus stand-
34 ards for public safety interoperable communications, a schedule
35 of milestones for such development, and achievements of such
36 development.



1 (c) RAPID INTEROPERABLE COMMUNICATIONS CAPABILI-
2 TIES FOR HIGH RISK JURISDICTIONS.—The Secretary, in con-
3 sultation with other relevant Federal, State, and local govern-
4 ment agencies, shall provide technical, training, and other as-
5 sistance as appropriate to support the rapid establishment of
6 consistent, secure, and effective interoperable communications
7 capabilities for emergency response providers in jurisdictions
8 determined by the Secretary to be at consistently high levels of
9 risk of terrorist attack.

10 (d) DEFINITIONS.—In this section:

11 (1) INTEROPERABLE COMMUNICATIONS.—The term
12 “interoperable communications” means the ability of emer-
13 gency response providers and relevant Federal, State, and
14 local government agencies to communicate with each other
15 as necessary, through a dedicated public safety network
16 utilizing information technology systems and radio commu-
17 nications systems, and to exchange voice, data, or video
18 with one another on demand, in real time, as necessary.

19 (2) EMERGENCY RESPONSE PROVIDERS.—The term
20 “emergency response providers” has the meaning that term
21 has under section 2 of the Homeland Security Act of 2002
22 (6 U.S.C. 101)

23 (e) CLARIFICATION OF RESPONSIBILITY FOR INTEROPER-
24 ABLE COMMUNICATIONS.—

25 (1) UNDER SECRETARY FOR EMERGENCY PREPARED-
26 NESS AND RESPONSE.—Section 502(7) of the Homeland
27 Security Act of 2002 (6 U.S.C. 312(7)) is amended—

28 (A) by striking “developing comprehensive pro-
29 grams for developing interoperative communications
30 technology, and”; and

31 (B) by striking “such” and inserting “interoper-
32 able communications”.

33 (2) OFFICE FOR DOMESTIC PREPAREDNESS.—Section
34 430(c) of such Act (6 U.S.C. 238(c)) is amended—

35 (A) in paragraph (7) by striking “and” after the
36 semicolon;



1 (B) in paragraph (8) by striking the period and
2 inserting “; and”; and

3 (C) by adding at the end the following:

4 “(9) helping to ensure the acquisition of interoperable
5 communication technology by State and local governments
6 and emergency response providers.”.

7 **SEC. 5132. SENSE OF CONGRESS REGARDING THE INCI-**
8 **DENT COMMAND SYSTEM.**

9 (a) FINDINGS.—The Congress finds that—

10 (1) in Homeland Security Presidential Directive–5, the
11 President directed the Secretary of Homeland Security to
12 develop an incident command system to be known as the
13 National Incident Management System (NIMS), and di-
14 rected all Federal agencies to make the adoption of NIMS
15 a condition for the receipt of Federal emergency prepared-
16 ness assistance by States, territories, tribes, and local gov-
17 ernments beginning in fiscal year 2005;

18 (2) in March 2004, the Secretary of Homeland Secu-
19 rity established NIMS, which provides a unified structural
20 framework for Federal, State, territorial, tribal, and local
21 governments to ensure coordination of command, oper-
22 ations, planning, logistics, finance, and administration dur-
23 ing emergencies involving multiple jurisdictions or agencies;
24 and

25 (3) the National Commission on Terrorist Attacks
26 Upon the United States strongly supports the adoption of
27 NIMS by emergency response agencies nationwide, and the
28 decision by the President to condition Federal emergency
29 preparedness assistance upon the adoption of NIMS.

30 (b) SENSE OF CONGRESS.—It is the sense of the Congress
31 that all levels of government should adopt NIMS, and that the
32 regular use of and training in NIMS by States, territories,
33 tribes, and local governments should be a condition for receiv-
34 ing Federal preparedness assistance.



1 **SEC. 5133. SENSE OF CONGRESS REGARDING UNITED**
2 **STATES NORTHERN COMMAND PLANS AND**
3 **STRATEGIES.**

4 It is the sense of Congress that the Secretary of Defense
5 should regularly assess the adequacy of United States Northern
6 Command's plans and strategies with a view to ensuring that
7 the United States Northern Command is prepared to respond
8 effectively to all military and paramilitary threats within the
9 United States.

