

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Intelligence Reform and Terrorism Prevention Act of
4 2004”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
6 this Act is as follows:

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

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

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

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

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

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

14 “DIRECTOR OF NATIONAL INTELLIGENCE
15 “SEC. 102. (a) DIRECTOR OF NATIONAL INTEL-
16 LIGENCE.—(1) There is a Director of National Intel-
17 ligence who shall be appointed by the President, by and
18 with the advice and consent of the Senate. Any individual
19 nominated for appointment as Director of National Intel-
20 ligence shall have extensive national security expertise.

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

23 “(b) PRINCIPAL RESPONSIBILITY.—Subject to the
24 authority, direction, and control of the President, the Di-
25 rector of National Intelligence shall—

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

3 “(2) act as the principal adviser to the Presi-
4 dent, to the National Security Council, and the
5 Homeland Security Council for intelligence matters
6 related to the national security; and

7 “(3) consistent with section 1018 of the Na-
8 tional Security Intelligence Reform Act of 2004,
9 oversee and direct the implementation of the Na-
10 tional Intelligence Program.

11 “(c) PROHIBITION ON DUAL SERVICE.—The indi-
12 vidual serving in the position of Director of National Intel-
13 ligence shall not, while so serving, also serve as the Direc-
14 tor of the Central Intelligence Agency or as the head of
15 any other element of the intelligence community.

16 “RESPONSIBILITIES AND AUTHORITIES OF THE
17 DIRECTOR OF NATIONAL INTELLIGENCE

18 “SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1)
19 The Director of National Intelligence shall be responsible
20 for ensuring that national intelligence is provided—

21 “(A) to the President;

22 “(B) to the heads of departments and agencies
23 of the executive branch;

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

1 “(D) to the Senate and House of Representa-
2 tives and the committees thereof; and

3 “(E) to such other persons as the Director of
4 National Intelligence determines to be appropriate.

5 “(2) Such national intelligence should be timely, ob-
6 jective, independent of political considerations, and based
7 upon all sources available to the intelligence community
8 and other appropriate entities.

9 “(b) ACCESS TO INTELLIGENCE.—Unless otherwise
10 directed by the President, the Director of National Intel-
11 ligence shall have access to all national intelligence and
12 intelligence related to the national security which is col-
13 lected by any Federal department, agency, or other entity,
14 except as otherwise provided by law or, as appropriate,
15 under guidelines agreed upon by the Attorney General and
16 the Director of National Intelligence.

17 “(c) BUDGET AUTHORITIES.—(1) With respect to
18 budget requests and appropriations for the National Intel-
19 ligence Program, the Director of National Intelligence
20 shall—

21 “(A) based on intelligence priorities set by the
22 President, provide to the heads of departments con-
23 taining agencies or organizations within the intel-
24 ligence community, and to the heads of such agen-
25 cies and organizations, guidance for developing the

1 National Intelligence Program budget pertaining to
2 such agencies and organizations;

3 “(B) based on budget proposals provided to the
4 Director of National Intelligence by the heads of
5 agencies and organizations within the intelligence
6 community and the heads of their respective depart-
7 ments and, as appropriate, after obtaining the advice
8 of the Joint Intelligence Community Council, develop
9 and determine an annual consolidated National In-
10 telligence Program budget; and

11 “(C) present such consolidated National Intel-
12 ligence Program budget, together with any com-
13 ments from the heads of departments containing
14 agencies or organizations within the intelligence
15 community, to the President for approval.

16 “(2) In addition to the information provided under
17 paragraph (1)(B), the heads of agencies and organizations
18 within the intelligence community shall provide the Direc-
19 tor of National Intelligence such other information as the
20 Director shall request for the purpose of determining the
21 annual consolidated National Intelligence Program budget
22 under that paragraph.

23 “(3)(A) The Director of National Intelligence shall
24 participate in the development by the Secretary of Defense
25 of the annual budgets for the Joint Military Intelligence

1 Program and for Tactical Intelligence and Related Activi-
2 ties.

3 “(B) The Director of National Intelligence shall pro-
4 vide guidance for the development of the annual budget
5 for each element of the intelligence community that is not
6 within the National Intelligence Program.

7 “(4) The Director of National Intelligence shall en-
8 sure the effective execution of the annual budget for intel-
9 ligence and intelligence-related activities.

10 “(5)(A) The Director of National Intelligence shall
11 be responsible for managing appropriations for the Na-
12 tional Intelligence Program by directing the allotment or
13 allocation of such appropriations through the heads of the
14 departments containing agencies or organizations within
15 the intelligence community and the Director of the Central
16 Intelligence Agency, with prior notice (including the provi-
17 sion of appropriate supporting information) to the head
18 of the department containing an agency or organization
19 receiving any such allocation or allotment or the Director
20 of the Central Intelligence Agency.

21 “(B) Notwithstanding any other provision of law,
22 pursuant to relevant appropriations Acts for the National
23 Intelligence Program, the Director of the Office of Man-
24 agement and Budget shall exercise the authority of the
25 Director of the Office of Management and Budget to ap-

1 portion funds, at the exclusive direction of the Director
2 of National Intelligence, for allocation to the elements of
3 the intelligence community through the relevant host execu-
4 tive departments and the Central Intelligence Agency.
5 Department comptrollers or appropriate budget execution
6 officers shall allot, allocate, reprogram, or transfer funds
7 appropriated for the National Intelligence Program in an
8 expeditious manner.

9 “(C) The Director of National Intelligence shall mon-
10 itor the implementation and execution of the National In-
11 telligence Program by the heads of the elements of the
12 intelligence community that manage programs and activi-
13 ties that are part of the National Intelligence Program,
14 which may include audits and evaluations.

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

20 “(7)(A) The Director of National Intelligence shall
21 provide a semi-annual report, beginning April 1, 2005,
22 and ending April 1, 2007, to the President and the Con-
23 gress regarding implementation of this section.

24 “(B) The Director of National Intelligence shall re-
25 port to the President and the Congress not later than 15

1 days after learning of any instance in which a depart-
2 mental comptroller acts in a manner inconsistent with the
3 law (including permanent statutes, authorization Acts,
4 and appropriations Acts), or the direction of the Director
5 of National Intelligence, in carrying out the National In-
6 telligence Program.

7 “(d) ROLE OF DIRECTOR OF NATIONAL INTEL-
8 LIGENCE IN TRANSFER AND REPROGRAMMING OF
9 FUNDS.—(1)(A) No funds made available under the Na-
10 tional Intelligence Program may be transferred or repro-
11 grammed without the prior approval of the Director of Na-
12 tional Intelligence, except in accordance with procedures
13 prescribed by the Director of National Intelligence.

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

18 “(2) Subject to the succeeding provisions of this sub-
19 section, the Director of National Intelligence may transfer
20 or reprogram funds appropriated for a program within the
21 National Intelligence Program to another such program.

22 “(3) The Director of National Intelligence may only
23 transfer or reprogram funds referred to in subparagraph
24 (A)—

1 “(A) with the approval of the Director of the
2 Office of Management and Budget; and

3 “(B) after consultation with the heads of de-
4 partments containing agencies or organizations with-
5 in the intelligence community to the extent such
6 agencies or organizations are affected, and, in the
7 case of the Central Intelligence Agency, after con-
8 sultation with the Director of the Central Intel-
9 ligence Agency.

10 “(4) The amounts available for transfer or re-
11 programming in the National Intelligence Program in any
12 given fiscal year, and the terms and conditions governing
13 such transfers and reprogrammings, are subject to the
14 provisions of annual appropriations Acts and this sub-
15 section.

16 “(5)(A) A transfer or reprogramming of funds or per-
17 sonnel may be made under this subsection only if—

18 “(i) the funds are being transferred to an activ-
19 ity that is a higher priority intelligence activity;

20 “(ii) the transfer or reprogramming supports
21 an emergent need, improves program effectiveness,
22 or increases efficiency;

23 “(iii) the transfer or reprogramming does not
24 involve a transfer or reprogramming of funds to a
25 Reserve for Contingencies of the Director of Na-

1 tional Intelligence or the Reserve for Contingencies
2 of the Central Intelligence Agency;

3 “(iv) the transfer or reprogramming results in
4 a cumulative transfer or reprogramming of funds
5 out of any department or agency, as appropriate,
6 funded in the National Intelligence Program in a
7 single fiscal year—

8 “(I) that is less than \$150,000,000, and

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

12 “(v) the transfer or reprogramming does not
13 terminate an acquisition program.

14 “(B) A transfer or reprogramming may be made
15 without regard to a limitation set forth in clause (iv) or
16 (v) of subparagraph (A) if the transfer has the concur-
17 rence of the head of the department involved or the Direc-
18 tor of the Central Intelligence Agency (in the case of the
19 Central Intelligence Agency). The authority to provide
20 such concurrence may only be delegated by the head of
21 the department or agency involved to the deputy of such
22 officer.

23 “(6) Funds transferred or reprogrammed under this
24 subsection shall remain available for the same period as

1 the appropriations account to which transferred or repro-
2 grammed.

3 “(7) Any transfer or reprogramming of funds under
4 this subsection shall be carried out in accordance with ex-
5 isting procedures applicable to reprogramming notifica-
6 tions for the appropriate congressional committees. Any
7 proposed transfer or reprogramming for which notice is
8 given to the appropriate congressional committees shall be
9 accompanied by a report explaining the nature of the pro-
10 posed transfer or reprogramming and how it satisfies the
11 requirements of this subsection. In addition, the congres-
12 sional intelligence committees shall be promptly notified
13 of any transfer or reprogramming of funds made pursuant
14 to this subsection in any case in which the transfer or re-
15 programming would not have otherwise required re-
16 programming notification under procedures in effect as of
17 the date of the enactment of this subsection.

18 “(e) TRANSFER OF PERSONNEL.—(1)(A) In addition
19 to any other authorities available under law for such pur-
20 poses, in the first twelve months after establishment of
21 a new national intelligence center, the Director of National
22 Intelligence, with the approval of the Director of the Office
23 of Management and Budget and in consultation with the
24 congressional committees of jurisdiction referred to in sub-
25 paragraph (B), may transfer not more than 100 personnel

1 authorized for elements of the intelligence community to
2 such center.

3 “(B) The Director of National Intelligence shall
4 promptly provide notice of any transfer of personnel made
5 pursuant to this paragraph to—

6 “(i) the congressional intelligence committees;

7 “(ii) the Committees on Appropriations of the
8 Senate and the House of Representatives;

9 “(iii) in the case of the transfer of personnel to
10 or from the Department of Defense, the Committees
11 on Armed Services of the Senate and the House of
12 Representatives; and

13 “(iv) in the case of the transfer of personnel to
14 or from the Department of Justice, to the Commit-
15 tees on the Judiciary of the Senate and the House
16 of Representatives.

17 “(C) The Director shall include in any notice under
18 subparagraph (B) an explanation of the nature of the
19 transfer and how it satisfies the requirements of this sub-
20 section.

21 “(2)(A) The Director of National Intelligence, with
22 the approval of the Director of the Office of Management
23 and Budget and in accordance with procedures to be devel-
24 oped by the Director of National Intelligence and the
25 heads of the departments and agencies concerned, may

1 transfer personnel authorized for an element of the intel-
2 ligence community to another such element for a period
3 of not more than 2 years.

4 “(B) A transfer of personnel may be made under this
5 paragraph only if—

6 “(i) the personnel are being transferred to an
7 activity that is a higher priority intelligence activity;
8 and

9 “(ii) the transfer supports an emergent need,
10 improves program effectiveness, or increases effi-
11 ciency.

12 “(C) The Director of National Intelligence shall
13 promptly provide notice of any transfer of personnel made
14 pursuant to this paragraph to—

15 “(i) the congressional intelligence committees;

16 “(ii) in the case of the transfer of personnel to
17 or from the Department of Defense, the Committees
18 on Armed Services of the Senate and the House of
19 Representatives; and

20 “(iii) in the case of the transfer of personnel to
21 or from the Department of Justice, to the Commit-
22 tees on the Judiciary of the Senate and the House
23 of Representatives.

24 “(D) The Director shall include in any notice under
25 subparagraph (C) an explanation of the nature of the

1 transfer and how it satisfies the requirements of this para-
2 graph.

3 “(3) It is the sense of Congress that—

4 “(A) the nature of the national security threats
5 facing the United States will continue to challenge
6 the intelligence community to respond rapidly and
7 flexibly to bring analytic resources to bear against
8 emerging and unforeseen requirements;

9 “(B) both the Office of the Director of National
10 Intelligence and any analytic centers determined to
11 be necessary should be fully and properly supported
12 with appropriate levels of personnel resources and
13 that the President’s yearly budget requests ade-
14 quately support those needs; and

15 “(C) the President should utilize all legal and
16 administrative discretion to ensure that the Director
17 of National Intelligence and all other elements of the
18 intelligence community have the necessary resources
19 and procedures to respond promptly and effectively
20 to emerging and unforeseen national security chal-
21 lenges.

22 “(f) TASKING AND OTHER AUTHORITIES.—(1)(A)
23 The Director of National Intelligence shall—

24 “(i) establish objectives, priorities, and guidance
25 for the intelligence community to ensure timely and

1 effective collection, processing, analysis, and dissemi-
2 nation (including access by users to collected data
3 consistent with applicable law and, as appropriate,
4 the guidelines referred to in subsection (b) and ana-
5 lytic products generated by or within the intelligence
6 community) of national intelligence;

7 “(ii) determine requirements and priorities for,
8 and manage and direct the tasking of, collection,
9 analysis, production, and dissemination of national
10 intelligence by elements of the intelligence commu-
11 nity, including—

12 “(I) approving requirements (including
13 those requirements responding to needs pro-
14 vided by consumers) for collection and analysis;
15 and

16 “(II) resolving conflicts in collection re-
17 quirements and in the tasking of national col-
18 lection assets of the elements of the intelligence
19 community; and

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

23 “(B) The authority of the Director of National Intel-
24 ligence under subparagraph (A) shall not apply—

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

1 “(ii) with respect to clause (ii) of subparagraph
2 (A), insofar as the Secretary of Defense exercises
3 tasking authority under plans or arrangements
4 agreed upon by the Secretary of Defense and the Di-
5 rector of National Intelligence; or

6 “(iii) to the direct dissemination of information
7 to State government and local government officials
8 and private sector entities pursuant to sections 201
9 and 892 of the Homeland Security Act of 2002 (6
10 U.S.C. 121, 482).

11 “(2) The Director of National Intelligence shall over-
12 see the National Counterterrorism Center and may estab-
13 lish such other national intelligence centers as the Director
14 determines necessary.

15 “(3)(A) The Director of National Intelligence shall
16 prescribe, in consultation with the heads of other agencies
17 or elements of the intelligence community, and the heads
18 of their respective departments, personnel policies and
19 programs applicable to the intelligence community that—

20 “(i) encourage and facilitate assignments and
21 details of personnel to national intelligence centers,
22 and between elements of the intelligence community;

23 “(ii) set standards for education, training, and
24 career development of personnel of the intelligence
25 community;

1 “(iii) encourage and facilitate the recruitment
2 and retention by the intelligence community of high-
3 ly qualified individuals for the effective conduct of
4 intelligence activities;

5 “(iv) ensure that the personnel of the intel-
6 ligence community are sufficiently diverse for pur-
7 poses of the collection and analysis of intelligence
8 through the recruitment and training of women, mi-
9 norities, and individuals with diverse ethnic, cultural,
10 and linguistic backgrounds;

11 “(v) make service in more than one element of
12 the intelligence community a condition of promotion
13 to such positions within the intelligence community
14 as the Director shall specify; and

15 “(vi) ensure the effective management of intel-
16 ligence community personnel who are responsible for
17 intelligence community-wide matters.

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

21 “(4) The Director of National Intelligence shall en-
22 sure compliance with the Constitution and laws of the
23 United States by the Central Intelligence Agency and shall
24 ensure such compliance by other elements of the intel-
25 ligence community through the host executive departments

1 that manage the programs and activities that are part of
2 the National Intelligence Program.

3 “(5) The Director of National Intelligence shall en-
4 sure the elimination of waste and unnecessary duplication
5 within the intelligence community.

6 “(6) The Director of National Intelligence shall es-
7 tablish requirements and priorities for foreign intelligence
8 information to be collected under the Foreign Intelligence
9 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and
10 provide assistance to the Attorney General to ensure that
11 information derived from electronic surveillance or phys-
12 ical searches under that Act is disseminated so it may be
13 used efficiently and effectively for national intelligence
14 purposes, except that the Director shall have no authority
15 to direct or undertake electronic surveillance or physical
16 search operations pursuant to that Act unless authorized
17 by statute or Executive order.

18 “(7) The Director of National Intelligence shall per-
19 form such other functions as the President may direct.

20 “(8) Nothing in this title shall be construed as affect-
21 ing the role of the Department of Justice or the Attorney
22 General under the Foreign Intelligence Surveillance Act
23 of 1978.

24 “(g) INTELLIGENCE INFORMATION SHARING.—(1)
25 The Director of National Intelligence shall have principal

1 authority to ensure maximum availability of and access
2 to intelligence information within the intelligence commu-
3 nity consistent with national security requirements. The
4 Director of National Intelligence shall—

5 “(A) establish uniform security standards and
6 procedures;

7 “(B) establish common information technology
8 standards, protocols, and interfaces;

9 “(C) ensure development of information tech-
10 nology systems that include multi-level security and
11 intelligence integration capabilities;

12 “(D) establish policies and procedures to resolve
13 conflicts between the need to share intelligence infor-
14 mation and the need to protect intelligence sources
15 and methods;

16 “(E) develop an enterprise architecture for the
17 intelligence community and ensure that elements of
18 the intelligence community comply with such archi-
19 tecture; and

20 “(F) have procurement approval authority over
21 all enterprise architecture-related information tech-
22 nology items funded in the National Intelligence
23 Program.

1 “(2) The President shall ensure that the Director of
2 National Intelligence has all necessary support and au-
3 thorities to fully and effectively implement paragraph (1).

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

14 “(4) Not later than February 1 of each year, the Di-
15 rector of National Intelligence shall submit to the Presi-
16 dent and to the Congress an annual report that identifies
17 any statute, regulation, policy, or practice that the Direc-
18 tor believes impedes the ability of the Director to fully and
19 effectively implement paragraph (1).

20 “(h) ANALYSIS.—To ensure the most accurate anal-
21 ysis of intelligence is derived from all sources to support
22 national security needs, the Director of National Intel-
23 ligence shall—

24 “(1) implement policies and procedures—

1 “(A) to encourage sound analytic methods
2 and tradecraft throughout the elements of the
3 intelligence community;

4 “(B) to ensure that analysis is based upon
5 all sources available; and

6 “(C) to ensure that the elements of the in-
7 telligence community regularly conduct competi-
8 tive analysis of analytic products, whether such
9 products are produced by or disseminated to
10 such elements;

11 “(2) ensure that resource allocation for intel-
12 ligence analysis is appropriately proportional to re-
13 source allocation for intelligence collection systems
14 and operations in order to maximize analysis of all
15 collected data;

16 “(3) ensure that differences in analytic judg-
17 ment are fully considered and brought to the atten-
18 tion of policymakers; and

19 “(4) ensure that sufficient relationships are es-
20 tablished between intelligence collectors and analysts
21 to facilitate greater understanding of the needs of
22 analysts.

23 “(i) PROTECTION OF INTELLIGENCE SOURCES AND
24 METHODS.—(1) The Director of National Intelligence

1 shall protect intelligence sources and methods from unau-
2 thorized disclosure.

3 “(2) Consistent with paragraph (1), in order to maxi-
4 mize the dissemination of intelligence, the Director of Na-
5 tional Intelligence shall establish and implement guidelines
6 for the intelligence community for the following purposes:

7 “(A) Classification of information under appli-
8 cable law, Executive orders, or other Presidential di-
9 rectives.

10 “(B) Access to and dissemination of intel-
11 ligence, both in final form and in the form when ini-
12 tially gathered.

13 “(C) Preparation of intelligence products in
14 such a way that source information is removed to
15 allow for dissemination at the lowest level of classi-
16 fication possible or in unclassified form to the extent
17 practicable.

18 “(3) The Director may only delegate a duty or au-
19 thority given the Director under this subsection to the
20 Principal Deputy Director of National Intelligence.

21 “(j) UNIFORM PROCEDURES FOR SENSITIVE COM-
22 PARTMENTED INFORMATION.—The Director of National
23 Intelligence, subject to the direction of the President,
24 shall—

1 “(1) establish uniform standards and proce-
2 dures for the grant of access to sensitive compart-
3 mented information to any officer or employee of
4 any agency or department of the United States and
5 to employees of contractors of those agencies or de-
6 partments;

7 “(2) ensure the consistent implementation of
8 those standards and procedures throughout such
9 agencies and departments;

10 “(3) ensure that security clearances granted by
11 individual elements of the intelligence community
12 are recognized by all elements of the intelligence
13 community, and under contracts entered into by
14 those agencies; and

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

20 “(k) COORDINATION WITH FOREIGN GOVERN-
21 MENTS.—Under the direction of the President and in a
22 manner consistent with section 207 of the Foreign Service
23 Act of 1980 (22 U.S.C. 3927), the Director of National
24 Intelligence shall oversee the coordination of the relation-
25 ships between elements of the intelligence community and

1 the intelligence or security services of foreign governments
2 or international organizations on all matters involving in-
3 telligence related to the national security or involving in-
4 telligence acquired through clandestine means.

5 “(1) ENHANCED PERSONNEL MANAGEMENT.—(1)(A)
6 The Director of National Intelligence shall, under regula-
7 tions prescribed by the Director, provide incentives for
8 personnel of elements of the intelligence community to
9 serve—

10 “(i) on the staff of the Director of National In-
11 telligence;

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

14 “(iii) on the staff of the National
15 Counterterrorism Center; and

16 “(iv) in other positions in support of the intel-
17 ligence community management functions of the Di-
18 rector.

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

22 “(2)(A) Notwithstanding any other provision of law,
23 the personnel of an element of the intelligence community
24 who are assigned or detailed under paragraph (1)(A) to
25 service under the Director of National Intelligence shall

1 be promoted at rates equivalent to or better than per-
2 sonnel of such element who are not so assigned or detailed.

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

5 “(3)(A) The Director of National Intelligence shall
6 prescribe mechanisms to facilitate the rotation of per-
7 sonnel of the intelligence community through various ele-
8 ments of the intelligence community in the course of their
9 careers in order to facilitate the widest possible under-
10 standing by such personnel of the variety of intelligence
11 requirements, methods, users, and capabilities.

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

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

18 “(ii) The provision of rewards for service in po-
19 sitions undertaking analysis and planning of oper-
20 ations involving two or more elements of the intel-
21 ligence community.

22 “(iii) The establishment of requirements for
23 education, training, service, and evaluation for serv-
24 ice involving more than one element of the intel-
25 ligence community.

1 “(C) It is the sense of Congress that the mechanisms
2 prescribed under this subsection should, to the extent
3 practical, seek to duplicate for civilian personnel within
4 the intelligence community the joint officer management
5 policies established by chapter 38 of title 10, United
6 States Code, and the other amendments made by title IV
7 of the Goldwater–Nichols Department of Defense Reorga-
8 nization Act of 1986 (Public Law 99–433).

9 “(4)(A) Except as provided in subparagraph (B) and
10 subparagraph (D), this subsection shall not apply with re-
11 spect to personnel of the elements of the intelligence com-
12 munity who are members of the uniformed services.

13 “(B) Mechanisms that establish requirements for
14 education and training pursuant to paragraph (3)(B)(iii)
15 may apply with respect to members of the uniformed serv-
16 ices who are assigned to an element of the intelligence
17 community funded through the National Intelligence Pro-
18 gram, but such mechanisms shall not be inconsistent with
19 personnel policies and education and training require-
20 ments otherwise applicable to members of the uniformed
21 services.

22 “(C) The personnel policies and programs developed
23 and implemented under this subsection with respect to law
24 enforcement officers (as that term is defined in section
25 5541(3) of title 5, United States Code) shall not affect

1 the ability of law enforcement entities to conduct oper-
2 ations or, through the applicable chain of command, to
3 control the activities of such law enforcement officers.

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

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

24 “(2) Employees and applicants for employment of the
25 Office of the Director of National Intelligence shall have

1 the same rights and protections under the Office of the
2 Director of National Intelligence as employees of the Cen-
3 tral Intelligence Agency have under the Central Intel-
4 ligence Agency Act of 1949, and other applicable provi-
5 sions of law, as of the date of the enactment of this sub-
6 section.

7 “(n) ACQUISITION AUTHORITIES.—(1) In carrying
8 out the responsibilities and authorities under this section,
9 the Director of National Intelligence may exercise the ac-
10 quisition and appropriations authorities referred to in the
11 Central Intelligence Agency Act of 1949 (50 U.S.C. 403a
12 et seq.) other than the authorities referred to in section
13 8(b) of that Act (50 U.S.C. 403j(b)).

14 “(2) For the purpose of the exercise of any authority
15 referred to in paragraph (1), a reference to the head of
16 an agency shall be deemed to be a reference to the Direc-
17 tor of National Intelligence or the Principal Deputy Direc-
18 tor of National Intelligence.

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

24 “(B) Except as provided in subparagraph (C), the Di-
25 rector of National Intelligence or the Principal Deputy Di-

1 rector of National Intelligence may, in such official's dis-
2 cretion, delegate to any officer or other official of the Of-
3 fice of the Director of National Intelligence any authority
4 to make a determination or decision as the head of the
5 agency under an authority referred to in paragraph (1).

6 “(C) The limitations and conditions set forth in sec-
7 tion 3(d) of the Central Intelligence Agency Act of 1949
8 (50 U.S.C. 403c(d)) shall apply to the exercise by the Di-
9 rector of National Intelligence of an authority referred to
10 in paragraph (1).

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

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

1 “(p) RESPONSIBILITY OF DIRECTOR OF NATIONAL
2 INTELLIGENCE REGARDING NATIONAL INTELLIGENCE
3 PROGRAM BUDGET CONCERNING THE DEPARTMENT OF
4 DEFENSE.—Subject to the direction of the President, the
5 Director of National Intelligence shall, after consultation
6 with the Secretary of Defense, ensure that the National
7 Intelligence Program budgets for the elements of the intel-
8 ligence community that are within the Department of De-
9 fense are adequate to satisfy the national intelligence
10 needs of the Department of Defense, including the needs
11 of the Chairman of the Joint Chiefs of Staff and the com-
12 manders of the unified and specified commands, and wher-
13 ever such elements are performing Government-wide func-
14 tions, the needs of other Federal departments and agen-
15 cies.

16 “(q) ACQUISITIONS OF MAJOR SYSTEMS.—(1) For
17 each intelligence program within the National Intelligence
18 Program for the acquisition of a major system, the Direc-
19 tor of National Intelligence shall—

20 “(A) require the development and implementa-
21 tion of a program management plan that includes
22 cost, schedule, and performance goals and program
23 milestone criteria, except that with respect to De-
24 partment of Defense programs the Director shall
25 consult with the Secretary of Defense;

1 “(B) serve as exclusive milestone decision au-
2 thority, except that with respect to Department of
3 Defense programs the Director shall serve as mile-
4 stone decision authority jointly with the Secretary of
5 Defense or the designee of the Secretary; and

6 “(C) periodically—

7 “(i) review and assess the progress made
8 toward the achievement of the goals and mile-
9 stones established in such plan; and

10 “(ii) submit to Congress a report on the
11 results of such review and assessment.

12 “(2) If the Director of National Intelligence and the
13 Secretary of Defense are unable to reach an agreement
14 on a milestone decision under paragraph (1)(B), the Presi-
15 dent shall resolve the conflict.

16 “(3) Nothing in this subsection may be construed to
17 limit the authority of the Director of National Intelligence
18 to delegate to any other official any authority to perform
19 the responsibilities of the Director under this subsection.

20 “(4) In this subsection:

21 “(A) The term ‘intelligence program’, with re-
22 spect to the acquisition of a major system, means a
23 program that—

1 “(i) is carried out to acquire such major
2 system for an element of the intelligence com-
3 munity; and

4 “(ii) is funded in whole out of amounts
5 available for the National Intelligence Program.

6 “(B) The term ‘major system’ has the meaning
7 given such term in section 4(9) of the Federal Prop-
8 erty and Administrative Services Act of 1949 (41
9 U.S.C. 403(9)).

10 “(r) PERFORMANCE OF COMMON SERVICES.—The
11 Director of National Intelligence shall, in consultation
12 with the heads of departments and agencies of the United
13 States Government containing elements within the intel-
14 ligence community and with the Director of the Central
15 Intelligence Agency, coordinate the performance by the
16 elements of the intelligence community within the Na-
17 tional Intelligence Program of such services as are of com-
18 mon concern to the intelligence community, which services
19 the Director of National Intelligence determines can be
20 more efficiently accomplished in a consolidated manner.

21 “OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
22 “SEC. 103. (a) OFFICE OF DIRECTOR OF NATIONAL
23 INTELLIGENCE.—There is an Office of the Director of Na-
24 tional Intelligence.

25 “(b) FUNCTION.—The function of the Office of the
26 Director of National Intelligence is to assist the Director

1 of National Intelligence in carrying out the duties and re-
2 sponsibilities of the Director under this Act, the National
3 Security Act of 1947 (50 U.S.C. 401 et seq.), and other
4 applicable provisions of law, and to carry out such other
5 duties as may be prescribed by the President or by law.

6 “(c) COMPOSITION.—The Office of the Director of
7 National Intelligence is composed of the following:

8 “(1) The Director of National Intelligence.

9 “(2) The Principal Deputy Director of National
10 Intelligence.

11 “(3) Any Deputy Director of National Intel-
12 ligence appointed under section 103A.

13 “(4) The National Intelligence Council.

14 “(5) The General Counsel.

15 “(6) The Civil Liberties Protection Officer.

16 “(7) The Director of Science and Technology.

17 “(8) The National Counterintelligence Execu-
18 tive (including the Office of the National Counter-
19 intelligence Executive).

20 “(9) Such other offices and officials as may be
21 established by law or the Director may establish or
22 designate in the Office, including national intel-
23 ligence centers.

24 “(d) STAFF.—(1) To assist the Director of National
25 Intelligence in fulfilling the duties and responsibilities of

1 the Director, the Director shall employ and utilize in the
2 Office of the Director of National Intelligence a profes-
3 sional staff having an expertise in matters relating to such
4 duties and responsibilities, and may establish permanent
5 positions and appropriate rates of pay with respect to that
6 staff.

7 “(2) The staff of the Office of the Director of Na-
8 tional Intelligence under paragraph (1) shall include the
9 staff of the Office of the Deputy Director of Central Intel-
10 ligence for Community Management that is transferred to
11 the Office of the Director of National Intelligence under
12 section 1091 of the National Security Intelligence Reform
13 Act of 2004.

14 “(e) LIMITATION ON CO-LOCATION WITH OTHER
15 ELEMENTS OF INTELLIGENCE COMMUNITY.—Com-
16 mencing as of October 1, 2008, the Office of the Director
17 of National Intelligence may not be co-located with any
18 other element of the intelligence community.

19 “DEPUTY DIRECTORS OF NATIONAL INTELLIGENCE

20 “SEC. 103A. (a) PRINCIPAL DEPUTY DIRECTOR OF
21 NATIONAL INTELLIGENCE.—(1) There is a Principal Dep-
22 uty Director of National Intelligence who shall be ap-
23 pointed by the President, by and with the advice and con-
24 sent of the Senate.

25 “(2) In the event of a vacancy in the position of Prin-
26 cipal Deputy Director of National Intelligence, the Direc-

1 tor of National Intelligence shall recommend to the Presi-
2 dent an individual for appointment as Principal Deputy
3 Director of National Intelligence.

4 “(3) Any individual nominated for appointment as
5 Principal Deputy Director of National Intelligence shall
6 have extensive national security experience and manage-
7 ment expertise.

8 “(4) The individual serving as Principal Deputy Di-
9 rector of National Intelligence shall not, while so serving,
10 serve in any capacity in any other element of the intel-
11 ligence community.

12 “(5) The Principal Deputy Director of National Intel-
13 ligence shall assist the Director of National Intelligence
14 in carrying out the duties and responsibilities of the Direc-
15 tor.

16 “(6) The Principal Deputy Director of National Intel-
17 ligence shall act for, and exercise the powers of, the Direc-
18 tor of National Intelligence during the absence or dis-
19 ability of the Director of National Intelligence or during
20 a vacancy in the position of Director of National Intel-
21 ligence.

22 “(b) DEPUTY DIRECTORS OF NATIONAL INTEL-
23 LIGENCE.—(1) There may be not more than four Deputy
24 Directors of National Intelligence who shall be appointed
25 by the Director of National Intelligence.

1 “(2) Each Deputy Director of National Intelligence
2 appointed under this subsection shall have such duties, re-
3 sponsibilities, and authorities as the Director of National
4 Intelligence may assign or are specified by law.

5 “(c) MILITARY STATUS OF DIRECTOR OF NATIONAL
6 INTELLIGENCE AND PRINCIPAL DEPUTY DIRECTOR OF
7 NATIONAL INTELLIGENCE.—(1) Not more than one of the
8 individuals serving in the positions specified in paragraph
9 (2) may be a commissioned officer of the Armed Forces
10 in active status.

11 “(2) The positions referred to in this paragraph are
12 the following:

13 “(A) The Director of National Intelligence.

14 “(B) The Principal Deputy Director of Na-
15 tional Intelligence.

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

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

21 “(B) have, by training or experience, an appre-
22 ciation of military intelligence activities and require-
23 ments.

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

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

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

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

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

20 “(6) A commissioned officer of the Armed Forces on
21 active duty who is appointed to a position specified in
22 paragraph (2), while serving in such position and while
23 remaining on active duty, shall continue to receive military
24 pay and allowances and shall not receive the pay pre-
25 scribed for such position. Funds from which such pay and

1 allowances are paid shall be reimbursed from funds avail-
2 able to the Director of National Intelligence.

3 “NATIONAL INTELLIGENCE COUNCIL

4 “SEC. 103B. (a) NATIONAL INTELLIGENCE COUN-
5 CIL.—There is a National Intelligence Council.

6 “(b) COMPOSITION.—(1) The National Intelligence
7 Council shall be composed of senior analysts within the
8 intelligence community and substantive experts from the
9 public and private sector, who shall be appointed by, re-
10 port to, and serve at the pleasure of, the Director of Na-
11 tional Intelligence.

12 “(2) The Director shall prescribe appropriate security
13 requirements for personnel appointed from the private sec-
14 tor as a condition of service on the Council, or as contrac-
15 tors of the Council or employees of such contractors, to
16 ensure the protection of intelligence sources and methods
17 while avoiding, wherever possible, unduly intrusive re-
18 quirements which the Director considers to be unnecessary
19 for this purpose.

20 “(c) DUTIES AND RESPONSIBILITIES.—(1) The Na-
21 tional Intelligence Council shall—

22 “(A) produce national intelligence estimates for
23 the United States Government, including alternative
24 views held by elements of the intelligence community
25 and other information as specified in paragraph (2);

1 “(B) evaluate community-wide collection and
2 production of intelligence by the intelligence commu-
3 nity and the requirements and resources of such col-
4 lection and production; and

5 “(C) otherwise assist the Director of National
6 Intelligence in carrying out the responsibilities of the
7 Director under section 102A.

8 “(2) The Director of National Intelligence shall en-
9 sure that the Council satisfies the needs of policymakers
10 and other consumers of intelligence.

11 “(d) SERVICE AS SENIOR INTELLIGENCE ADVIS-
12 ERS.—Within their respective areas of expertise and under
13 the direction of the Director of National Intelligence, the
14 members of the National Intelligence Council shall con-
15 stitute the senior intelligence advisers of the intelligence
16 community for purposes of representing the views of the
17 intelligence community within the United States Govern-
18 ment.

19 “(e) AUTHORITY TO CONTRACT.—Subject to the di-
20 rection and control of the Director of National Intel-
21 ligence, the National Intelligence Council may carry out
22 its responsibilities under this section by contract, including
23 contracts for substantive experts necessary to assist the
24 Council with particular assessments under this section.

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

3 “(b) PROHIBITION ON DUAL SERVICE AS GENERAL
4 COUNSEL OF ANOTHER AGENCY.—The individual serving
5 in the position of General Counsel may not, while so serv-
6 ing, also serve as the General Counsel of any other depart-
7 ment, agency, or element of the United States Govern-
8 ment.

9 “(c) SCOPE OF POSITION.—The General Counsel is
10 the chief legal officer of the Office of the Director of Na-
11 tional Intelligence.

12 “(d) FUNCTIONS.—The General Counsel shall per-
13 form such functions as the Director of National Intel-
14 ligence may prescribe.

15 “CIVIL LIBERTIES PROTECTION OFFICER

16 “SEC. 103D. (a) CIVIL LIBERTIES PROTECTION OF-
17 FICER.—(1) Within the Office of the Director of National
18 Intelligence, there is a Civil Liberties Protection Officer
19 who shall be appointed by the Director of National Intel-
20 ligence.

21 “(2) The Civil Liberties Protection Officer shall re-
22 port directly to the Director of National Intelligence.

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

25 “(1) ensure that the protection of civil liberties
26 and privacy is appropriately incorporated in the poli-

1 cies and procedures developed for and implemented
2 by the Office of the Director of National Intelligence
3 and the elements of the intelligence community with-
4 in the National Intelligence Program;

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

10 “(3) review and assess complaints and other in-
11 formation indicating possible abuses of civil liberties
12 and privacy in the administration of the programs
13 and operations of the Office and the Director of Na-
14 tional Intelligence and, as appropriate, investigate
15 any such complaint or information;

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

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

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

3 “(7) perform such other duties as may be pre-
4 scribed by the Director of National Intelligence or
5 specified by law.

6 “(c) USE OF AGENCY INSPECTORS GENERAL.—
7 When appropriate, the Civil Liberties Protection Officer
8 may refer complaints to the Office of Inspector General
9 having responsibility for the affected element of the de-
10 partment or agency of the intelligence community to con-
11 duct an investigation under paragraph (3) of subsection
12 (b).

13 “DIRECTOR OF SCIENCE AND TECHNOLOGY
14 “SEC. 103E. (a) DIRECTOR OF SCIENCE AND TECH-
15 NOLOGY.—There is a Director of Science and Technology
16 within the Office of the Director of National Intelligence
17 who shall be appointed by the Director of National Intel-
18 ligence.

19 “(b) REQUIREMENT RELATING TO APPOINTMENT.—
20 An individual appointed as Director of Science and Tech-
21 nology shall have a professional background and experi-
22 ence appropriate for the duties of the Director of Science
23 and Technology.

24 “(c) DUTIES.—The Director of Science and Tech-
25 nology shall—

1 “(1) act as the chief representative of the Di-
2 rector of National Intelligence for science and tech-
3 nology;

4 “(2) chair the Director of National Intelligence
5 Science and Technology Committee under subsection
6 (d);

7 “(3) assist the Director in formulating a long-
8 term strategy for scientific advances in the field of
9 intelligence;

10 “(4) assist the Director on the science and tech-
11 nology elements of the budget of the Office of the
12 Director of National Intelligence; and

13 “(5) perform other such duties as may be pre-
14 scribed by the Director of National Intelligence or
15 specified by law.

16 “(d) DIRECTOR OF NATIONAL INTELLIGENCE
17 SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is
18 within the Office of the Director of Science and Tech-
19 nology a Director of National Intelligence Science and
20 Technology Committee.

21 “(2) The Committee shall be composed of the prin-
22 cipal science officers of the National Intelligence Program.

23 “(3) The Committee shall—

24 “(A) coordinate advances in research and devel-
25 opment related to intelligence; and

1 “(B) perform such other functions as the Direc-
2 tor of Science and Technology shall prescribe.

3 “NATIONAL COUNTERINTELLIGENCE EXECUTIVE

4 “SEC. 103F. (a) NATIONAL COUNTERINTELLIGENCE
5 EXECUTIVE.—The National Counterintelligence Executive
6 under section 902 of the Counterintelligence Enhancement
7 Act of 2002 (title IX of Public Law 107–306; 50 U.S.C.
8 402b et seq.) is a component of the Office of the Director
9 of National Intelligence.

10 “(b) DUTIES.—The National Counterintelligence Ex-
11 ecutive shall perform the duties provided in the Counter-
12 intelligence Enhancement Act of 2002 and such other du-
13 ties as may be prescribed by the Director of National In-
14 telligence or specified by law.

15 “CENTRAL INTELLIGENCE AGENCY

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

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

22 “DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

23 “SEC. 104A. (a) DIRECTOR OF CENTRAL INTEL-
24 LIGENCE AGENCY.—There is a Director of the Central In-
25 telligence Agency who shall be appointed by the President,
26 by and with the advice and consent of the Senate.

1 “(b) SUPERVISION.—The Director of the Central In-
2 telligence Agency shall report to the Director of National
3 Intelligence regarding the activities of the Central Intel-
4 ligence Agency.

5 “(c) DUTIES.—The Director of the Central Intel-
6 ligence Agency shall—

7 “(1) serve as the head of the Central Intel-
8 ligence Agency; and

9 “(2) carry out the responsibilities specified in
10 subsection (d).

11 “(d) RESPONSIBILITIES.—The Director of the Cen-
12 tral Intelligence Agency shall—

13 “(1) collect intelligence through human sources
14 and by other appropriate means, except that the Di-
15 rector of the Central Intelligence Agency shall have
16 no police, subpoena, or law enforcement powers or
17 internal security functions;

18 “(2) correlate and evaluate intelligence related
19 to the national security and provide appropriate dis-
20 semination of such intelligence;

21 “(3) provide overall direction for and coordina-
22 tion of the collection of national intelligence outside
23 the United States through human sources by ele-
24 ments of the intelligence community authorized to
25 undertake such collection and, in coordination with

1 other departments, agencies, or elements of the
2 United States Government which are authorized to
3 undertake such collection, ensure that the most ef-
4 fective use is made of resources and that appropriate
5 account is taken of the risks to the United States
6 and those involved in such collection; and

7 “(4) perform such other functions and duties
8 related to intelligence affecting the national security
9 as the President or the Director of National Intel-
10 ligence may direct.

11 “(e) TERMINATION OF EMPLOYMENT OF CIA EM-
12 PLOYEES.—(1) Notwithstanding the provisions of any
13 other law, the Director of the Central Intelligence Agency
14 may, in the discretion of the Director, terminate the em-
15 ployment of any officer or employee of the Central Intel-
16 ligence Agency whenever the Director deems the termi-
17 nation of employment of such officer or employee nec-
18 essary or advisable in the interests of the United States.

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

1 “(f) COORDINATION WITH FOREIGN GOVERN-
2 MENTS.—Under the direction of the Director of National
3 Intelligence and in a manner consistent with section 207
4 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the
5 Director of the Central Intelligence Agency shall coordi-
6 nate the relationships between elements of the intelligence
7 community and the intelligence or security services of for-
8 eign governments or international organizations on all
9 matters involving intelligence related to the national secu-
10 rity or involving intelligence acquired through clandestine
11 means.”.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that—

14 (1) the human intelligence officers of the intel-
15 ligence community have performed admirably and
16 honorably in the face of great personal dangers;

17 (2) during an extended period of unprecedented
18 investment and improvements in technical collection
19 means, the human intelligence capabilities of the
20 United States have not received the necessary and
21 commensurate priorities;

22 (3) human intelligence is becoming an increas-
23 ingly important capability to provide information on
24 the asymmetric threats to the national security of
25 the United States;

1 (4) the continued development and improve-
2 ment of a robust and empowered and flexible human
3 intelligence work force is critical to identifying, un-
4 derstanding, and countering the plans and intentions
5 of the adversaries of the United States; and

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

11 (c) TRANSFORMATION OF CENTRAL INTELLIGENCE
12 AGENCY.—The Director of the Central Intelligence Agen-
13 cy shall, in accordance with standards developed by the
14 Director in consultation with the Director of National
15 Intelligence—

16 (1) enhance the analytic, human intelligence,
17 and other capabilities of the Central Intelligence
18 Agency;

19 (2) develop and maintain an effective language
20 program within the Agency;

21 (3) emphasize the hiring of personnel of diverse
22 backgrounds for purposes of improving the capabili-
23 ties of the Agency;

24 (4) establish and maintain effective relation-
25 ships between human intelligence and signals intel-

1 ligence within the Agency at the operational level;
2 and

3 (5) achieve a more effective balance within the
4 Agency with respect to unilateral operations and liai-
5 son operations.

6 (d) REPORT.—(1) Not later than 180 days after the
7 date of the enactment of this Act, the Director of the Cen-
8 tral Intelligence Agency shall submit to the Director of
9 National Intelligence and the congressional intelligence
10 committees a report setting forth the following:

11 (A) A strategy for improving the conduct of
12 analysis (including strategic analysis) by the Central
13 Intelligence Agency, and the progress of the Agency
14 in implementing that strategy.

15 (B) A strategy for improving the human intel-
16 ligence and other capabilities of the Agency, and the
17 progress of the Agency in implementing that strat-
18 egy.

19 (2)(A) The information in the report under para-
20 graph (1) on the strategy referred to in paragraph (1)(B)
21 shall—

22 (i) identify the number and types of personnel
23 required to implement that strategy;

24 (ii) include a plan for the recruitment, training,
25 equipping, and deployment of such personnel; and

1 (iii) set forth an estimate of the costs of such
2 activities.

3 (B) If as of the date of the report under paragraph
4 (1), a proper balance does not exist between unilateral op-
5 erations and liaison operations, such report shall set forth
6 the steps to be taken to achieve such balance.

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

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

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

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

21 “(B) that involves—

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

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

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

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

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

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

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

1 senior officers and officials of the Department
2 of Defense when planning for such an operation
3 commences by either organization; and

4 (B) exchange of information between the
5 Secretary and the Director of the Central Intel-
6 ligence Agency to ensure that senior operational
7 officials in both the Department of Defense and
8 the Central Intelligence Agency have knowledge
9 of the existence of the ongoing operations of the
10 other.

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

18 (b) IMPLEMENTATION REPORT.—Not later than 180
19 days after the date of the enactment of the Act, the Direc-
20 tor of National Intelligence shall submit to the congres-
21 sional defense committees (as defined in section 101 of
22 title 10, United States Code) and the congressional intel-
23 ligence committees (as defined in section 3(7) of the Na-
24 tional Security Act of 1947 (50 U.S.C. 401a(7))) a report
25 describing the procedures established pursuant to sub-

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

3 **SEC. 1014. ROLE OF DIRECTOR OF NATIONAL INTEL-**
4 **LIGENCE IN APPOINTMENT OF CERTAIN OF-**
5 **FICIALS RESPONSIBLE FOR INTELLIGENCE-**
6 **RELATED ACTIVITIES.**

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

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

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

16 “(A) The Principal Deputy Director of National
17 Intelligence.

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

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

1 an individual to fill the vacancy or recommending to the
2 President an individual to be nominated to fill the va-
3 cancy. If the Director does not concur in the recommenda-
4 tion, the head of the department or agency concerned may
5 not fill the vacancy or make the recommendation to the
6 President (as the case may be). In the case in which the
7 Director does not concur in such a recommendation, the
8 Director and the head of the department or agency con-
9 cerned may advise the President directly of the intention
10 to withhold concurrence or to make a recommendation, as
11 the case may be.

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

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

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

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

19 “(D) The Assistant Secretary of State for Intel-
20 ligence and Research.

21 “(E) The Director of the Office of Intelligence
22 of the Department of Energy.

23 “(F) The Director of the Office of Counterintel-
24 ligence of the Department of Energy.

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

3 “(H) The Executive Assistant Director for In-
4 telligence of the Federal Bureau of Investigation or
5 any successor to that position.

6 “(I) The Assistant Secretary of Homeland Se-
7 curity for Information Analysis.

8 “(c) CONSULTATION WITH DNI IN CERTAIN POSI-
9 TIONS.—(1) In the event of a vacancy in a position re-
10 ferred to in paragraph (2), the head of the department
11 or agency having jurisdiction over the position shall con-
12 sult with the Director of National Intelligence before ap-
13 pointing an individual to fill the vacancy or recommending
14 to the President an individual to be nominated to fill the
15 vacancy.

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

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

19 “(B) The Assistant Commandant of the Coast
20 Guard for Intelligence.”.

21 **SEC. 1015. EXECUTIVE SCHEDULE MATTERS.**

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

25 “Director of National Intelligence.”.

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

4 “Principal Deputy Director of National Intel-
5 ligence.

6 “Director of the National Counterterrorism
7 Center.

8 “Director of the National Counter Proliferation
9 Center.”.

10 (c) EXECUTIVE SCHEDULE LEVEL IV.—Section
11 5315 of title 5, United States Code, is amended—

12 (1) by striking the item relating to the Assist-
13 ant Directors of Central Intelligence; and

14 (2) by adding at the end the following new
15 item:

16 “General Counsel of the Office of the National
17 Intelligence Director.”.

18 **SEC. 1016. INFORMATION SHARING.**

19 (a) DEFINITIONS.—In this section:

20 (1) INFORMATION SHARING COUNCIL.—The
21 term “Information Sharing Council” means the In-
22 formation Systems Council established by Executive
23 Order 13356, or any successor body designated by
24 the President, and referred to under subsection (g).

1 (2) INFORMATION SHARING ENVIRONMENT;
2 ISE.—The terms “information sharing environment”
3 and “ISE” mean an approach that facilitates the
4 sharing of terrorism information, which approach
5 may include any methods determined necessary and
6 appropriate for carrying out this section.

7 (3) PROGRAM MANAGER.—The term “program
8 manager” means the program manager designated
9 under subsection (f).

10 (4) TERRORISM INFORMATION.—The term “ter-
11 rorism information” means all information, whether
12 collected, produced, or distributed by intelligence,
13 law enforcement, military, homeland security, or
14 other activities relating to—

15 (A) the existence, organization, capabili-
16 ties, plans, intentions, vulnerabilities, means of
17 finance or material support, or activities of for-
18 eign or international terrorist groups or individ-
19 uals, or of domestic groups or individuals in-
20 volved in transnational terrorism;

21 (B) threats posed by such groups or indi-
22 viduals to the United States, United States per-
23 sons, or United States interests, or to those of
24 other nations;

1 (C) communications of or by such groups
2 or individuals; or

3 (D) groups or individuals reasonably be-
4 lieved to be assisting or associated with such
5 groups or individuals.

6 (b) INFORMATION SHARING ENVIRONMENT.—

7 (1) ESTABLISHMENT.—The President shall—

8 (A) create an information sharing environ-
9 ment for the sharing of terrorism information
10 in a manner consistent with national security
11 and with applicable legal standards relating to
12 privacy and civil liberties;

13 (B) designate the organizational and man-
14 agement structures that will be used to operate
15 and manage the ISE; and

16 (C) determine and enforce the policies, di-
17 rectives, and rules that will govern the content
18 and usage of the ISE.

19 (2) ATTRIBUTES.—The President shall, through
20 the structures described in subparagraphs (B) and
21 (C) of paragraph (1), ensure that the ISE provides
22 and facilitates the means for sharing terrorism infor-
23 mation among all appropriate Federal, State, local,
24 and tribal entities, and the private sector through
25 the use of policy guidelines and technologies. The

1 President shall, to the greatest extent practicable,
2 ensure that the ISE provides the functional equiva-
3 lent of, or otherwise supports, a decentralized, dis-
4 tributed, and coordinated environment that—

5 (A) connects existing systems, where ap-
6 propriate, provides no single points of failure,
7 and allows users to share information among
8 agencies, between levels of government, and, as
9 appropriate, with the private sector;

10 (B) ensures direct and continuous online
11 electronic access to information;

12 (C) facilitates the availability of informa-
13 tion in a form and manner that facilitates its
14 use in analysis, investigations and operations;

15 (D) builds upon existing systems capabili-
16 ties currently in use across the Government;

17 (E) employs an information access man-
18 agement approach that controls access to data
19 rather than just systems and networks, without
20 sacrificing security;

21 (F) facilitates the sharing of information
22 at and across all levels of security;

23 (G) provides directory services, or the
24 functional equivalent, for locating people and
25 information;

1 (H) incorporates protections for individ-
2 uals' privacy and civil liberties; and

3 (I) incorporates strong mechanisms to en-
4 hance accountability and facilitate oversight, in-
5 cluding audits, authentication, and access con-
6 trols.

7 (c) PRELIMINARY REPORT.—Not later than 180 days
8 after the date of the enactment of this Act, the program
9 manager shall, in consultation with the Information Shar-
10 ing Council—

11 (1) submit to the President and Congress a de-
12 scription of the technological, legal, and policy issues
13 presented by the creation of the ISE, and the way
14 in which these issues will be addressed;

15 (2) establish an initial capability to provide
16 electronic directory services, or the functional equiv-
17 alent, to assist in locating in the Federal Govern-
18 ment intelligence and terrorism information and peo-
19 ple with relevant knowledge about intelligence and
20 terrorism information; and

21 (3) conduct a review of relevant current Federal
22 agency capabilities, databases, and systems for shar-
23 ing information.

1 (d) GUIDELINES AND REQUIREMENTS.—As soon as
2 possible, but in no event later than 270 days after the
3 date of the enactment of this Act, the President shall—

4 (1) leverage all ongoing efforts consistent with
5 establishing the ISE and issue guidelines for acquir-
6 ing, accessing, sharing, and using information, in-
7 cluding guidelines to ensure that information is pro-
8 vided in its most shareable form, such as by using
9 tearlines to separate out data from the sources and
10 methods by which the data are obtained;

11 (2) in consultation with the Privacy and Civil
12 Liberties Oversight Board established under section
13 1061, issue guidelines that—

14 (A) protect privacy and civil liberties in the
15 development and use of the ISE; and

16 (B) shall be made public, unless nondisclo-
17 sure is clearly necessary to protect national se-
18 curity; and

19 (3) require the heads of Federal departments
20 and agencies to promote a culture of information
21 sharing by—

22 (A) reducing disincentives to information
23 sharing, including over-classification of informa-
24 tion and unnecessary requirements for origi-

1 nator approval, consistent with applicable laws
2 and regulations; and

3 (B) providing affirmative incentives for in-
4 formation sharing.

5 (e) IMPLEMENTATION PLAN REPORT.—Not later
6 than one year after the date of the enactment of this Act,
7 the President shall, with the assistance of the program
8 manager, submit to Congress a report containing an im-
9 plementation plan for the ISE. The report shall include
10 the following:

11 (1) A description of the functions, capabilities,
12 resources, and conceptual design of the ISE, includ-
13 ing standards.

14 (2) A description of the impact on enterprise
15 architectures of participating agencies.

16 (3) A budget estimate that identifies the incre-
17 mental costs associated with designing, testing, inte-
18 grating, deploying, and operating the ISE.

19 (4) A project plan for designing, testing, inte-
20 grating, deploying, and operating the ISE.

21 (5) The policies and directives referred to in
22 subsection (b)(1)(C), as well as the metrics and en-
23 forcement mechanisms that will be utilized.

1 (6) Objective, systemwide performance meas-
2 ures to enable the assessment of progress toward
3 achieving the full implementation of the ISE.

4 (7) A description of the training requirements
5 needed to ensure that the ISE will be adequately im-
6 plemented and properly utilized.

7 (8) A description of the means by which privacy
8 and civil liberties will be protected in the design and
9 operation of the ISE.

10 (9) The recommendations of the program man-
11 ager, in consultation with the Information Sharing
12 Council, regarding whether, and under what condi-
13 tions, the ISE should be expanded to include other
14 intelligence information.

15 (10) A delineation of the roles of the Federal
16 departments and agencies that will participate in the
17 ISE, including an identification of the agencies that
18 will deliver the infrastructure needed to operate and
19 manage the ISE (as distinct from individual depart-
20 ment or agency components that are part of the
21 ISE), with such delineation of roles to be consistent
22 with—

23 (A) the authority of the Director of Na-
24 tional Intelligence under this title, and the
25 amendments made by this title, to set standards

1 for information sharing throughout the intel-
2 ligence community; and

3 (B) the authority of the Secretary of
4 Homeland Security and the Attorney General,
5 and the role of the Department of Homeland
6 Security and the Attorney General, in coordi-
7 nating with State, local, and tribal officials and
8 the private sector.

9 (11) The recommendations of the program
10 manager, in consultation with the Information Shar-
11 ing Council, for a future management structure for
12 the ISE, including whether the position of program
13 manager should continue to remain in existence.

14 (f) PROGRAM MANAGER.—

15 (1) DESIGNATION.—Not later than 120 days
16 after the date of the enactment of this Act, with no-
17 tification to Congress, the President shall designate
18 an individual as the program manager responsible
19 for information sharing across the Federal Govern-
20 ment. The individual designated as the program
21 manager shall serve as program manager during the
22 two-year period beginning on the date of designation
23 under this paragraph unless sooner removed from
24 service and replaced by the President (at the Presi-

1 dent's sole discretion). The program manager shall
2 have and exercise governmentwide authority.

3 (2) DUTIES AND RESPONSIBILITIES.—

4 (A) IN GENERAL.—The program manager
5 shall, in consultation with the Information
6 Sharing Council—

7 (i) plan for and oversee the implemen-
8 tation of, and manage, the ISE;

9 (ii) assist in the development of poli-
10 cies, procedures, guidelines, rules, and
11 standards as appropriate to foster the de-
12 velopment and proper operation of the
13 ISE; and

14 (iii) assist, monitor, and assess the
15 implementation of the ISE by Federal de-
16 partments and agencies to ensure adequate
17 progress, technological consistency and pol-
18 icy compliance; and regularly report the
19 findings to Congress.

20 (B) CONTENT OF POLICIES, PROCEDURES,
21 GUIDELINES, RULES, AND STANDARDS.—The
22 policies, procedures, guidelines, rules, and
23 standards under subparagraph (A)(ii) shall—

- 1 (i) take into account the varying mis-
2 sions and security requirements of agencies
3 participating in the ISE;
- 4 (ii) address development, implementa-
5 tion, and oversight of technical standards
6 and requirements;
- 7 (iii) take into account ongoing and
8 planned efforts that support development,
9 implementation and management of the
10 ISE;
- 11 (iv) address and facilitate information
12 sharing between and among departments
13 and agencies of the intelligence community,
14 the Department of Defense, the homeland
15 security community and the law enforce-
16 ment community;
- 17 (v) address and facilitate information
18 sharing between Federal departments and
19 agencies and State, tribal, and local gov-
20 ernments;
- 21 (vi) address and facilitate, as appro-
22 priate, information sharing between Fed-
23 eral departments and agencies and the pri-
24 vate sector;

- 1 (vii) address and facilitate, as appro-
2 priate, information sharing between Fed-
3 eral departments and agencies with foreign
4 partners and allies; and
- 5 (viii) ensure the protection of privacy
6 and civil liberties.

7 (g) INFORMATION SHARING COUNCIL.—

8 (1) ESTABLISHMENT.—There is established an
9 Information Sharing Council that shall assist the
10 President and the program manager in their duties
11 under this section. The Information Sharing Council
12 shall serve during the two-year period beginning on
13 the date of the initial designation of the program
14 manager by the President under subsection (f)(1),
15 unless sooner removed from service and replaced by
16 the President (at the sole discretion of the Presi-
17 dent) with a successor body.

18 (2) SPECIFIC DUTIES.—In assisting the Presi-
19 dent and the program manager in their duties under
20 this section, the Information Sharing Council shall—

21 (A) advise the President and the program
22 manager in developing policies, procedures,
23 guidelines, roles, and standards necessary to es-
24 tablish, implement, and maintain the ISE;

1 (B) work to ensure coordination among the
2 Federal departments and agencies participating
3 in the ISE in the establishment, implementa-
4 tion, and maintenance of the ISE;

5 (C) identify and, as appropriate, rec-
6 ommend the consolidation and elimination of
7 current programs, systems, and processes used
8 by Federal departments and agencies to share
9 information, and recommend, as appropriate,
10 the redirection of existing resources to support
11 the ISE;

12 (D) identify gaps, if any, between existing
13 technologies, programs and systems used by
14 Federal departments and agencies to share in-
15 formation and the parameters of the proposed
16 information sharing environment;

17 (E) recommend solutions to address any
18 gaps identified under subparagraph (D);

19 (F) recommend means by which the ISE
20 can be extended to allow interchange of infor-
21 mation between Federal departments and agen-
22 cies and appropriate authorities of State and
23 local governments; and

24 (G) recommend whether or not, and by
25 which means, the ISE should be expanded so as

1 to allow future expansion encompassing other
2 relevant categories of information.

3 (3) CONSULTATION.—In performing its duties,
4 the Information Sharing Council shall consider input
5 from persons and entities outside the Federal Gov-
6 ernment having significant experience and expertise
7 in policy, technical matters, and operational matters
8 relating to the ISE.

9 (4) INAPPLICABILITY OF FEDERAL ADVISORY
10 COMMITTEE ACT.—The Information Sharing Council
11 shall not be subject to the requirements of the Fed-
12 eral Advisory Committee Act (5 U.S.C. App.).

13 (h) PERFORMANCE MANAGEMENT REPORTS.—

14 (1) IN GENERAL.—Not later than two years
15 after the date of the enactment of this Act, and an-
16 nually thereafter, the President shall submit to Con-
17 gress a report on the state of the ISE and of infor-
18 mation sharing across the Federal Government.

19 (2) CONTENT.—Each report under this sub-
20 section shall include—

21 (A) a progress report on the extent to
22 which the ISE has been implemented, including
23 how the ISE has fared on the performance
24 measures and whether the performance goals
25 set in the preceding year have been met;

1 (B) objective system-wide performance
2 goals for the following year;

3 (C) an accounting of how much was spent
4 on the ISE in the preceding year;

5 (D) actions taken to ensure that procure-
6 ment of and investments in systems and tech-
7 nology are consistent with the implementation
8 plan for the ISE;

9 (E) the extent to which all terrorism watch
10 lists are available for combined searching in
11 real time through the ISE and whether there
12 are consistent standards for placing individuals
13 on, and removing individuals from, the watch
14 lists, including the availability of processes for
15 correcting errors;

16 (F) the extent to which State, tribal, and
17 local officials are participating in the ISE;

18 (G) the extent to which private sector data,
19 including information from owners and opera-
20 tors of critical infrastructure, is incorporated in
21 the ISE, and the extent to which individuals
22 and entities outside the government are receiv-
23 ing information through the ISE;

24 (H) the measures taken by the Federal
25 government to ensure the accuracy of informa-

1 tion in the ISE, in particular the accuracy of
2 information about individuals;

3 (I) an assessment of the privacy and civil
4 liberties protections of the ISE, including ac-
5 tions taken in the preceding year to implement
6 or enforce privacy and civil liberties protections;
7 and

8 (J) an assessment of the security protec-
9 tions used in the ISE.

10 (i) AGENCY RESPONSIBILITIES.—The head of each
11 department or agency that possesses or uses intelligence
12 or terrorism information, operates a system in the ISE,
13 or otherwise participates (or expects to participate) in the
14 ISE shall—

15 (1) ensure full department or agency compli-
16 ance with information sharing policies, procedures,
17 guidelines, rules, and standards established under
18 subsections (b) and (f);

19 (2) ensure the provision of adequate resources
20 for systems and activities supporting operation of
21 and participation in the ISE;

22 (3) ensure full department or agency coopera-
23 tion in the development of the ISE to implement
24 governmentwide information sharing; and

1 **SEC. 1018. PRESIDENTIAL GUIDELINES ON IMPLEMENTA-**
2 **TION AND PRESERVATION OF AUTHORITIES.**

3 The President shall issue guidelines to ensure the ef-
4 fective implementation and execution within the executive
5 branch of the authorities granted to the Director of Na-
6 tional Intelligence by this title and the amendments made
7 by this title, in a manner that respects and does not abro-
8 gate the statutory responsibilities of the heads of the de-
9 partments of the United States Government concerning
10 such departments, including, but not limited to:

11 (1) the authority of the Director of the Office
12 of Management and Budget; and

13 (2) the authority of the principal officers of the
14 executive departments as heads of their respective
15 departments, including, but not limited to, under—

16 (A) section 199 of the Revised Statutes
17 (22 U.S.C. 2651);

18 (B) title II of the Department of Energy
19 Organization Act (42 U.S.C. 7131 et seq.);

20 (C) the State Department Basic Authori-
21 ties Act of 1956;

22 (D) section 102(a) of the Homeland Secu-
23 rity Act of 2002 (6 U.S.C. 112(a)); and

24 (E) sections 301 of title 5, 113(b) and
25 162(b) of title 10, 503 of title 28, and 301(b)
26 of title 31, United States Code.

1 **SEC. 1019. ASSIGNMENT OF RESPONSIBILITIES RELATING**
2 **TO ANALYTIC INTEGRITY.**

3 (a) ASSIGNMENT OF RESPONSIBILITIES.—For pur-
4 poses of carrying out section 102A(h) of the National Se-
5 curity Act of 1947 (as added by section 1011(a)), the Di-
6 rector of National Intelligence shall, not later than 180
7 days after the date of the enactment of this Act, assign
8 an individual or entity to be responsible for ensuring that
9 finished intelligence products produced by any element or
10 elements of the intelligence community are timely, objec-
11 tive, independent of political considerations, based upon
12 all sources of available intelligence, and employ the stand-
13 ards of proper analytic tradecraft.

14 (b) RESPONSIBILITIES.—(1) The individual or entity
15 assigned responsibility under subsection (a)—

16 (A) may be responsible for general oversight
17 and management of analysis and production, but
18 may not be directly responsible for, or involved in,
19 the specific production of any finished intelligence
20 product;

21 (B) shall perform, on a regular basis, detailed
22 reviews of finished intelligence product or other ana-
23 lytic products by an element or elements of the intel-
24 ligence community covering a particular topic or
25 subject matter;

1 (C) shall be responsible for identifying on
2 an annual basis functional or topical areas of
3 analysis for specific review under subparagraph
4 (B); and

5 (D) upon completion of any review under
6 subparagraph (B), may draft lessons learned,
7 identify best practices, or make recommenda-
8 tions for improvement to the analytic tradecraft
9 employed in the production of the reviewed
10 product or products.

11 (2) Each review under paragraph (1)(B) should—

12 (A) include whether the product or products
13 concerned were based on all sources of available in-
14 telligence, properly describe the quality and reli-
15 ability of underlying sources, properly caveat and ex-
16 press uncertainties or confidence in analytic judg-
17 ments, properly distinguish between underlying intel-
18 ligence and the assumptions and judgments of ana-
19 lysts, and incorporate, where appropriate, alternative
20 analyses; and

21 (B) ensure that the analytic methodologies,
22 tradecraft, and practices used by the element or ele-
23 ments concerned in the production of the product or
24 products concerned meet the standards set forth in
25 subsection (a).

1 (3) Information drafted under paragraph (1)(D)
2 should, as appropriate, be included in analysis teaching
3 modules and case studies for use throughout the intel-
4 ligence community.

5 (c) ANNUAL REPORTS.—Not later than December 1
6 each year, the Director of National Intelligence shall sub-
7 mit to the congressional intelligence committees, the heads
8 of the relevant elements of the intelligence community,
9 and the heads of analytic training departments a report
10 containing a description, and the associated findings, of
11 each review under subsection (b)(1)(B) during such year.

12 (d) CONGRESSIONAL INTELLIGENCE COMMITTEES
13 DEFINED.—In this section, the term “congressional intel-
14 ligence committees” means—

15 (1) the Select Committee on Intelligence of the
16 Senate; and

17 (2) the Permanent Select Committee on Intel-
18 ligence of the House of Representatives.

19 **SEC. 1020. SAFEGUARD OF OBJECTIVITY IN INTELLIGENCE**
20 **ANALYSIS.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 effective date of this Act, the Director of National Intel-
23 ligence shall identify an individual within the Office of the
24 Director of National Intelligence who shall be available to
25 analysts within the Office of the Director of National In-

1 telligence to counsel, conduct arbitration, offer rec-
2 ommendations, and, as appropriate, initiate inquiries into
3 real or perceived problems of analytic tradecraft or
4 politicization, biased reporting, or lack of objectivity in in-
5 telligence analysis.

6 (b) REPORT.—Not later than 270 days after the ef-
7 fective date of this Act, the Director of National Intel-
8 ligence shall provide a report to the Select Committee on
9 Intelligence of the Senate and the Permanent Select Com-
10 mittee on Intelligence of the House of Representatives on
11 the implementation of subsection (a).

12 **Subtitle B—National**
13 **Counterterrorism Center, Na-**
14 **tional Counter Proliferation**
15 **Center, and National Intel-**
16 **ligence Centers**

17 **SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.**

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

21 “NATIONAL COUNTERTERRORISM CENTER

22 “SEC. 119. (a) ESTABLISHMENT OF CENTER.—

23 There is within the Office of the Director of National In-
24 telligence a National Counterterrorism Center.

25 “(b) DIRECTOR OF NATIONAL COUNTERTERRORISM
26 CENTER.—(1) There is a Director of the National

1 Counterterrorism Center, who shall be the head of the Na-
2 tional Counterterrorism Center, and who shall be ap-
3 pointed by the President, by and with the advice and con-
4 sent of the Senate.

5 “(2) The Director of the National Counterterrorism
6 Center may not simultaneously serve in any other capacity
7 in the executive branch.

8 “(c) REPORTING.—(1) The Director of the National
9 Counterterrorism Center shall report to the Director of
10 National Intelligence with respect to matters described in
11 paragraph (2) and the President with respect to matters
12 described in paragraph (3).

13 “(2) The matters described in this paragraph
14 are as follows:

15 “(A) The budget and programs of the Na-
16 tional Counterterrorism Center.

17 “(B) The activities of the Directorate of
18 Intelligence of the National Counterterrorism
19 Center under subsection (h).

20 “(C) The conduct of intelligence operations
21 implemented by other elements of the intel-
22 ligence community; and

23 “(3) The matters described in this paragraph
24 are the planning and progress of joint

1 counterterrorism operations (other than intelligence
2 operations).

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

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

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

18 “(3) To assign roles and responsibilities as part
19 of its strategic operational planning duties to lead
20 Departments or agencies, as appropriate, for
21 counterterrorism activities that are consistent with
22 applicable law and that support counterterrorism
23 strategic operational plans, but shall not direct the
24 execution of any resulting operations.

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

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

8 “(6) To serve as the central and shared knowl-
9 edge bank on known and suspected terrorists and
10 international terror groups, as well as their goals,
11 strategies, capabilities, and networks of contacts and
12 support.

13 “(e) DOMESTIC COUNTERTERRORISM INTEL-
14 LIGENCE.—(1) The Center may, consistent with applicable
15 law, the direction of the President, and the guidelines re-
16 ferred to in section 102A(b), receive intelligence pertaining
17 exclusively to domestic counterterrorism from any Fed-
18 eral, State, or local government or other source necessary
19 to fulfill its responsibilities and retain and disseminate
20 such intelligence.

21 “(2) Any agency authorized to conduct
22 counterterrorism activities may request information from
23 the Center to assist it in its responsibilities, consistent
24 with applicable law and the guidelines referred to in sec-
25 tion 102A(b).

1 “(f) DUTIES AND RESPONSIBILITIES OF DIREC-
2 TOR.—(1) The Director of the National Counterterrorism
3 Center shall—

4 “(A) serve as the principal adviser to the Direc-
5 tor of National Intelligence on intelligence oper-
6 ations relating to counterterrorism;

7 “(B) provide strategic operational plans for the
8 civilian and military counterterrorism efforts of the
9 United States Government and for the effective inte-
10 gration of counterterrorism intelligence and oper-
11 ations across agency boundaries, both inside and
12 outside the United States;

13 “(C) advise the Director of National Intel-
14 ligence on the extent to which the counterterrorism
15 program recommendations and budget proposals of
16 the departments, agencies, and elements of the
17 United States Government conform to the priorities
18 established by the President;

19 “(D) disseminate terrorism information, includ-
20 ing current terrorism threat analysis, to the Presi-
21 dent, the Vice President, the Secretaries of State,
22 Defense, and Homeland Security, the Attorney Gen-
23 eral, the Director of the Central Intelligence Agency,
24 and other officials of the executive branch as appro-

1 appropriate, and to the appropriate committees of Con-
2 gress;

3 “(E) support the Department of Justice and
4 the Department of Homeland Security, and other
5 appropriate agencies, in fulfillment of their respon-
6 sibilities to disseminate terrorism information, con-
7 sistent with applicable law, guidelines referred to in
8 section 102A(b), Executive orders and other Presi-
9 dential guidance, to State and local government offi-
10 cials, and other entities, and coordinate dissemina-
11 tion of terrorism information to foreign governments
12 as approved by the Director of National Intelligence;

13 “(F) develop a strategy for combining terrorist
14 travel intelligence operations and law enforcement
15 planning and operations into a cohesive effort to
16 intercept terrorists, find terrorist travel facilitators,
17 and constrain terrorist mobility;

18 “(G) have primary responsibility within the
19 United States Government for conducting net as-
20 sessments of terrorist threats;

21 “(H) consistent with priorities approved by the
22 President, assist the Director of National Intel-
23 ligence in establishing requirements for the intel-
24 ligence community for the collection of terrorism in-
25 formation; and

1 “(I) perform such other duties as the Director
2 of National Intelligence may prescribe or are pre-
3 scribed by law.

4 “(2) Nothing in paragraph (1)(G) shall limit the au-
5 thority of the departments and agencies of the United
6 States to conduct net assessments.

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 Director of
11 National Intelligence shall resolve disagreements between
12 the National Counterterrorism Center and the head of a
13 department, agency, or element of the United States Gov-
14 ernment on designations, assignments, plans, or respon-
15 sibilities under this section. The head of such a depart-
16 ment, agency, or element may appeal the resolution of the
17 disagreement by the Director of National Intelligence to
18 the President.

19 “(i) DIRECTORATE OF INTELLIGENCE.—The Direc-
20 tor of the National Counterterrorism Center shall estab-
21 lish and maintain within the National Counterterrorism
22 Center a Directorate of Intelligence which shall have pri-
23 mary responsibility within the United States Government
24 for analysis of terrorism and terrorist organizations (ex-
25 cept for purely domestic terrorism and domestic terrorist

1 organizations) from all sources of intelligence, whether col-
2 lected inside or outside the United States.

3 “(j) DIRECTORATE OF STRATEGIC OPERATIONAL
4 PLANNING.—(1) The Director of the National
5 Counterterrorism Center shall establish and maintain
6 within the National Counterterrorism Center a Direc-
7 torate of Strategic Operational Planning which shall pro-
8 vide strategic operational plans for counterterrorism oper-
9 ations conducted by the United States Government.

10 “(2) Strategic operational planning shall include the
11 mission, objectives to be achieved, tasks to be performed,
12 interagency coordination of operational activities, and the
13 assignment of roles and responsibilities.

14 “(3) The Director of the National Counterterrorism
15 Center shall monitor the implementation of strategic oper-
16 ational plans, and shall obtain information from each ele-
17 ment of the intelligence community, and from each other
18 department, agency, or element of the United States Gov-
19 ernment relevant for monitoring the progress of such enti-
20 ty in implementing such plans.

21 **SEC. 1022. NATIONAL COUNTER PROLIFERATION CENTER.**

22 Title I of the National Security Act of 1947, as
23 amended by section 1021 of this Act, is further amended
24 by adding at the end the following new section:

1 “NATIONAL COUNTER PROLIFERATION CENTER

2 “SEC. 119A. (a) ESTABLISHMENT.—Not later than
3 18 months after the date of the enactment of the National
4 Security Intelligence Reform Act of 2004, the President
5 shall establish a National Counter Proliferation Center,
6 taking into account all appropriate government tools to
7 prevent and halt the proliferation of weapons of mass de-
8 struction, their delivery systems, and related materials and
9 technologies.

10 “(b) MISSIONS AND OBJECTIVES.—In establishing
11 the National Counter Proliferation Center, the President
12 shall address the following missions and objectives to pre-
13 vent and halt the proliferation of weapons of mass destruc-
14 tion, their delivery systems, and related materials and
15 technologies:

16 “(1) Establishing a primary organization within
17 the United States Government for analyzing and in-
18 tegrating all intelligence possessed or acquired by
19 the United States pertaining to proliferation.

20 “(2) Ensuring that appropriate agencies have
21 full access to and receive all-source intelligence sup-
22 port needed to execute their counter proliferation
23 plans or activities, and perform independent, alter-
24 native analyses.

1 “(3) Establishing a central repository on known
2 and suspected proliferation activities, including the
3 goals, strategies, capabilities, networks, and any in-
4 dividuals, groups, or entities engaged in prolifera-
5 tion.

6 “(4) Disseminating proliferation information,
7 including proliferation threats and analyses, to the
8 President, to the appropriate departments and agen-
9 cies, and to the appropriate committees of Congress.

10 “(5) Conducting net assessments and warnings
11 about the proliferation of weapons of mass destruc-
12 tion, their delivery systems, and related materials
13 and technologies.

14 “(6) Coordinating counter proliferation plans
15 and activities of the various departments and agen-
16 cies of the United States Government to prevent and
17 halt the proliferation of weapons of mass destruc-
18 tion, their delivery systems, and related materials
19 and technologies.

20 “(7) Conducting strategic operational counter
21 proliferation planning for the United States Govern-
22 ment to prevent and halt the proliferation of weap-
23 ons of mass destruction, their delivery systems, and
24 related materials and technologies.

1 “(c) NATIONAL SECURITY WAIVER.—The President
2 may waive the requirements of this section, and any parts
3 thereof, if the President determines that such require-
4 ments do not materially improve the ability of the United
5 States Government to prevent and halt the proliferation
6 of weapons of mass destruction, their delivery systems,
7 and related materials and technologies. Such waiver shall
8 be made in writing to Congress and shall include a de-
9 scription of how the missions and objectives in subsection
10 (b) are being met.

11 “(d) REPORT TO CONGRESS.—(1) Not later than
12 nine months after the implementation of this Act, the
13 President shall submit to Congress, in classified form if
14 necessary, the findings and recommendations of the Presi-
15 dent’s Commission on Weapons of Mass Destruction es-
16 tablished by Executive Order in February 2004, together
17 with the views of the President regarding the establish-
18 ment of a National Counter Proliferation Center.

19 “(2) If the President decides not to exercise the waiv-
20 er authority granted by subsection (c), the President shall
21 submit to Congress from time to time updates and plans
22 regarding the establishment of a National Counter Pro-
23 liferation Center.

24 “(e) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that a central feature of counter proliferation activi-

1 ties, consistent with the President’s Proliferation Security
2 Initiative, should include the physical interdiction, by air,
3 sea, or land, of weapons of mass destruction, their delivery
4 systems, and related materials and technologies, and en-
5 hanced law enforcement activities to identify and disrupt
6 proliferation networks, activities, organizations, and per-
7 sons.”.

8 **SEC. 1023. NATIONAL INTELLIGENCE CENTERS.**

9 Title I of the National Security Act of 1947, as
10 amended by section 1022 of this Act, is further amended
11 by adding at the end the following new section:

12 “NATIONAL INTELLIGENCE CENTERS

13 “SEC. 119B. (a) AUTHORITY TO ESTABLISH.—The
14 Director of National Intelligence may establish one or
15 more national intelligence centers to address intelligence
16 priorities, including, but not limited to, regional issues.

17 “(b) RESOURCES OF DIRECTORS OF CENTERS.—(1)
18 The Director of National Intelligence shall ensure that the
19 head of each national intelligence center under subsection
20 (a) has appropriate authority, direction, and control of
21 such center, and of the personnel assigned to such center,
22 to carry out the assigned mission of such center.

23 “(2) The Director of National Intelligence shall en-
24 sure that each national intelligence center has appropriate
25 personnel to accomplish effectively the mission of such
26 center.

1 “(c) INFORMATION SHARING.—The Director of Na-
2 tional Intelligence shall, to the extent appropriate and
3 practicable, ensure that each national intelligence center
4 under subsection (a) and the other elements of the intel-
5 ligence community share information in order to facilitate
6 the mission of such center.

7 “(d) MISSION OF CENTERS.—Pursuant to the direc-
8 tion of the Director of National Intelligence, each national
9 intelligence center under subsection (a) may, in the area
10 of intelligence responsibility assigned to such center—

11 “(1) have primary responsibility for providing
12 all-source analysis of intelligence based upon intel-
13 ligence gathered both domestically and abroad;

14 “(2) have primary responsibility for identifying
15 and proposing to the Director of National Intel-
16 ligence intelligence collection and analysis and pro-
17 duction requirements; and

18 “(3) perform such other duties as the Director
19 of National Intelligence shall specify.

20 “(e) REVIEW AND MODIFICATION OF CENTERS.—
21 The Director of National Intelligence shall determine on
22 a regular basis whether—

23 “(1) the area of intelligence responsibility as-
24 signed to each national intelligence center under

1 subsection (a) continues to meet appropriate intel-
2 ligence priorities; and

3 “(2) the staffing and management of such cen-
4 ter remains appropriate for the accomplishment of
5 the mission of such center.

6 “(f) TERMINATION.—The Director of National Intel-
7 ligence may terminate any national intelligence center
8 under subsection (a).

9 “(g) SEPARATE BUDGET ACCOUNT.—The Director of
10 National Intelligence shall, as appropriate, include in the
11 National Intelligence Program budget a separate line item
12 for each national intelligence center under subsection
13 (a).”.

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

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

17 Title I of the National Security Act of 1947 (50
18 U.S.C. 402 et seq.) is amended by inserting after section
19 101 the following new section:

20 “JOINT INTELLIGENCE COMMUNITY COUNCIL

21 “SEC. 101A. (a) JOINT INTELLIGENCE COMMUNITY
22 COUNCIL.—There is a Joint Intelligence Community
23 Council.

24 “(b) MEMBERSHIP.—The Joint Intelligence Commu-
25 nity Council shall consist of the following:

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

3 “(2) The Secretary of State.

4 “(3) The Secretary of the Treasury.

5 “(4) The Secretary of Defense.

6 “(5) The Attorney General.

7 “(6) The Secretary of Energy.

8 “(7) The Secretary of Homeland Security.

9 “(8) Such other officers of the United States
10 Government as the President may designate from
11 time to time.

12 “(c) FUNCTIONS.—The Joint Intelligence Commu-
13 nity Council shall assist the Director of National Intel-
14 ligence to in developing and implementing a joint, unified
15 national intelligence effort to protect national security
16 by—

17 “(1) advising the Director on establishing re-
18 quirements, developing budgets, financial manage-
19 ment, and monitoring and evaluating the perform-
20 ance of the intelligence community, and on such
21 other matters as the Director may request; and

22 “(2) ensuring the timely execution of programs,
23 policies, and directives established or developed by
24 the Director.

1 “(d) MEETINGS.—The Director of National Intel-
2 ligence shall convene regular meetings of the Joint Intel-
3 ligence Community Council.

4 “(e) ADVICE AND OPINIONS OF MEMBERS OTHER
5 THAN CHAIRMAN.—(1) A member of the Joint Intel-
6 ligence Community Council (other than the Chairman)
7 may submit to the Chairman advice or an opinion in dis-
8 agreement with, or advice or an opinion in addition to,
9 the advice presented by the Director of National Intel-
10 ligence to the President or the National Security Council,
11 in the role of the Chairman as Chairman of the Joint In-
12 telligence Community Council. If a member submits such
13 advice or opinion, the Chairman shall present the advice
14 or opinion of such member at the same time the Chairman
15 presents the advice of the Chairman to the President or
16 the National Security Council, as the case may be.

17 “(2) The Chairman shall establish procedures to en-
18 sure that the presentation of the advice of the Chairman
19 to the President or the National Security Council is not
20 unduly delayed by reason of the submission of the indi-
21 vidual advice or opinion of another member of the Council.

22 “(f) RECOMMENDATIONS TO CONGRESS.—Any mem-
23 ber of the Joint Intelligence Community Council may
24 make such recommendations to Congress relating to the

1 intelligence community as such member considers appro-
2 priate.”.

3 **Subtitle D—Improvement of Edu-**
4 **cation for the Intelligence Com-**
5 **munity**

6 **SEC. 1041. ADDITIONAL EDUCATION AND TRAINING RE-**
7 **QUIREMENTS.**

8 (a) FINDINGS.—Congress makes the following find-
9 ings:

10 (1) Foreign language education is essential for
11 the development of a highly-skilled workforce for the
12 intelligence community.

13 (2) Since September 11, 2001, the need for lan-
14 guage proficiency levels to meet required national se-
15 curity functions has been raised, and the ability to
16 comprehend and articulate technical and scientific
17 information in foreign languages has become critical.

18 (b) LINGUISTIC REQUIREMENTS.—(1) The Director
19 of National Intelligence shall—

20 (A) identify the linguistic requirements for the
21 Office of the Director of National Intelligence;

22 (B) identify specific requirements for the range
23 of linguistic skills necessary for the intelligence com-
24 munity, including proficiency in scientific and tech-
25 nical vocabularies of critical foreign languages; and

1 (C) develop a comprehensive plan for the Office
2 to meet such requirements through the education,
3 recruitment, and training of linguists.

4 (2) In carrying out activities under paragraph (1),
5 the Director shall take into account education grant pro-
6 grams of the Department of Defense and the Department
7 of Education that are in existence as of the date of the
8 enactment of this Act.

9 (3) Not later than one year after the date of the en-
10 actment of this Act, and annually thereafter, the Director
11 shall submit to Congress a report on the requirements
12 identified under paragraph (1), including the success of
13 the Office of the Director of National Intelligence in meet-
14 ing such requirements. Each report shall notify Congress
15 of any additional resources determined by the Director to
16 be required to meet such requirements.

17 (4) Each report under paragraph (3) shall be in un-
18 classified form, but may include a classified annex.

19 (c) PROFESSIONAL INTELLIGENCE TRAINING.—The
20 Director of National Intelligence shall require the head of
21 each element and component within the Office of the Di-
22 rector of National Intelligence who has responsibility for
23 professional intelligence training to periodically review and
24 revise the curriculum for the professional intelligence

1 training of the senior and intermediate level personnel of
2 such element or component in order to—

3 (1) strengthen the focus of such curriculum on
4 the integration of intelligence collection and analysis
5 throughout the Office; and

6 (2) prepare such personnel for duty with other
7 departments, agencies, and element of the intel-
8 ligence community.

9 **SEC. 1042. CROSS-DISCIPLINARY EDUCATION AND TRAIN-**
10 **ING.**

11 Title X of the National Security Act of 1947 (50
12 U.S.C. 441g) is amended by adding at the end the fol-
13 lowing new section:

14 “FRAMEWORK FOR CROSS-DISCIPLINARY EDUCATION AND
15 TRAINING

16 “SEC. 1002. The Director of National Intelligence
17 shall establish an integrated framework that brings to-
18 gether the educational components of the intelligence com-
19 munity in order to promote a more effective and produc-
20 tive intelligence community through cross-disciplinary
21 education and joint training.”.

22 **SEC. 1043. INTELLIGENCE COMMUNITY SCHOLARSHIP PRO-**
23 **GRAM.**

24 Title X of the National Security Act of 1947, as
25 amended by section 1042 of this Act, is further amended
26 by adding at the end the following new section:

1 “INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM

2 “SEC. 1003. (a) ESTABLISHMENT.—

3 “(1) IN GENERAL.—The Director of National
4 Intelligence, in consultation with the head of each
5 agency of the intelligence community, shall establish
6 a scholarship program (to be known as the ‘Intel-
7 ligence Community Scholarship Program’) to award
8 scholarships to individuals that is designed to recruit
9 and prepare students for civilian careers in the intel-
10 ligence community to meet the critical needs of the
11 intelligence community agencies.

12 “(2) SELECTION OF RECIPIENTS.—

13 “(A) MERIT AND AGENCY NEEDS.—Indi-
14 viduals shall be selected to receive scholarships
15 under this section through a competitive proc-
16 ess primarily on the basis of academic merit
17 and the needs of the agency.

18 “(B) DEMONSTRATED COMMITMENT.—In-
19 dividuals selected under this section shall have
20 a demonstrated commitment to the field of
21 study for which the scholarship is awarded.

22 “(3) CONTRACTUAL AGREEMENTS.—To carry
23 out the Program the head of each agency shall enter
24 into contractual agreements with individuals selected
25 under paragraph (2) under which the individuals

1 agree to serve as full-time employees of the agency,
2 for the period described in subsection (g)(1), in posi-
3 tions needed by the agency and for which the indi-
4 viduals are qualified, in exchange for receiving a
5 scholarship.

6 “(b) ELIGIBILITY.—In order to be eligible to partici-
7 pate in the Program, an individual shall—

8 “(1) be enrolled or accepted for enrollment as
9 a full-time student at an institution of higher edu-
10 cation and be pursuing or intend to pursue under-
11 graduate or graduate education in an academic field
12 or discipline described in the list made available
13 under subsection (d);

14 “(2) be a United States citizen; and

15 “(3) at the time of the initial scholarship
16 award, not be an employee (as defined under section
17 2105 of title 5, United States Code).

18 “(c) APPLICATION.— An individual seeking a scholar-
19 ship under this section shall submit an application to the
20 Director of National Intelligence at such time, in such
21 manner, and containing such information, agreements, or
22 assurances as the Director may require.

23 “(d) PROGRAMS AND FIELDS OF STUDY.—The Di-
24 rector of National Intelligence shall—

1 “(1) make publicly available a list of academic
2 programs and fields of study for which scholarships
3 under the Program may be used; and

4 “(2) update the list as necessary.

5 “(e) SCHOLARSHIPS.—

6 “(1) IN GENERAL.—The Director of National
7 Intelligence may provide a scholarship under the
8 Program for an academic year if the individual ap-
9 plying for the scholarship has submitted to the Di-
10 rector, as part of the application required under sub-
11 section (c), a proposed academic program leading to
12 a degree in a program or field of study on the list
13 made available under subsection (d).

14 “(2) LIMITATION ON YEARS.—An individual
15 may not receive a scholarship under this section for
16 more than 4 academic years, unless the Director of
17 National Intelligence grants a waiver.

18 “(3) STUDENT RESPONSIBILITIES.—Scholar-
19 ship recipients shall maintain satisfactory academic
20 progress.

21 “(4) AMOUNT.—The dollar amount of a schol-
22 arship under this section for an academic year shall
23 be determined under regulations issued by the Direc-
24 tor of National Intelligence, but shall in no case ex-

1 ceed the cost of tuition, fees, and other authorized
2 expenses as established by the Director.

3 “(5) USE OF SCHOLARSHIPS.—A scholarship
4 provided under this section may be expended for tui-
5 tion, fees, and other authorized expenses as estab-
6 lished by the Director of National Intelligence by
7 regulation.

8 “(6) PAYMENT TO INSTITUTION OF HIGHER
9 EDUCATION.—The Director of National Intelligence
10 may enter into a contractual agreement with an in-
11 stitution of higher education under which the
12 amounts provided for a scholarship under this sec-
13 tion for tuition, fees, and other authorized expenses
14 are paid directly to the institution with respect to
15 which the scholarship is provided.

16 “(f) SPECIAL CONSIDERATION FOR CURRENT EM-
17 PLOYEES.—

18 “(1) SET ASIDE OF SCHOLARSHIPS.—Notwith-
19 standing paragraphs (1) and (3) of subsection (b),
20 10 percent of the scholarships awarded under this
21 section shall be set aside for individuals who are em-
22 ployees of agencies on the date of enactment of this
23 section to enhance the education of such employees
24 in areas of critical needs of agencies.

1 “(2) FULL- OR PART-TIME EDUCATION.—Em-
2 ployees who are awarded scholarships under para-
3 graph (1) shall be permitted to pursue under-
4 graduate or graduate education under the scholar-
5 ship on a full-time or part-time basis.

6 “(g) EMPLOYEE SERVICE.—

7 “(1) PERIOD OF SERVICE.—Except as provided
8 in subsection (i)(2), the period of service for which
9 an individual shall be obligated to serve as an em-
10 ployee of the agency is 24 months for each academic
11 year for which a scholarship under this section is
12 provided. Under no circumstances shall the total pe-
13 riod of obligated service be more than 8 years.

14 “(2) BEGINNING OF SERVICE.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), obligated service under para-
17 graph (1) shall begin not later than 60 days
18 after the individual obtains the educational de-
19 gree for which the scholarship was provided.

20 “(B) DEFERRAL.—In accordance with reg-
21 ulations established by the Director of National
22 Intelligence, the Director or designee may defer
23 the obligation of an individual to provide a pe-
24 riod of service under paragraph (1) if the Di-

1 rector or designee determines that such a defer-
2 ral is appropriate.

3 “(h) REPAYMENT.—

4 “(1) IN GENERAL.—Scholarship recipients who
5 fail to maintain a high level of academic standing,
6 as defined by the Director of National Intelligence,
7 who are dismissed from their educational institutions
8 for disciplinary reasons, or who voluntarily terminate
9 academic training before graduation from the edu-
10 cational program for which the scholarship was
11 awarded, shall be in breach of their contractual
12 agreement and, in lieu of any service obligation aris-
13 ing under such agreement, shall be liable to the
14 United States for repayment within 1 year after the
15 date of default of all scholarship funds paid to them
16 and to the institution of higher education on their
17 behalf under the agreement, except as provided in
18 subsection (i)(2). The repayment period may be ex-
19 tended by the Director when determined to be nec-
20 essary, as established by regulation.

21 “(2) LIABILITY.—Scholarship recipients who,
22 for any reason, fail to begin or complete their service
23 obligation after completion of academic training, or
24 fail to comply with the terms and conditions of
25 deferment established by the Director of National

1 Intelligence under subsection (i)(2)(B), shall be in
2 breach of their contractual agreement. When recipi-
3 ents breach their agreements for the reasons stated
4 in the preceding sentence, the recipient shall be lia-
5 ble to the United States for an amount equal to—

6 “(A) the total amount of scholarships re-
7 ceived by such individual under this section;
8 and

9 “(B) the interest on the amounts of such
10 awards which would be payable if at the time
11 the awards were received they were loans bear-
12 ing interest at the maximum legal prevailing
13 rate, as determined by the Treasurer of the
14 United States, multiplied by 3.

15 “(i) CANCELLATION, WAIVER, OR SUSPENSION OF
16 OBLIGATION.—

17 “(1) CANCELLATION.—Any obligation of an in-
18 dividual incurred under the Program (or a contrac-
19 tual agreement thereunder) for service or payment
20 shall be canceled upon the death of the individual.

21 “(2) WAIVER OR SUSPENSION.—The Director
22 of National Intelligence shall prescribe regulations to
23 provide for the partial or total waiver or suspension
24 of any obligation of service or payment incurred by
25 an individual under the Program (or a contractual

1 agreement thereunder) whenever compliance by the
2 individual is impossible or would involve extreme
3 hardship to the individual, or if enforcement of such
4 obligation with respect to the individual would be
5 contrary to the best interests of the Government.

6 “(j) REGULATIONS.—The Director of National Intel-
7 ligence shall prescribe regulations necessary to carry out
8 this section.

9 “(k) DEFINITIONS.—In this section:

10 “(1) AGENCY.—The term ‘agency’ means each
11 element of the intelligence community as determined
12 by the Director of National Intelligence.

13 “(2) INSTITUTION OF HIGHER EDUCATION.—
14 The term ‘institution of higher education’ has the
15 meaning given that term under section 101 of the
16 Higher Education Act of 1965 (20 U.S.C. 1001).

17 “(3) PROGRAM.—The term ‘Program’ means
18 the Intelligence Community Scholarship Program es-
19 tablished under subsection (a).”

20 **Subtitle E—Additional Improve-**
21 **ments of Intelligence Activities**

22 **SEC. 1051. SERVICE AND NATIONAL LABORATORIES AND**
23 **THE INTELLIGENCE COMMUNITY.**

24 The Director of National Intelligence, in cooperation
25 with the Secretary of Defense and the Secretary of En-

1 ergy, should seek to ensure that each service laboratory
2 of the Department of Defense and each national labora-
3 tory of the Department of Energy may, acting through
4 the relevant Secretary and in a manner consistent with
5 the missions and commitments of the laboratory—

6 (1) assist the Director of National Intelligence
7 in all aspects of technical intelligence, including re-
8 search, applied sciences, analysis, technology evalua-
9 tion and assessment, and any other aspect that the
10 relevant Secretary considers appropriate; and

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

13 (A) the analysis and production services of
14 the service and national laboratories, in a man-
15 ner that maximizes the capacity and services of
16 such laboratories; and

17 (B) the facilities and human resources of
18 the service and national laboratories, in a man-
19 ner that improves the technological capabilities
20 of the intelligence community.

21 **SEC. 1052. OPEN-SOURCE INTELLIGENCE.**

22 (a) SENSE OF CONGRESS.—It is the sense of Con-
23 gress that—

24 (1) the Director of National Intelligence should
25 establish an intelligence center for the purpose of co-

1 ordinating the collection, analysis, production, and
2 dissemination of open source intelligence to elements
3 of the intelligence community;

4 (2) open source intelligence is a valuable source
5 that must be integrated into the intelligence cycle to
6 ensure that United States policymakers are fully and
7 completely informed; and

8 (3) the intelligence center should ensure that
9 each element of the intelligence community uses
10 open source intelligence consistent with the mission
11 of such element.

12 (b) REQUIREMENT FOR EFFICIENT USE BY INTEL-
13 LIGENCE COMMUNITY OF OPEN-SOURCE INTEL-
14 LIGENCE.—The Director of National Intelligence shall en-
15 sure that the intelligence community makes efficient and
16 effective use of open-source information and analysis.

17 (c) REPORT.—Not later than June 30, 2005, the Di-
18 rector of National Intelligence shall submit to the congres-
19 sional intelligence committees a report containing the deci-
20 sion of the Director as to whether an open source intel-
21 ligence center will be established. If the Director decides
22 not to establish an open source intelligence center, such
23 report shall also contain a description of how the intel-
24 ligence community will use open source intelligence and

1 effectively integrate open source intelligence into the na-
2 tional intelligence cycle.

3 (d) CONGRESSIONAL INTELLIGENCE COMMITTEES
4 DEFINED.—In this section, the term “congressional intel-
5 ligence committees” means—

6 (1) the Select Committee on Intelligence of the
7 Senate; and

8 (2) the Permanent Select Committee on Intel-
9 ligence of the House of Representatives.

10 **SEC. 1053. NATIONAL INTELLIGENCE RESERVE CORPS.**

11 (a) ESTABLISHMENT.—The Director of National In-
12 telligence may provide for the establishment and training
13 of a National Intelligence Reserve Corps (in this section
14 referred to as “National Intelligence Reserve Corps”) for
15 the temporary reemployment on a voluntary basis of
16 former employees of elements of the intelligence commu-
17 nity during periods of emergency, as determined by the
18 Director.

19 (b) ELIGIBLE INDIVIDUALS.—An individual may par-
20 ticipate in the National Intelligence Reserve Corps only
21 if the individual previously served as a full time employee
22 of an element of the intelligence community.

23 (c) TERMS OF PARTICIPATION.—The Director of Na-
24 tional Intelligence shall prescribe the terms and conditions

1 under which eligible individuals may participate in the Na-
2 tional Intelligence Reserve Corps.

3 (d) EXPENSES.—The Director of National Intel-
4 ligence may provide members of the National Intelligence
5 Reserve Corps transportation and per diem in lieu of sub-
6 sistence for purposes of participating in any training that
7 relates to service as a member of the Reserve Corps.

8 (e) TREATMENT OF ANNUITANTS.—(1) If an annu-
9 itant receiving an annuity from the Civil Service Retire-
10 ment and Disability Fund becomes temporarily reem-
11 ployed pursuant to this section, such annuity shall not be
12 discontinued thereby.

13 (2) An annuitant so reemployed shall not be consid-
14 ered an employee for the purposes of chapter 83 or 84
15 of title 5, United States Code.

16 (f) TREATMENT UNDER OFFICE OF DIRECTOR OF
17 NATIONAL INTELLIGENCE PERSONNEL CEILING.—A
18 member of the National Intelligence Reserve Corps who
19 is reemployed on a temporary basis pursuant to this sec-
20 tion shall not count against any personnel ceiling applica-
21 ble to the Office of the Director of National Intelligence.

1 **Subtitle F—Privacy and Civil**
2 **Liberties**

3 **SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
4 **BOARD.**

5 (a) FINDINGS.—Consistent with the report of the Na-
6 tional Commission on Terrorist Attacks Upon the United
7 States, Congress makes the following findings:

8 (1) In conducting the war on terrorism, the
9 Federal Government may need additional powers
10 and may need to enhance the use of its existing pow-
11 ers.

12 (2) This potential shift of power and authority
13 to the Federal Government calls for an enhanced
14 system of checks and balances to protect the pre-
15 cious liberties that are vital to our way of life.

16 (b) ESTABLISHMENT OF BOARD.—There is estab-
17 lished within the Executive Office of the President a Pri-
18 vacy and Civil Liberties Oversight Board (referred to in
19 this section as the “Board”).

20 (c) FUNCTIONS.—

21 (1) ADVICE AND COUNSEL ON DEVELOPMENT
22 AND IMPLEMENTATION OF POLICY.—For the pur-
23 pose of providing advice to the President or to the
24 head of any department or agency of the executive
25 branch, the Board shall—

1 (A) review proposed regulations and execu-
2 tive branch policies related to efforts to protect
3 the Nation from terrorism, including the devel-
4 opment and adoption of information sharing
5 guidelines under subsections (d) and (f) of sec-
6 tion 1016;

7 (B) review the implementation of laws,
8 regulations, and executive branch policies re-
9 lated to efforts to protect the Nation from ter-
10 rorism, including the implementation of infor-
11 mation sharing guidelines under subsections (d)
12 and (f) of section 1016;

13 (C) advise the President and the head of
14 any department or agency of the executive
15 branch to ensure that privacy and civil liberties
16 are appropriately considered in the development
17 and implementation of such regulations and ex-
18 ecutive branch policies; and

19 (D) in providing advice on proposals to re-
20 tain or enhance a particular governmental
21 power, consider whether the department, agen-
22 cy, or element of the executive branch con-
23 cerned has explained—

24 (i) that there is adequate supervision
25 of the use by the executive branch of the

1 power to ensure protection of privacy and
2 civil liberties;

3 (ii) that there are adequate guidelines
4 and oversight to properly confine the use
5 of the power; and

6 (iii) that the need for the power, in-
7 cluding the risk presented to the national
8 security if the Federal Government does
9 not take certain actions, is balanced with
10 the need to protect privacy and civil lib-
11 erties.

12 (2) OVERSIGHT.—The Board shall continually
13 review—

14 (A) regulations, executive branch policies,
15 and procedures (including the implementation
16 of such regulations, policies, and procedures),
17 related laws pertaining to efforts to protect the
18 Nation from terrorism, and other actions by the
19 executive branch related to efforts to protect
20 the Nation from terrorism to ensure that pri-
21 vacy and civil liberties are protected; and

22 (B) the information sharing practices of
23 the departments, agencies, and elements of the
24 executive branch to determine whether or not
25 such practices appropriately protect privacy and

1 civil liberties and adhere to the information
2 sharing guidelines under subsections (d) and (f)
3 of section 1016 and to other applicable laws,
4 regulations, and executive branch policies re-
5 garding the protection of privacy and civil lib-
6 erties.

7 (3) SCOPE.—The Board shall ensure that con-
8 cerns with respect to privacy and civil liberties are
9 appropriately considered in the implementation of
10 laws, regulations, and executive branch policies re-
11 lated to efforts to protect the Nation against ter-
12 rorism.

13 (4) REPORTS TO CONGRESS.—Not less fre-
14 quently than annually, the Board shall prepare a re-
15 port to Congress, unclassified to the greatest extent
16 possible (with a classified annex, if necessary), on
17 the Board's major activities during the preceding pe-
18 riod.

19 (d) ACCESS TO INFORMATION.—

20 (1) AUTHORIZATION.—If determined by the
21 Board to be necessary to carry out its responsibil-
22 ities under this section, the Board is authorized, to
23 the extent permitted by law, to—

24 (A) have access from any department or
25 agency of the executive branch, or any Federal

1 officer or employee of any such department or
2 agency, to all relevant records, reports, audits,
3 reviews, documents, papers, recommendations,
4 or other relevant material, including classified
5 information consistent with applicable law;

6 (B) interview or take statements from offi-
7 cers of any department or agency of the execu-
8 tive branch;

9 (C) request information or assistance from
10 any State, tribal, or local government; and

11 (D)(i) request that persons (other than de-
12 partments, agencies, and elements of the execu-
13 tive branch) produce for the Board relevant in-
14 formation, documents, reports, answers,
15 records, accounts, papers, and other documen-
16 tary and testimonial evidence; and

17 (ii) if the person to whom such a request
18 is directed does not comply with the request
19 within 45 days of receipt of such request, notify
20 the Attorney General of such person's failure to
21 comply with such request, which notice shall in-
22 clude all relevant information.

23 (2) PRODUCTION OF INFORMATION AND EVI-
24 DENCE.—

1 (A) EXPLANATION OF NONCOMPLIANCE.—

2 Upon receiving notification under paragraph
3 (1)(D)(ii) regarding a request, the Attorney
4 General shall provide an opportunity for the
5 person subject to the request to explain the rea-
6 sons for not complying with the request.

7 (B) ACTION BY ATTORNEY GENERAL.—

8 Upon receiving notification under paragraph
9 (1)(D)(ii) regarding a request, the Attorney
10 General shall review the request and may take
11 such steps as appropriate to ensure compliance
12 with the request for the information, docu-
13 ments, reports, answers, records, accounts, pa-
14 pers, and other documentary and testimonial
15 evidence covered by the request.

16 (3) AGENCY COOPERATION.—Whenever infor-
17 mation or assistance requested under subparagraph
18 (A) or (B) of paragraph (1) is, in the judgment of
19 the Board, unreasonably refused or not provided, the
20 Board shall report the circumstances to the head of
21 the department or agency concerned without delay.
22 If the requested information or assistance may be
23 provided to the Board in accordance with applicable
24 law, the head of the department or agency concerned
25 shall ensure compliance with such request.

1 (4) EXCEPTIONS FOR NATIONAL SECURITY.—

2 (A) IN GENERAL.—If the National Intel-
3 ligence Director, in consultation with the Attor-
4 ney General, determines that it is necessary to
5 withhold information requested under para-
6 graph (3) to protect the national security inter-
7 ests of the United States, the head of the de-
8 partment or agency concerned shall not furnish
9 such information to the Board.

10 (B) CERTAIN INFORMATION.—If the Attor-
11 ney General determines that it is necessary to
12 withhold information requested under para-
13 graph (3) from disclosure to protect sensitive
14 law enforcement or counterterrorism informa-
15 tion or ongoing operations, the head of the de-
16 partment or agency concerned shall not furnish
17 such information to the Board.

18 (e) MEMBERSHIP.—

19 (1) MEMBERS.—

20 (A) IN GENERAL.—The Board shall be
21 composed of a chairman, a vice chairman, and
22 three additional members appointed by the
23 President.

24 (B) CHAIRMAN AND VICE CHAIRMAN.—The
25 chairman and vice chairman shall each be ap-

1 pointed by the President, by and with the ad-
2 vice and consent of the Senate.

3 (C) APPOINTMENT REQUIREMENTS.—Any
4 individual appointed to the Board shall be ap-
5 pointed from among trustworthy and distin-
6 guished citizens outside the Federal Govern-
7 ment who are qualified on the basis of achieve-
8 ment, experience, and independence.

9 (D) FULL-TIME SERVICE OF CHAIRMAN.—
10 The chairman may serve on a full-time basis.

11 (E) SERVICE AT PLEASURE OF PRESI-
12 DENT.—The chairman, vice chairman, and
13 other members of the Board shall each serve at
14 the pleasure of the President.

15 (2) INCOMPATIBLE OFFICE.—An individual ap-
16 pointed to the Board may not, while serving on the
17 Board, be an elected official, officer, or employee of
18 the Federal Government, other than in the capacity
19 as a member of the Board.

20 (3) QUORUM AND MEETINGS.—The Board shall
21 meet upon the call of the chairman or a majority of
22 its members. Three members of the Board shall con-
23 stitute a quorum.

24 (f) COMPENSATION AND TRAVEL EXPENSES.—

25 (1) COMPENSATION.—

1 (A) CHAIRMAN ON FULL-TIME BASIS.—If
2 the chairman serves on a full-time basis, the
3 rate of pay for the chairman shall be the annual
4 rate of basic pay in effect for a position at level
5 III of the Executive Schedule under section
6 5314 of title 5, United States Code.

7 (B) CHAIRMAN AND VICE CHAIRMAN ON
8 PART-TIME BASIS.—The chairman, if serving on
9 a part-time basis, and the vice chairman shall
10 be compensated at a rate equal to the daily
11 equivalent of the annual rate of basic pay in ef-
12 fect for a position at level III of the Executive
13 Schedule under section 5314 of title 5, United
14 States Code, for each day during which the
15 such official is engaged in the actual perform-
16 ance of the duties of the Board.

17 (C) MEMBERS.—Each member of the
18 Board shall be compensated at a rate equal to
19 the daily equivalent of the annual rate of basic
20 pay in effect for a position at level IV of the
21 Executive Schedule under section 5315 of title
22 5, United States Code, for each day during
23 which that member is engaged in the actual
24 performance of the duties of the Board.

1 (2) TRAVEL EXPENSES.—Members of the
2 Board shall be allowed travel expenses, including per
3 diem in lieu of subsistence, at rates authorized for
4 persons employed intermittently by the Federal Gov-
5 ernment under section 5703(b) of title 5, United
6 States Code, while away from their homes or regular
7 places of business in the performance of services for
8 the Board.

9 (g) STAFF.—

10 (1) APPOINTMENT AND COMPENSATION.—The
11 chairman, in accordance with rules agreed upon by
12 the Board, shall appoint and fix the compensation of
13 an executive director and such other personnel as
14 may be necessary to enable the Board to carry out
15 its functions, without regard to the provisions of
16 title 5, United States Code, governing appointments
17 in the competitive service, and without regard to the
18 provisions of chapter 51 and subchapter III of chap-
19 ter 53 of such title relating to classification and
20 General Schedule pay rates, except that no rate of
21 pay fixed under this subsection may exceed the
22 equivalent of that payable for a position at level V
23 of the Executive Schedule under section 5316 of title
24 5, United States Code.

1 (2) DETAILEES.—Federal employees may be
2 detailed to the Board without reimbursement from
3 the Board, and such detailee shall retain the rights,
4 status, and privileges of the detailee’s regular em-
5 ployment without interruption.

6 (3) CONSULTANT SERVICES.—The Board may
7 procure the temporary or intermittent services of ex-
8 perts and consultants in accordance with section
9 3109 of title 5, United States Code, at rates that do
10 not exceed the daily rate paid a person occupying a
11 position at level IV of the Executive Schedule under
12 section 5315 of such title.

13 (h) SECURITY CLEARANCES.—The appropriate de-
14 partments and agencies of the executive branch shall co-
15 operate with the Board to expeditiously provide Board
16 members and staff with appropriate security clearances to
17 the extent possible under applicable procedures and re-
18 quirements. Promptly upon commencing its work, the
19 Board shall adopt, after consultation with the Secretary
20 of Defense, the Attorney General, and the National Intel-
21 ligence Director, rules and procedures of the Board for
22 physical, communications, computer, document, personnel,
23 and other security in relation to the work of the Board.

24 (i) APPLICABILITY OF CERTAIN LAWS.—

1 (1) FEDERAL ADVISORY COMMITTEE ACT.—The
2 Federal Advisory Committee Act (5 U.S.C. App.)
3 shall not apply with respect to the Board and its ac-
4 tivities.

5 (2) FREEDOM OF INFORMATION ACT.—For pur-
6 poses of the Freedom of Information Act, the Board
7 shall be treated as an agency (as that term is de-
8 fined in section 551(1) of title 5, United States
9 Code).

10 (j) CONSTRUCTION.—Except as otherwise provided in
11 this section, nothing in this section shall be construed to
12 require any consultation with the Board by any depart-
13 ment or agency of the executive branch or any Federal
14 officer or employee, or any waiting period that must be
15 observed by any department or agency of the executive
16 branch or any Federal officer or employee, before devel-
17 oping, proposing, or implementing any legislation, law,
18 regulation, policy, or guideline related to efforts to protect
19 the Nation from terrorism.

20 (k) PRESIDENTIAL RESPONSIBILITY.—The Board
21 shall perform its functions within the executive branch and
22 under the general supervision of the President.

23 (l) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as may be
25 necessary to carry out this section.

1 **SEC. 1062. SENSE OF CONGRESS ON DESIGNATION OF PRI-**
2 **VACY AND CIVIL LIBERTIES OFFICERS.**

3 It is the sense of Congress that each executive depart-
4 ment or agency with law enforcement or antiterrorism
5 functions should designate a privacy and civil liberties offi-
6 cer.

7 **Subtitle G—Conforming and Other**
8 **Amendments**

9 **SEC. 1071. CONFORMING AMENDMENTS RELATING TO**
10 **ROLES OF DIRECTOR OF NATIONAL INTEL-**
11 **LIGENCE AND DIRECTOR OF THE CENTRAL**
12 **INTELLIGENCE AGENCY.**

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

18 (A) Section 101(h)(2)(A) (50 U.S.C.
19 402(h)(2)(A)).

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

21 (C) Section 101(i)(2)(A) (50 U.S.C.
22 402(i)(2)(A)).

23 (D) Section 101(j) (50 U.S.C. 402(j)).

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

25 (F) Section 105(b)(6)(A) (50 U.S.C. 403–
26 5(b)(6)(A)).

- 1 (G) Section 105B(a)(1) (50 U.S.C. 403–
2 5b(a)(1)).
- 3 (H) Section 105B(b) (50 U.S.C. 403–5b(b)),
4 the first place it appears.
- 5 (I) Section 110(b) (50 U.S.C. 404e(b)).
- 6 (J) Section 110(c) (50 U.S.C. 404e(c)).
- 7 (K) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).
- 8 (L) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).
- 9 (M) Section 113(b)(2)(A) (50 U.S.C.
10 404h(b)(2)(A)).
- 11 (N) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
- 12 (O) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
- 13 (P) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
- 14 (Q) Section 115(b) (50 U.S.C. 404j(b)).
- 15 (R) Section 115(c)(1)(B) (50 U.S.C.
16 404j(c)(1)(B)).
- 17 (S) Section 116(a) (50 U.S.C. 404k(a)).
- 18 (T) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
- 19 (U) Section 303(a) (50 U.S.C. 405(a)), both
20 places it appears.
- 21 (V) Section 501(d) (50 U.S.C. 413(d)).
- 22 (W) Section 502(a) (50 U.S.C. 413a(a)).
- 23 (X) Section 502(c) (50 U.S.C. 413a(c)).
- 24 (Y) Section 503(b) (50 U.S.C. 413b(b)).

- 1 (Z) Section 504(a)(3)(C) (50 U.S.C.
2 414(a)(3)(C)).
- 3 (AA) Section 504(d)(2) (50 U.S.C. 414(d)(2)).
- 4 (BB) Section 506A(a)(1) (50 U.S.C. 415a-
5 1(a)(1)).
- 6 (CC) Section 603(a) (50 U.S.C. 423(a)).
- 7 (DD) Section 702(a)(1) (50 U.S.C. 432(a)(1)).
- 8 (EE) Section 702(a)(6)(B)(viii) (50 U.S.C.
9 432(a)(6)(B)(viii)).
- 10 (FF) Section 702(b)(1) (50 U.S.C. 432(b)(1)),
11 both places it appears.
- 12 (GG) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).
- 13 (HH) Section 703(a)(6)(B)(viii) (50 U.S.C.
14 432a(a)(6)(B)(viii)).
- 15 (II) Section 703(b)(1) (50 U.S.C. 432a(b)(1)),
16 both places it appears.
- 17 (JJ) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).
- 18 (KK) Section 704(f)(2)(H) (50 U.S.C.
19 432b(f)(2)(H)).
- 20 (LL) Section 704(g)(1) (50 U.S.C.
21 432b(g)(1)), both places it appears.
- 22 (MM) Section 1001(a) (50 U.S.C. 441g(a)).
- 23 (NN) Section 1102(a)(1) (50 U.S.C.
24 442a(a)(1)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 tral Intelligence” and inserting “Director of National In-
2 telligence”.

3 (g) INTELLIGENCE AUTHORIZATION ACTS.—

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

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

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

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

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

24 (i) Section 904(e)(4) (50 U.S.C.
25 402c(e)(4)).

1 (ii) Section 904(e)(5) (50 U.S.C.
2 402c(e)(5)).

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

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

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

13 (D) Section 352(b) of that Act (50 U.S.C. 404-
14 3 note) is amended by striking “Director” and in-
15 serting “Director of National Intelligence”.

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

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

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

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

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

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

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

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

5 (B) Section 319(f)(2) of that Act (50 U.S.C.
6 403 note) is amended by striking “Director” the
7 first place it appears and inserting “Director of Na-
8 tional Intelligence”.

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

13 **SEC. 1072. OTHER CONFORMING AMENDMENTS**

14 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section
15 101(j) of the National Security Act of 1947 (50 U.S.C.
16 402(j)) is amended by striking “Deputy Director of Cen-
17 tral Intelligence” and inserting “Principal Deputy Direc-
18 tor of National Intelligence”.

19 (2) Section 105(a) of that Act (50 U.S.C. 403–5(a))
20 is amended by striking “The Secretary” in the matter pre-
21 ceding paragraph (1) and inserting “Consistent with sec-
22 tions 102 and 102A, the Secretary”.

23 (3) Section 105(b) of that Act (50 U.S.C. 403–5(b))
24 is amended by striking “103 and 104” in the matter pre-
25 ceding paragraph (1) and inserting “102 and 102A”.

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

4 (5) Section 116(b) of that Act (50 U.S.C. 404k(b))
5 is amended by striking “to the Deputy Director of Central
6 Intelligence, or with respect to employees of the Central
7 Intelligence Agency, the Director may delegate such au-
8 thority to the Deputy Director for Operations” and insert-
9 ing “to the Principal Deputy Director of National Intel-
10 ligence, or with respect to employees of the Central Intel-
11 ligence Agency, to the Director of the Central Intelligence
12 Agency”.

13 (6) Section 506A(b)(1) of that Act (50 U.S.C. 415a-
14 1(b)(1)) is amended by striking “Office of the Deputy Di-
15 rector of Central Intelligence” and inserting “Office of the
16 Director of National Intelligence”.

17 (7) Section 701(c)(3) of that Act (50 U.S.C.
18 431(c)(3)) is amended by striking “Office of the Director
19 of Central Intelligence” and inserting “Office of the Direc-
20 tor of National Intelligence”.

21 (8) Section 1001(b) of that Act (50 U.S.C. 441g(b))
22 is amended by striking “Assistant Director of Central In-
23 telligence for Administration” and inserting “Office of the
24 Director of National Intelligence”.

1 (b) CENTRAL INTELLIGENCE ACT OF 1949.—Section
2 6 of the Central Intelligence Agency Act of 1949 (50
3 U.S.C. 403g) is amended by striking “section 103(c)(7)
4 of the National Security Act of 1947 (50 U.S.C. 403–
5 3(c)(7))” and inserting “section 102A(i) of the National
6 Security Act of 1947”.

7 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
8 ACT.—Section 201(e) of the Central Intelligence Agency
9 Retirement Act (50 U.S.C. 2011(e)) is amended by strik-
10 ing “paragraph (6) of section 103(c) of the National Secu-
11 rity Act of 1947 (50 U.S.C. 403–3(c)) that the Director
12 of Central Intelligence” and inserting “section 102A(i) of
13 the National Security Act of 1947 (50 U.S.C. 403–
14 3(c)(1)) that the Director of National Intelligence”.

15 (d) INTELLIGENCE AUTHORIZATION ACTS.—

16 (1) PUBLIC LAW 107–306.—(A) Section 343(c)
17 of the Intelligence Authorization Act for Fiscal Year
18 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is
19 amended by striking “section 103(c)(6) of the Na-
20 tional Security Act of 1947 (50 U.S.C. 403–
21 3((c)(6))” and inserting “section 102A(i) of the Na-
22 tional Security Act of 1947 (50 U.S.C. 403–
23 3(c)(1))”.

24 (B)(i) Section 902 of that Act (also known as
25 the Counterintelligence Enhancements Act of 2002)

1 (50 U.S.C. 402b) is amended by striking “Presi-
2 dent” each place it appears and inserting “Director
3 of National Intelligence”.

4 (ii) Section 902(a)(2) of that Act is amended by
5 striking “Director of Central Intelligence” and in-
6 serting “Director of the Central Intelligence Agen-
7 cy”.

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

10 (i) in subsection (c), by striking “Office of
11 the Director of Central Intelligence” and insert-
12 ing “Office of the Director of National Intel-
13 ligence”; and

14 (ii) in subsection (l), by striking “Office of
15 the Director of Central Intelligence” and insert-
16 ing “Office of the Director of National Intel-
17 ligence”.

18 (2) PUBLIC LAW 108–177.—(A) Section 317 of
19 the Intelligence Authorization Act for Fiscal Year
20 2004 (Public Law 108–177; 50 U.S.C. 403–3 note)
21 is amended—

22 (i) in subsection (g), by striking “Assistant
23 Director of Central Intelligence for Analysis
24 and Production” and inserting “Deputy Direc-
25 tor of National Intelligence”; and

1 (ii) in subsection (h)(2)(C), by striking
2 “Assistant Director” and inserting “Deputy Di-
3 rector of National Intelligence”.

4 (B) Section 318(e) of that Act (50 U.S.C. 441g
5 note) is amended by striking “Assistant Director of
6 Central Intelligence for Analysis and Production”
7 and inserting “Deputy Director of National Intel-
8 ligence”.

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

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

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

16 “(A) The Office of the Director of Na-
17 tional Intelligence.

18 “(B) The Central Intelligence Agency.

19 “(C) The National Security Agency.

20 “(D) The Defense Intelligence Agency.

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

23 “(F) The National Reconnaissance Office.

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

1 tional intelligence through reconnaissance pro-
2 grams.

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

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

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

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

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

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

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

7 (b) CONFORMING AMENDMENTS.—(1)(A) Section
8 506 of the National Security Act of 1947 (50 U.S.C.
9 415a) is amended—

10 (i) in subsection (a), by striking “National For-

11 eign Intelligence Program” and inserting “National

12 Intelligence Program”; and

13 (ii) in the section heading, by striking “FOR-

14 EIGN”.

15 (B) Section 105 of that Act (50 U.S.C. 403–5) is

16 amended—

17 (i) in paragraphs (2) and (3) of subsection (a),

18 by striking “National Foreign Intelligence Program”

19 and inserting “National Intelligence Program”; and

20 (ii) in the section heading, by striking “FOR-

21 EIGN”.

22 (2) Section 17(f) of the Central Intelligence Agency

23 Act of 1949 (50 U.S.C. 403q(f)) is amended by striking

24 “National Foreign Intelligence Program” and inserting

25 “National Intelligence Program”.

1 **SEC. 1075. REPEAL OF SUPERSEDED AUTHORITY.**

2 Section 111 of the National Security Act of 1947 (50
3 U.S.C. 404f) is repealed.

4 **SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECUR-**
5 **RITY ACT OF 1947.**

6 The table of contents in the first section of the Na-
7 tional Security Act of 1947 is amended—

8 (1) by striking the items relating to sections
9 102 through 105 and inserting the following new
10 items:

- “Sec. 101A. Joint Intelligence Community Council.
- “Sec. 102. Director of National Intelligence.
- “Sec. 102A. Responsibilities and authorities of the Director of National Intelligence.
- “Sec. 103. Office of the Director of National Intelligence.
- “Sec. 103A. Deputy Directors of National Intelligence.
- “Sec. 103B. National Intelligence Council.
- “Sec. 103C. General Counsel.
- “Sec. 103D. Civil Liberties Protection Officer.
- “Sec. 103E. Director of Science and Technology.
- “Sec. 103F. National Counterintelligence Executive.
- “Sec. 104. Central Intelligence Agency.
- “Sec. 104A. Director of the Central Intelligence Agency.
- “Sec. 105. Responsibilities of the Secretary of Defense pertaining to the National Intelligence Program.”;

11 (2) by striking the item relating to section 111;

12 (3) by striking the item relating to section 114

13 and inserting the following new item:

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

14 (4) by inserting after the item relating to sec-

15 tion 118 the following new items:

- “Sec. 119. National Counterterrorism Center.
- “Sec. 119A. National Counter Proliferation Center.
- “Sec. 119B. National intelligence centers.

1 (5) by striking the item relating to section 506
2 and inserting the following new item:

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

3 and

4 (6) by inserting after the item relating to sec-
5 tion 1001 the following new items:

“Sec. 1002. Framework for cross-disciplinary education and training.
“Sec. 1003. Intelligence Community Scholarship Program.”.

6 **SEC. 1077. CONFORMING AMENDMENTS RELATING TO PRO-**
7 **HIBITING DUAL SERVICE OF THE DIRECTOR**
8 **OF THE CENTRAL INTELLIGENCE AGENCY.**

9 Section 1 of the Central Intelligence Agency Act of
10 1949 (50 U.S.C. 403a) is amended—

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

13 (2) by striking paragraph (2), as so redesign-
14 nated, and inserting the following new paragraph
15 (2):

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

1 **SEC. 1078. AUTHORITY TO ESTABLISH INSPECTOR GEN-**
2 **ERAL FOR THE OFFICE OF THE DIRECTOR OF**
3 **NATIONAL INTELLIGENCE.**

4 The Inspector General Act of 1978 (5 U.S.C. App.)
5 is amended by inserting after section 8J the following new
6 section:

7 “AUTHORITY TO ESTABLISH INSPECTOR GENERAL OF
8 THE OFFICE OF THE DIRECTOR OF NATIONAL IN-
9 TELLIGENCE

10 SEC. 8K. If the Director of National Intelligence de-
11 termines that an Office of Inspector General would be ben-
12 eficial to improving the operations and effectiveness of the
13 Office of the Director of National Intelligence, the Direc-
14 tor of National Intelligence is authorized to establish, with
15 any of the duties, responsibilities, and authorities set forth
16 in this Act, an Office of Inspector General.”.

17 **SEC. 1079. ETHICS MATTERS.**

18 (a) POLITICAL SERVICE OF PERSONNEL.—Section
19 7323(b)(2)(B)(i) of title 5, United States Code, is
20 amended—

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

23 (2) by inserting after subclause (XIII) the fol-
24 lowing new subclause:

25 “(XIV) the Office of the Director of Na-
26 tional Intelligence; or”.

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

4 (1) by inserting “(A)” after “(4)”;

5 (2) in subparagraph (A), as so designated, by
6 striking “the Director of Central Intelligence” and
7 inserting “the Director of the Central Intelligence
8 Agency”; and

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

11 “(B) In transmitting such listings for the Office of
12 the Director of National Intelligence, the Director of Na-
13 tional Intelligence may delete the information described in
14 subparagraphs (A) and (C) of paragraphs (2) and (3) if
15 the Director certifies in writing to the Secretary of State
16 that the publication of such information could adversely
17 affect United States intelligence sources.”.

18 (c) EXEMPTION FROM FINANCIAL DISCLOSURES.—
19 Section 105(a)(1) of the Ethics in Government Act (5
20 U.S.C. App.) is amended by inserting “the Office of the
21 Director of National Intelligence,” before “the Central In-
22 telligence Agency”.

1 **SEC. 1080. CONSTRUCTION OF AUTHORITY OF DIRECTOR**
2 **OF NATIONAL INTELLIGENCE TO ACQUIRE**
3 **AND MANAGE PROPERTY AND SERVICES.**

4 Section 113(e) of title 40, United States Code, is
5 amended—

6 (1) in paragraph (18), by striking “or” at the
7 end;

8 (2) in paragraph (19), by striking the period at
9 the end and inserting “; or”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(20) the Office of the Director of National In-
13 telligence.”.

14 **SEC. 1081. GENERAL REFERENCES.**

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

23 (b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
24 OF CIA.—Any reference to the Director of Central Intel-
25 ligence or the Director of the Central Intelligence Agency
26 in the Director’s capacity as the head of the Central Intel-

1 lidence Agency in any law, regulation, document, paper,
2 or other record of the United States shall be deemed to
3 be a reference to the Director of the Central Intelligence
4 Agency.

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

10 **Subtitle H—Transfer, Termination,** 11 **Transition, and Other Provisions**

12 **SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT** 13 **STAFF.**

14 (a) TRANSFER.—There shall be transferred to the
15 Office of the Director of National Intelligence such staff
16 of the Community Management Staff as of the date of
17 the enactment of this Act as the Director of National In-
18 telligence determines to be appropriate, including all func-
19 tions and activities discharged by the Community Manage-
20 ment Staff as of that date.

21 (b) ADMINISTRATION.—The Director of National In-
22 telligence shall administer the Community Management
23 Staff after the date of the enactment of this Act as a com-
24 ponent of the Office of the Director of National Intel-

1 ligence under section 103 of the National Security Act of
2 1947, as amended by section 1011(a) of this Act.

3 **SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRA-**
4 **TION CENTER.**

5 (a) **TRANSFER.**—There shall be transferred to the
6 National Counterterrorism Center the Terrorist Threat
7 Integration Center (TTIC) or its successor entity, includ-
8 ing all functions and activities discharged by the Terrorist
9 Threat Integration Center or its successor entity as of the
10 date of the enactment of this Act.

11 (b) **ADMINISTRATION.**—The Director of the National
12 Counterterrorism Center shall administer the Terrorist
13 Threat Integration Center after the date of the enactment
14 of this Act as a component of the Directorate of Intel-
15 ligence of the National Counterterrorism Center under
16 section 119(i) of the National Security Act of 1947, as
17 added by section 1021(a) of this Act.

18 **SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DI-**
19 **RECTORS OF CENTRAL INTELLIGENCE.**

20 (a) **TERMINATION.**—The positions referred to in sub-
21 section (b) are hereby abolished.

22 (b) **COVERED POSITIONS.**—The positions referred to
23 in this subsection are as follows:

24 (1) The Assistant Director of Central Intel-
25 ligence for Collection.

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

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

5 **SEC. 1094. IMPLEMENTATION PLAN.**

6 The President shall transmit to Congress a plan for
7 the implementation of this title and the amendments made
8 by this title. The plan shall address, at a minimum, the
9 following:

10 (1) The transfer of personnel, assets, and obli-
11 gations to the Director of National Intelligence pur-
12 suant to this title.

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

16 (3) The establishment of offices within the Of-
17 fice of the Director of National Intelligence to imple-
18 ment the duties and responsibilities of the Director
19 of National Intelligence as described in this title.

20 (4) Specification of any proposed disposition of
21 property, facilities, contracts, records, and other as-
22 sets and obligations to be transferred to the Director
23 of National Intelligence.

1 (5) Recommendations for additional legislative
2 or administrative action as the President considers
3 appropriate.

4 **SEC. 1095. DIRECTOR OF NATIONAL INTELLIGENCE RE-**
5 **PORT ON IMPLEMENTATION OF INTEL-**
6 **LIGENCE COMMUNITY REFORM.**

7 (a) REPORT.—Not later than one year after the effec-
8 tive date of this Act, the Director of National Intelligence
9 shall submit to the congressional intelligence committees
10 a report on the progress made in the implementation of
11 this title, including the amendments made by this title.
12 The report shall include a comprehensive description of
13 the progress made, and may include such recommenda-
14 tions for additional legislative or administrative action as
15 the Director considers appropriate.

16 (b) CONGRESSIONAL INTELLIGENCE COMMITTEES
17 DEFINED.—In this section, the term “congressional intel-
18 ligence committees” means—

19 (1) the Select Committee on Intelligence of the
20 Senate; and

21 (2) the Permanent Select Committee on Intel-
22 ligence of the House of Representatives.

23 **SEC. 1096. TRANSITIONAL AUTHORITIES.**

24 (a) IN GENERAL.—Upon the request of the Director
25 of National Intelligence, the head of any executive agency

1 may, on a reimbursable basis, provide services or detail
2 personnel to the Director of National Intelligence.

3 (b) **TRANSFER OF PERSONNEL.**—In addition to any
4 other authorities available under law for such purposes,
5 in the fiscal year after the effective date of this Act, the
6 Director of National Intelligence—

7 (1) is authorized within the Office of the Direc-
8 tor of National Intelligence 500 new personnel bil-
9 lets; and

10 (2) with the approval of the Director of the Of-
11 fice of Management and Budget, may detail not
12 more than 150 personnel funded within the National
13 Intelligence Program to the Office of the Director of
14 National Intelligence for a period of not more than
15 2 years.

16 **SEC. 1097. EFFECTIVE DATES.**

17 (a) **IN GENERAL.**—Except as otherwise expressly
18 provided in this Act, this title and the amendments made
19 by this title shall take effect not later than six months
20 after the date of the enactment of this Act.

21 (b) **SPECIFIC EFFECTIVE DATES.**—(1)(A) Not later
22 than 60 days after the date of the appointment of the first
23 Director of National Intelligence, the Director of National
24 Intelligence shall first appoint individuals to positions
25 within the Office of the Director of National Intelligence.

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

3 (2) Not later than 180 days after the effective date
4 of this Act, the President shall transmit to Congress the
5 implementation plan required by section 1094.

6 (3) Not later than one year after the date of the en-
7 actment of this Act, the Director of National Intelligence
8 shall prescribe regulations, policies, procedures, standards,
9 and guidelines required under section 102A of the Na-
10 tional Security Act of 1947, as amended by section
11 1011(a) of this Act.

12 **Subtitle I—Other Matters**

13 **SEC. 1101. STUDY OF PROMOTION AND PROFESSIONAL** 14 **MILITARY EDUCATION SCHOOL SELECTION** 15 **RATES FOR MILITARY INTELLIGENCE OFFI-** 16 **CERS.**

17 (a) STUDY.—The Secretary of Defense shall conduct
18 a study of the promotion selection rates, and the selection
19 rates for attendance at professional military education
20 schools, of intelligence officers of the Armed Forces, par-
21 ticularly in comparison to the rates for other officers of
22 the same Armed Force who are in the same grade and
23 competitive category.

24 (b) REPORT.—The Secretary shall submit to the
25 Committees on Armed Services of the Senate and House

1 of Representatives a report providing the Secretary's find-
2 ings resulting from the study under subsection (a) and the
3 Secretary's recommendations (if any) for such changes in
4 law as the Secretary considers needed to ensure that intel-
5 ligence officers, as a group, are selected for promotion,
6 and for attendance at professional military education
7 schools, at rates not less than the rates for all line (or
8 the equivalent) officers of the same Armed Force (both
9 in the zone and below the zone) in the same grade. The
10 report shall be submitted not later than April 1, 2005.

11 **SEC. 1102. EXTENSION AND IMPROVEMENT OF AUTHORI-**
12 **TIES OF PUBLIC INTEREST DECLASSIFICA-**
13 **TION BOARD.**

14 (a) **DIRECTION.**—Section 703(a) of the Public Inter-
15 est Declassification Act of 2000 (title VII of Public Law
16 106–567; 114 Stat. 2856; 50 U.S.C. 435 note) is
17 amended—

18 (1) by inserting “(1)” after “ESTABLISH-
19 MENT.—”; and

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

22 “(2) The Board shall report directly to the President
23 or, upon designation by the President, the Vice President,
24 the Attorney General, or other designee of the President.
25 The other designee of the President under this paragraph

1 may not be an agency head or official authorized to clas-
2 sify information under Executive Order 12958, or any suc-
3 cessor order.”.

4 (b) PURPOSES.—Section 703(b) of that Act (114
5 Stat. 2856) is amended by adding at the end the following
6 new paragraph:

7 “(5) To review and make recommendations to
8 the President in a timely manner with respect to any
9 congressional request, made by the committee of ju-
10 risdiction, to declassify certain records or to recon-
11 sider a declination to declassify specific records.”.

12 (c) RECOMMENDATIONS ON SPECIAL SEARCHES.—
13 Section 704(c)(2)(A) of that Act (114 Stat. 2860) is
14 amended by inserting before the period the following: “,
15 and also including specific requests for the declassification
16 of certain records or for the reconsideration of declinations
17 to declassify specific records”.

18 (d) DECLASSIFICATION REVIEWS.—Section 704 of
19 that Act (114 Stat. 2859) is further amended by adding
20 at the end the following new subsection:

21 “(e) DECLASSIFICATION REVIEWS.—If requested by
22 the President, the Board shall review in a timely manner
23 certain records or declinations to declassify specific
24 records, the declassification of which has been the subject

1 of specific congressional request described in section
2 703(b)(5).”.

3 (e) NOTIFICATION OF REVIEW.—Section 706 of that
4 Act (114 Stat. 2861) is amended by adding at the end
5 the following new subsection:

6 “(f) NOTIFICATION OF REVIEW.—In response to a
7 specific congressional request for declassification review
8 described in section 703(b)(5), the Board shall advise the
9 originators of the request in a timely manner whether the
10 Board intends to conduct such review.”.

11 (f) EXTENSION.—Section 710(b) of that Act (114
12 Stat. 2864) is amended by striking “4 years” and insert-
13 ing “8 years”.

14 **SEC. 1103. SEVERABILITY.**

15 If any provision of this Act, or an amendment made
16 by this Act, or the application of such provision to any
17 person or circumstance is held invalid, the remainder of
18 this Act, or the application of such provision to persons
19 or circumstances other those to which such provision is
20 held invalid shall not be affected thereby.

1 **TITLE II—FEDERAL BUREAU OF**
2 **INVESTIGATION**

3 **SEC. 2001. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**
4 **OF THE FEDERAL BUREAU OF INVESTIGA-**
5 **TION.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) The National Commission on Terrorist At-
9 tacks Upon the United States in its final report
10 stated that, under Director Robert Mueller, the Fed-
11 eral Bureau of Investigation has made significant
12 progress in improving its intelligence capabilities.

13 (2) In the report, the members of the Commis-
14 sion also urged that the Federal Bureau of Inves-
15 tigation fully institutionalize the shift of the Bureau
16 to a preventive counterterrorism posture.

17 (b) IMPROVEMENT OF INTELLIGENCE CAPABILI-
18 TIES.—The Director of the Federal Bureau of Investiga-
19 tion shall continue efforts to improve the intelligence capa-
20 bilities of the Federal Bureau of Investigation and to de-
21 velop and maintain within the Bureau a national intel-
22 ligence workforce.

23 (c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In
24 developing and maintaining a national intelligence work-
25 force under subsection (b), the Director of the Federal Bu-

1 reau of Investigation shall, develop and maintain a special-
2 ized and integrated national intelligence workforce con-
3 sisting of agents, analysts, linguists, and surveillance spe-
4 cialists who are recruited, trained, and rewarded in a man-
5 ner which ensures the existence within the Federal Bureau
6 of Investigation an institutional culture with substantial
7 expertise in, and commitment to, the intelligence mission
8 of the Bureau.

9 (2) Each agent employed by the Bureau after the
10 date of the enactment of this Act shall receive basic train-
11 ing in both criminal justice matters and national intel-
12 ligence matters.

13 (3) Each agent employed by the Bureau after the
14 date of the enactment of this Act shall, to the maximum
15 extent practicable, be given the opportunity to undergo,
16 during such agent's early service with the Bureau, mean-
17 ingful assignments in criminal justice matters and in na-
18 tional intelligence matters.

19 (4) The Director shall—

20 (A) establish career positions in national intel-
21 ligence matters for agents, analysts, and related per-
22 sonnel of the Bureau; and

23 (B) in furtherance of the requirement under
24 subparagraph (A) and to the maximum extent prac-
25 ticable, afford agents, analysts, and related per-

1 sonnel of the Bureau the opportunity to work in the
2 career specialty selected by such agents, analysts,
3 and related personnel over their entire career with
4 the Bureau.

5 (5) The Director shall carry out a program to en-
6 hance the capacity of the Bureau to recruit and retain
7 individuals with backgrounds in intelligence, international
8 relations, language, technology, and other skills relevant
9 to the intelligence mission of the Bureau.

10 (6) The Director shall, to the maximum extent prac-
11 ticable, afford the analysts of the Bureau training and ca-
12 reer opportunities commensurate with the training and ca-
13 reer opportunities afforded analysts in other elements of
14 the intelligence community.

15 (7) Commencing as soon as practicable after the date
16 of the enactment of this Act, each direct supervisor of a
17 Field Intelligence Group, and each Bureau Operational
18 Manager at the Section Chief and Assistant Special Agent
19 in Charge (ASAC) level and above, shall be a certified in-
20 telligence officer.

21 (8) The Director shall, to the maximum extent prac-
22 ticable, ensure that the successful discharge of advanced
23 training courses, and of one or more assignments to an-
24 other element of the intelligence community, is a pre-

1 condition to advancement to higher level intelligence as-
2 signments within the Bureau.

3 (d) FIELD OFFICE MATTERS.—(1) In improving the
4 intelligence capabilities of the Federal Bureau of Inves-
5 tigation under subsection (b), the Director of the Federal
6 Bureau of Investigation shall ensure that each Field Intel-
7 ligence Group reports directly to a field office senior man-
8 ager responsible for intelligence matters.

9 (2) The Director shall provide for such expansion of
10 the secure facilities in the field offices of the Bureau as
11 is necessary to ensure the discharge by the field offices
12 of the intelligence mission of the Bureau.

13 (3) The Director shall require that each Field Intel-
14 ligence Group manager ensures the integration of ana-
15 lysts, agents, linguists, and surveillance personnel in the
16 field.

17 (e) DISCHARGE OF IMPROVEMENTS.—(1) The Direc-
18 tor of the Federal Bureau of Investigation shall carry out
19 subsections (b) through (d) through the head of the Direc-
20 torate of Intelligence of the Federal Bureau of Investiga-
21 tion.

22 (2) The Director of the Federal Bureau of Investiga-
23 tion shall carry out subsections (b) through (d) under the
24 joint guidance of the Attorney General and the National

1 Intelligence Director in a manner consistent with section
2 112(e).

3 (f) BUDGET MATTERS.—The Director of the Federal
4 Bureau of Investigation shall, establish a budget structure
5 of the Federal Bureau of Investigation to reflect the four
6 principal missions of the Bureau as follows:

7 (1) Intelligence.

8 (2) Counterterrorism and counterintelligence.

9 (3) Criminal Enterprises/Federal Crimes.

10 (4) Criminal justice services.

11 (g) REPORTS.—(1) Not later than 180 days after the
12 date of the enactment of this Act, the Director of the Fed-
13 eral Bureau of Investigation shall submit to Congress a
14 report on the progress made as of the date of such report
15 in carrying out the requirements of this section.

16 (2) The Director shall include in each annual pro-
17 gram review of the Federal Bureau of Investigation that
18 is submitted to Congress a report on the progress made
19 by each field office of the Bureau during the period cov-
20 ered by such review in addressing Bureau and national
21 program priorities.

22 (3) Not later than 180 days after the date of the en-
23 actment of this Act, and every 12 months thereafter, the
24 Director shall submit to Congress a report assessing the

1 qualifications, status, and roles of analysts at Bureau
2 headquarters and in the field offices of the Bureau.

3 (4) Not later than 180 days after the date of the en-
4 actment of this Act, and every 12 months thereafter, the
5 Director shall submit to Congress a report on the progress
6 of the Bureau in implementing information-sharing prin-
7 ciples.

8 **SEC. 2002. DIRECTORATE OF INTELLIGENCE OF THE FED-**
9 **ERAL BUREAU OF INVESTIGATION.**

10 (a) DIRECTORATE OF INTELLIGENCE OF FEDERAL
11 BUREAU OF INVESTIGATION.—The element of the Federal
12 Bureau of Investigation known as of the date of the enact-
13 ment of this Act as the Office of Intelligence is hereby
14 redesignated as the Directorate of Intelligence of the Fed-
15 eral Bureau of Investigation.

16 (b) HEAD OF DIRECTORATE.—The head of the Di-
17 rectorate of Intelligence shall be the Executive Assistant
18 Director for Intelligence of the Federal Bureau of Inves-
19 tigation.

20 (c) RESPONSIBILITIES.—The Directorate of Intel-
21 ligence shall be responsible for the following:

22 (1) Supervision of all national intelligence pro-
23 grams, projects, and activities of the Bureau.

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

4 (3) The oversight of Bureau field intelligence
5 operations.

6 (4) Coordinating human source development
7 and management by the Bureau.

8 (5) Coordinating collection by the Bureau
9 against nationally-determined intelligence require-
10 ments.

11 (6) Strategic analysis.

12 (7) Intelligence program and budget manage-
13 ment.

14 (8) The intelligence workforce.

15 (9) Any other responsibilities specified by the
16 Director of the Federal Bureau of Investigation or
17 specified by law.

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

1 **SEC. 2003. FEDERAL BUREAU OF INVESTIGATION INTEL-**
2 **LIGENCE CAREER SERVICE.**

3 (a) ESTABLISHMENT OF FEDERAL BUREAU OF IN-
4 VESTIGATION INTELLIGENCE CAREER SERVICE.—The Di-
5 rector of the Federal Bureau of Investigation may—

6 (1) in consultation with the Director of the Of-
7 fice of Personnel Management—

8 (A) establish positions for intelligence ana-
9 lysts, and prescribe standards and procedures
10 for establishing and classifying such positions,
11 without regard to chapter 51 of title 5, United
12 States Code; and

13 (B) fix the rate of basic pay for such posi-
14 tions, without regard to subchapter III of chap-
15 ter 53 of title 5, United States Code, if the rate
16 of pay is not greater than the rate of basic pay
17 payable for level IV of the Executive Schedule;

18 (2) appoint individuals to such positions; and

19 (3) establish a performance management sys-
20 tem for such individuals with at least one level of
21 performance above a retention standard.

22 (b) REPORTING REQUIREMENT.—Not less than 60
23 days before the date of the implementation of authorities
24 authorized under this section, the Director of the Federal
25 Bureau of Investigation shall submit an operating plan de-
26 scribing the Director's intended use of the authorities

1 under this section to the appropriate committees of Con-
2 gress.

3 (c) ANNUAL REPORT.—Not later than December 31,
4 2005, and annually thereafter for 4 years, the Director
5 of the Federal Bureau of Investigation shall submit an an-
6 nual report of the use of the permanent authorities pro-
7 vided under this section during the preceding fiscal year
8 to the appropriate committees of Congress.

9 (d) APPROPRIATE COMMITTEES OF CONGRESS DE-
10 FINED.—In this section, the term “appropriate commit-
11 tees of Congress means”—

12 (1) the Committees on Appropriations, Home-
13 land Security and Governmental Affairs, and the Ju-
14 diciary and the Select Committee on Intelligence of
15 the Senate; and

16 (2) the Committees on Appropriations, Govern-
17 ment Reform, and the Judiciary and the Permanent
18 Select Committee on Intelligence of the House of
19 Representatives.

20 **SEC. 2004. FEDERAL BUREAU OF INVESTIGATION RESERVE**
21 **SERVICE.**

22 (a) IN GENERAL.—Chapter 35 of title 5, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 “SUBCHAPTER VII—RETENTION OF RETIRED
2 SPECIALIZED EMPLOYEES AT THE FED-
3 ERAL BUREAU OF INVESTIGATION

4 “§ 3598. **Federal Bureau of Investigation Reserve**
5 **Service**

6 “(a) ESTABLISHMENT.—The Director of the Federal
7 Bureau of Investigation may provide for the establishment
8 and training of a Federal Bureau of Investigation Reserve
9 Service (hereinafter in this section referred to as the ‘FBI
10 Reserve Service’) for temporary reemployment of employ-
11 ees in the Bureau during periods of emergency, as deter-
12 mined by the Director.

13 “(b) MEMBERSHIP.—Membership in the FBI Re-
14 serve Service shall be limited to individuals who previously
15 served as full-time employees of the Bureau.

16 “(c) ANNUITANTS.—If an individual receiving an an-
17 nuity from the Civil Service Retirement and Disability
18 Fund on the basis of such individual’s service becomes
19 temporarily reemployed pursuant to this section, such an-
20 nuity shall not be discontinued thereby. An individual so
21 reemployed shall not be considered an employee for the
22 purposes of chapter 83 or 84.

23 “(d) NO IMPACT ON BUREAU PERSONNEL CEIL-
24 ING.—FBI Reserve Service members reemployed on a

1 temporary basis pursuant to this section shall not count
2 against any personnel ceiling applicable to the Bureau.

3 “(e) EXPENSES.—The Director may provide mem-
4 bers of the FBI Reserve Service transportation and per
5 diem in lieu of subsistence, in accordance with applicable
6 provisions of this title, for the purpose of participating in
7 any training that relates to service as a member of the
8 FBI Reserve Service.

9 “(f) LIMITATION ON MEMBERSHIP.—Membership of
10 the FBI Reserve Service is not to exceed 500 members
11 at any given time.

12 “(g) LIMITATION ON DURATION OF SERVICE.—An
13 individual may not be reemployed under this section for
14 more than 180 days in connection with any particular
15 emergency unless, in the judgment of the Director, the
16 public interest so requires.”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
18 ter 35 of title 5, United States Code, is amended by add-
19 ing at the end the following:

“SUBCHAPTER VII--RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE
FEDERAL BUREAU OF INVESTIGATION

“3598. Federal Bureau of Investigation Reserve Service.”.

20 **SEC. 2005. FEDERAL BUREAU OF INVESTIGATION MANDA-**
21 **TORY SEPARATION AGE.**

22 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section
23 8335(b) of title 5, United States Code, is amended—

1 (1) by striking “(b)” and inserting “(b)(1)”;

2 and

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

4 “(2) In the case of employees of the Federal
5 Bureau of Investigation, the second sentence of
6 paragraph (1) shall be applied by substituting ‘65
7 years of age’ for ‘60 years of age’. The Federal Bu-
8 reau of Investigation may not grant more than 50
9 exemptions in any fiscal year in accordance with the
10 preceding sentence, and the authority to grant such
11 exemptions shall cease to be available after Sep-
12 tember 30, 2007.”.

13 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—
14 Section 8425(b) of title 5, United States Code, is
15 amended—

16 (1) by striking “(b)” and inserting “(b)(1)”;

17 and

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

19 “(2) In the case of employees of the Federal
20 Bureau of Investigation, the second sentence of
21 paragraph (1) shall be applied by substituting ‘65
22 years of age’ for ‘60 years of age’. The Federal Bu-
23 reau of Investigation may not grant more than 50
24 exemptions in any fiscal year in accordance with the
25 preceding sentence, and the authority to grant such

1 exemptions shall cease to be available after Sep-
2 tember 30, 2007.”.

3 **SEC. 2006. FEDERAL BUREAU OF INVESTIGATION USE OF**
4 **TRANSLATORS.**

5 Not later than 30 days after the date of the enact-
6 ment of this Act, and annually thereafter, the Attorney
7 General of the United States shall submit to the Com-
8 mittee on the Judiciary of the Senate and the Committee
9 on the Judiciary of the House of Representatives a report
10 that contains, with respect to each preceding 12-month
11 period—

12 (1) the number of translators employed, or con-
13 tracted for, by the Federal Bureau of Investigation
14 or other components of the Department of Justice;

15 (2) any legal or practical impediments to using
16 translators employed by the Federal, State, or local
17 agencies on a full-time, part-time, or shared basis;

18 (3) the needs of the Federal Bureau of Inves-
19 tigation for the specific translation services in cer-
20 tain languages, and recommendations for meeting
21 those needs;

22 (4) the status of any automated statistical re-
23 porting system, including implementation and future
24 viability;

1 (5) the storage capabilities of the digital collec-
2 tion system or systems utilized;

3 (6) a description of the establishment and com-
4 pliance with audio retention policies that satisfy the
5 investigative and intelligence goals of the Federal
6 Bureau of Investigation; and

7 (7) a description of the implementation of qual-
8 ity control procedures and mechanisms for moni-
9 toring compliance with quality control procedures.

10 **TITLE III—SECURITY**
11 **CLEARANCES**

12 **SEC. 3001. SECURITY CLEARANCES.**

13 (a) DEFINITIONS.—In this section:

14 (1) The term “agency” means—

15 (A) an executive agency (as that term is
16 defined in section 105 of title 5, United States
17 Code);

18 (B) a military department (as that term is
19 defined in section 102 of title 5, United States
20 Code); and

21 (C) an element of the intelligence commu-
22 nity.

23 (2) The term “authorized investigative agency”
24 means an agency designated by the head of the
25 agency selected pursuant to subsection (b) to con-

1 duct a counterintelligence investigation or investiga-
2 tion of persons who are proposed for access to classi-
3 fied information to ascertain whether such persons
4 satisfy the criteria for obtaining and retaining access
5 to such information.

6 (3) The term “authorized adjudicative agency”
7 means an agency authorized by law, regulation, or
8 direction of the Director of National Intelligence to
9 determine eligibility for access to classified informa-
10 tion in accordance with Executive Order 12968.

11 (4) The term “highly sensitive program”
12 means—

13 (A) a government program designated as a
14 Special Access Program (as that term is de-
15 fined in section 4.1(h) of Executive Order
16 12958 or any successor Executive order); or

17 (B) a government program that applies re-
18 strictions required for—

19 (i) restricted data (as that term is de-
20 fined in section 11 y. of the Atomic Energy
21 Act of 1954 (42 U.S.C. 2014(y)); or

22 (ii) other information commonly re-
23 ferred to as “sensitive compartmented in-
24 formation”.

1 (5) The term “current investigation file”
2 means, with respect to a security clearance, a file on
3 an investigation or adjudication that has been con-
4 ducted during—

5 (A) the 5-year period beginning on the
6 date the security clearance was granted, in the
7 case of a Top Secret Clearance, or the date ac-
8 cess was granted to a highly sensitive program;

9 (B) the 10-year period beginning on the
10 date the security clearance was granted in the
11 case of a Secret Clearance; and

12 (C) the 15-year period beginning on the
13 date the security clearance was granted in the
14 case of a Confidential Clearance.

15 (6) The term “personnel security investigation”
16 means any investigation required for the purpose of
17 determining the eligibility of any military, civilian, or
18 government contractor personnel to access classified
19 information.

20 (7) The term “periodic reinvestigations” means
21 investigations conducted for the purpose of updating
22 a previously completed background investigation—

23 (A) every 5 years in the case of a top se-
24 cret clearance or access to a highly sensitive
25 program;

1 (B) every 10 years in the case of a secret
2 clearance; or

3 (C) every 15 years in the case of a Con-
4 fidential Clearance.

5 (8) The term “appropriate committees of Con-
6 gress” means—

7 (A) the Permanent Select Committee on
8 Intelligence and the Committees on Armed
9 Services, Homeland Security, Government Re-
10 form, and the Judiciary of the House of Rep-
11 resentatives; and

12 (B) the Select Committee on Intelligence
13 and the Committees on Armed Services, Home-
14 land Security and Governmental Affairs, and
15 the Judiciary of the Senate.

16 (b) SELECTION OF ENTITY.—Not later than 90 days
17 after the date of the enactment of this Act, the President
18 shall select a single department, agency, or element of the
19 executive branch to be responsible for—

20 (1) directing day-to-day oversight of investiga-
21 tions and adjudications for personnel security clear-
22 ances, including for highly sensitive programs,
23 throughout the United States Government;

24 (2) developing and implementing uniform and
25 consistent policies and procedures to ensure the ef-

1 fective, efficient, and timely completion of security
2 clearances and determinations for access to highly
3 sensitive programs, including the standardization of
4 security questionnaires, financial disclosure require-
5 ments for security clearance applicants, and poly-
6 graph policies and procedures;

7 (3) serving as the final authority to designate
8 an authorized investigative agency or authorized ad-
9 judicative agency;

10 (4) ensuring reciprocal recognition of access to
11 classified information among the agencies of the
12 United States Government, including acting as the
13 final authority to arbitrate and resolve disputes in-
14 volving the reciprocity of security clearances and ac-
15 cess to highly sensitive programs pursuant to sub-
16 section (d);

17 (5) ensuring, to the maximum extent prac-
18 ticable, that sufficient resources are available in each
19 agency to achieve clearance and investigative pro-
20 gram goals; and

21 (6) reviewing and coordinating the development
22 of tools and techniques for enhancing the conduct of
23 investigations and granting of clearances.

24 (c) PERFORMANCE OF SECURITY CLEARANCE INVES-
25 TIGATIONS.—(1) Notwithstanding any other provision of

1 law, not later than 180 days after the date of the enact-
2 ment of this Act, the President shall, in consultation with
3 the head of the entity selected pursuant to subsection (b),
4 select a single agency of the executive branch to conduct,
5 to the maximum extent practicable, security clearance in-
6 vestigations of employees and contractor personnel of the
7 United States Government who require access to classified
8 information and to provide and maintain all security clear-
9 ances of such employees and contractor personnel. The
10 head of the entity selected pursuant to subsection (b) may
11 designate other agencies to conduct such investigations if
12 the head of the entity selected pursuant to subsection (b)
13 considers it appropriate for national security and effi-
14 ciency purposes.

15 (2) The agency selected under paragraph (1) shall—

16 (A) take all necessary actions to carry out the
17 requirements of this section, including entering into
18 a memorandum of understanding with any agency
19 carrying out responsibilities relating to security
20 clearances or security clearance investigations before
21 the date of the enactment of this Act;

22 (B) as soon as practicable, integrate reporting
23 of security clearance applications, security clearance
24 investigations, and determinations of eligibility for

1 security clearances, with the database required by
2 subsection (e); and

3 (C) ensure that security clearance investigations
4 are conducted in accordance with uniform standards
5 and requirements established under subsection (b),
6 including uniform security questionnaires and finan-
7 cial disclosure requirements.

8 (d) RECIPROCITY OF SECURITY CLEARANCE AND AC-
9 CESS DETERMINATIONS.—(1) All security clearance back-
10 ground investigations and determinations completed by an
11 authorized investigative agency or authorized adjudicative
12 agency shall be accepted by all agencies.

13 (2) All security clearance background investigations
14 initiated by an authorized investigative agency shall be
15 transferable to any other authorized investigative agency.

16 (3)(A) An authorized investigative agency or author-
17 ized adjudicative agency may not establish additional in-
18 vestigative or adjudicative requirements (other than re-
19 quirements for the conduct of a polygraph examination)
20 that exceed requirements specified in Executive Orders es-
21 tablishing security requirements for access to classified in-
22 formation without the approval of the head of the entity
23 selected pursuant to subsection (b).

24 (B) Notwithstanding subparagraph (A), the head of
25 the entity selected pursuant to subsection (b) may estab-

1 lish such additional requirements as the head of such enti-
2 ty considers necessary for national security purposes.

3 (4) An authorized investigative agency or authorized
4 adjudicative agency may not conduct an investigation for
5 purposes of determining whether to grant a security clear-
6 ance to an individual where a current investigation or
7 clearance of equal level already exists or has been granted
8 by another authorized adjudicative agency.

9 (5) The head of the entity selected pursuant to sub-
10 section (b) may disallow the reciprocal recognition of an
11 individual security clearance by an agency under this sec-
12 tion on a case-by-case basis if the head of the entity se-
13 lected pursuant to subsection (b) determines that such ac-
14 tion is necessary for national security purposes.

15 (6) The head of the entity selected pursuant to sub-
16 section (b) shall establish a review procedure by which
17 agencies can seek review of actions required under this
18 section.

19 (e) DATABASE ON SECURITY CLEARANCES.—(1) Not
20 later than 12 months after the date of the enactment of
21 this Act, the Director of the Office of Personnel Manage-
22 ment shall, in cooperation with the heads of the entities
23 selected pursuant to subsections (b) and (c), establish and
24 commence operating and maintaining an integrated, se-
25 cure, database into which appropriate data relevant to the

1 granting, denial, or revocation of a security clearance or
2 access pertaining to military, civilian, or government con-
3 tractor personnel shall be entered from all authorized in-
4 vestigative and adjudicative agencies.

5 (2) The database under this subsection shall function
6 to integrate information from existing Federal clearance
7 tracking systems from other authorized investigative and
8 adjudicative agencies into a single consolidated database.

9 (3) Each authorized investigative or adjudicative
10 agency shall check the database under this subsection to
11 determine whether an individual the agency has identified
12 as requiring a security clearance has already been granted
13 or denied a security clearance, or has had a security clear-
14 ance revoked, by any other authorized investigative or ad-
15 judicative agency.

16 (4) The head of the entity selected pursuant to sub-
17 section (b) shall evaluate the extent to which an agency
18 is submitting information to, and requesting information
19 from, the database under this subsection as part of a de-
20 termination of whether to certify the agency as an author-
21 ized investigative agency or authorized adjudicative agen-
22 cy.

23 (5) The head of the entity selected pursuant to sub-
24 section (b) may authorize an agency to withhold informa-
25 tion about certain individuals from the database under

1 this subsection if the head of the entity considers it nec-
2 essary for national security purposes.

3 (f) EVALUATION OF USE OF AVAILABLE TECH-
4 NOLOGY IN CLEARANCE INVESTIGATIONS AND ADJUDICA-
5 TIONS.—(1) The head of the entity selected pursuant to
6 subsection (b) shall evaluate the use of available informa-
7 tion technology and databases to expedite investigative
8 and adjudicative processes for all and to verify standard
9 information submitted as part of an application for a secu-
10 rity clearance.

11 (2) The evaluation shall assess the application of the
12 technologies described in paragraph (1) for—

13 (A) granting interim clearances to applicants at
14 the secret, top secret, and special access program
15 levels before the completion of the appropriate full
16 investigation;

17 (B) expediting investigations and adjudications
18 of security clearances, including verification of infor-
19 mation submitted by the applicant;

20 (C) ongoing verification of suitability of per-
21 sonnel with security clearances in effect for contin-
22 ued access to classified information;

23 (D) use of such technologies to augment peri-
24 odic reinvestigations;

1 (E) assessing the impact of the use of such
2 technologies on the rights of applicants to the verify,
3 correct, or challenge information obtained through
4 such technologies; and

5 (F) such other purposes as the head of the enti-
6 ty selected pursuant to subsection (b) considers ap-
7 propriate.

8 (3) An individual subject to verification utilizing the
9 technology described in paragraph (1) shall be notified of
10 such verification, shall provide consent to such use, and
11 shall have access to data being verified in order to correct
12 errors or challenge information the individual believes is
13 incorrect.

14 (4) Not later than one year after the date of the en-
15 actment of this Act, the head of the entity selected pursu-
16 ant to subsection (b) shall submit to the President and
17 the appropriate committees of Congress a report on the
18 results of the evaluation, including recommendations on
19 the use of technologies described in paragraph (1).

20 (g) REDUCTION IN LENGTH OF PERSONNEL SECUR-
21 ITY CLEARANCE PROCESS.—(1) The head of the entity
22 selected pursuant to subsection (b) shall, within 90 days
23 of selection under that subsection, develop, in consultation
24 with the appropriate committees of congress and each au-

1 thORIZED adjudicative agency, a plan to reduce the length
2 of the personnel security clearance process.

3 (2)(A) To the extent practical the plan under para-
4 graph (1) shall require that each authorized adjudicative
5 agency make a determination on at least 90 percent of
6 all applications for a personnel security clearance within
7 an average of 60 days after the date of receipt of the com-
8 pleted application for a security clearance by an author-
9 ized investigative agency. Such 60-day average period
10 shall include—

11 (i) a period of not longer than 40 days to com-
12 plete the investigative phase of the clearance review;
13 and

14 (ii) a period of not longer than 20 days to com-
15 plete the adjudicative phase of the clearance review.

16 (B) Determinations on clearances not made within 60
17 days shall be made without delay.

18 (3)(A) The plan under paragraph (1) shall take effect
19 5 years after the date of the enactment of this Act.

20 (B) During the period beginning on a date not later
21 than 2 years after the date after the enactment of this
22 Act and ending on the date on which the plan under para-
23 graph (1) takes effect, each authorized adjudicative agen-
24 cy shall make a determination on at least 80 percent of
25 all applications for a personnel security clearance pursu-

1 ant to this section within an average of 120 days after
2 the date of receipt of the application for a security clear-
3 ance by an authorized investigative agency. Such 120-day
4 average period shall include—

5 (i) a period of not longer than 90 days to com-
6 plete the investigative phase of the clearance review;
7 and

8 (ii) a period of not longer than 30 days to com-
9 plete the adjudicative phase of the clearance review.

10 (h) REPORTS.—(1) Not later than February 15,
11 2006, and annually thereafter through 2011, the head of
12 the entity selected pursuant to subsection (b) shall submit
13 to the appropriate committees of Congress a report on the
14 progress made during the preceding year toward meeting
15 the requirements of this section.

16 (2) Each report shall include, for the period covered
17 by such report—

18 (A) the periods of time required by the author-
19 ized investigative agencies and authorized adjudica-
20 tive agencies for conducting investigations, adjudi-
21 cating cases, and granting clearances, from date of
22 submission to ultimate disposition and notification
23 to the subject and the subject's employer;

1 (B) a discussion of any impediments to the
2 smooth and timely functioning of the requirements
3 of this section; and

4 (C) such other information or recommendations
5 as the head of the entity selected pursuant to sub-
6 section (b) considers appropriate.

7 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated such sums as may be nec-
9 essary for fiscal year 2005 and each fiscal year thereafter
10 for the implementation, maintenance, and operation of the
11 database required by subsection (e).

12 **TITLE IV—TRANSPORTATION**
13 **SECURITY**

14 **Subtitle A—National Strategy for**
15 **Transportation Security**

16 **SEC. 4001. NATIONAL STRATEGY FOR TRANSPORTATION SE-**
17 **CURITY.**

18 (a) IN GENERAL.—Section 114 of title 49, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 “(t) TRANSPORTATION SECURITY STRATEGIC PLAN-
22 NING.—

23 “(1) IN GENERAL.—The Secretary of Homeland
24 Security shall develop, prepare, implement, and up-
25 date, as needed—

1 “(A) a National Strategy for Transpor-
2 tation Security; and

3 “(B) transportation modal security plans.

4 “(2) ROLE OF SECRETARY OF TRANSPOR-
5 TATION.—The Secretary of Homeland Security shall
6 work jointly with the Secretary of Transportation in
7 developing, revising, and updating the documents re-
8 quired by paragraph (1).

9 “(3) CONTENTS OF NATIONAL STRATEGY FOR
10 TRANSPORTATION SECURITY.—The National Strat-
11 egy for Transportation Security shall include the fol-
12 lowing:

13 “(A) An identification and evaluation of
14 the transportation assets in the United States
15 that, in the interests of national security and
16 commerce, must be protected from attack or
17 disruption by terrorist or other hostile forces,
18 including modal security plans for aviation,
19 bridge and tunnel, commuter rail and ferry,
20 highway, maritime, pipeline, rail, mass transit,
21 over-the-road bus, and other public transpor-
22 tation infrastructure assets that could be at
23 risk of such an attack or disruption.

24 “(B) The development of risk-based prior-
25 ities across all transportation modes and real-

1 istic deadlines for addressing security needs as-
2 sociated with those assets referred to in sub-
3 paragraph (A).

4 “(C) The most appropriate, practical, and
5 cost-effective means of defending those assets
6 against threats to their security.

7 “(D) A forward-looking strategic plan that
8 sets forth the agreed upon roles and missions of
9 Federal, state, regional, and local authorities
10 and establishes mechanisms for encouraging
11 private sector cooperation and participation in
12 the implementation of such plan.

13 “(E) A comprehensive delineation of re-
14 sponse and recovery responsibilities and issues
15 regarding threatened and executed acts of ter-
16 rorism within the United States.

17 “(F) A prioritization of research and devel-
18 opment objectives that support transportation
19 security needs, giving a higher priority to re-
20 search and development directed toward pro-
21 tecting vital transportation assets.

22 “(4) SUBMISSIONS OF PLANS TO CONGRESS.—

23 “(A) INITIAL STRATEGY.—The Secretary
24 of Homeland Security shall submit the National
25 Strategy for Transportation Security, including

1 the transportation modal security plans, devel-
2 oped under this subsection to the appropriate
3 congressional committees not later than April 1,
4 2005.

5 “(B) SUBSEQUENT VERSIONS.—After De-
6 cember 31, 2005, the Secretary of Homeland
7 Security shall submit the National Strategy for
8 Transportation Security, including the trans-
9 portation modal security plans and any revi-
10 sions to the National Strategy for Transpor-
11 tation Security and the transportation modal
12 security plans, to appropriate congressional
13 committees not less frequently than April 1 of
14 each even-numbered year.

15 “(C) PERIODIC PROGRESS REPORT.—

16 “(i) REQUIREMENT FOR REPORT.—
17 Each year, in conjunction with the submis-
18 sion of the budget to Congress under sec-
19 tion 1105(a) of title 31, United States
20 Code, the Secretary of Homeland Security
21 shall submit to the appropriate congres-
22 sional committees an assessment of the
23 progress made on implementing the Na-
24 tional Strategy for Transportation Secu-
25 rity.

1 “(ii) CONTENT.—Each progress re-
2 port under this subparagraph shall include,
3 at a minimum, recommendations for im-
4 proving and implementing the National
5 Strategy for Transportation Security and
6 the transportation modal security plans
7 that the Secretary, in consultation with the
8 Secretary of Transportation, considers ap-
9 propriate.

10 “(D) CLASSIFIED MATERIAL.—Any part of
11 the National Strategy for Transportation Secu-
12 rity or the transportation modal security plans
13 that involve information that is properly classi-
14 fied under criteria established by Executive
15 order shall be submitted to the appropriate con-
16 gressional committees separately in a classified
17 format.

18 “(E) APPROPRIATE CONGRESSIONAL COM-
19 MITTEES DEFINED.—In this subsection, the
20 term “appropriate congressional committees”
21 means the Committee on Transportation and
22 Infrastructure and the Select Committee on
23 Homeland Security of the House of Representa-
24 tives and the Committee on Commerce, Science,
25 and Transportation and the Committee on

1 Homeland Security and Governmental Affairs
2 of the Senate.

3 “(5) PRIORITY STATUS.—

4 “(A) IN GENERAL.—The National Strategy
5 for Transportation Security shall be the gov-
6 erning document for Federal transportation se-
7 curity efforts.

8 “(B) OTHER PLANS AND REPORTS.—The
9 National Strategy for Transportation Security
10 shall include, as an integral part or as an
11 appendix—

12 “(i) the current National Maritime
13 Transportation Security Plan under sec-
14 tion 70103 of title 46;

15 “(ii) the report required by section
16 44938 of this title;

17 “(iii) transportation modal security
18 plans required under this section; and

19 “(iv) any other transportation security
20 plan or report that the Secretary of Home-
21 land Security determines appropriate for
22 inclusion.”.

23 (b) AVIATION SECURITY PLANNING; OPERATIONAL
24 CRITERIA.—Section 44904 of title 49, United States
25 Code, is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (e); and

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) MODAL SECURITY PLAN FOR AVIATION.—In ad-
6 dition to the requirements set forth in subparagraphs (B)
7 through (F) of section 114(t)(3), the modal security plan
8 for aviation prepared under section 114(t) shall—

9 “(1) establish a damage mitigation and recovery
10 plan for the aviation system in the event of a ter-
11 rorist attack; and

12 “(2) include a threat matrix document that out-
13 lines each threat to the United States civil aviation
14 system and the corresponding layers of security in
15 place to address such threat.

16 “(d) OPERATIONAL CRITERIA.—Not later than 90
17 days after the date of the submission of the National
18 Strategy for Transportation Security under section
19 114(t)(4)(A), the Assistant Secretary of Homeland Secu-
20 rity (Transportation Security Administration) shall issue
21 operational criteria to protect airport infrastructure and
22 operations against the threats identified in the plans pre-
23 pared under section 114(t)(1) and shall approve best prac-
24 tices guidelines for airport assets.”.

1 **Subtitle B—Aviation Security**

2 **SEC. 4011. PROVISION FOR THE USE OF BIOMETRIC OR**
3 **OTHER TECHNOLOGY.**

4 (a) USE OF BIOMETRIC IDENTIFIER TECHNOLOGY.—
5 Section 44903(h) of title 49, United States Code, is
6 amended—

7 (1) in paragraph (4)(E) by striking “may pro-
8 vide for” and inserting “shall issue, not later than
9 March 31, 2005, guidance for”; and

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

11 “(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-
12 PORT ACCESS CONTROL SYSTEMS.—In issuing guid-
13 ance under paragraph (4)(E), the Assistant Sec-
14 retary of Homeland Security (Transportation Secu-
15 rity Administration) in consultation with representa-
16 tives of the aviation industry, the biometric identifier
17 industry, and the National Institute of Standards
18 and Technology, shall establish, at a minimum—

19 “(A) comprehensive technical and oper-
20 ational system requirements and performance
21 standards for the use of biometric identifier
22 technology in airport access control systems (in-
23 cluding airport perimeter access control sys-
24 tems) to ensure that the biometric identifier
25 systems are effective, reliable, and secure;

1 “(B) a list of products and vendors that
2 meet the requirements and standards set forth
3 in subparagraph (A);

4 “(C) procedures for implementing biomet-
5 ric identifier systems—

6 “(i) to ensure that individuals do not
7 use an assumed identity to enroll in a bio-
8 metric identifier system; and

9 “(ii) to resolve failures to enroll, false
10 matches, and false non-matches; and

11 “(D) best practices for incorporating bio-
12 metric identifier technology into airport access
13 control systems in the most effective manner,
14 including a process to best utilize existing air-
15 port access control systems, facilities, and
16 equipment and existing data networks con-
17 necting airports.

18 “(6) USE OF BIOMETRIC TECHNOLOGY FOR
19 LAW ENFORCEMENT OFFICER TRAVEL.—

20 “(A) IN GENERAL.—Not later than 120
21 days after the date of enactment of this para-
22 graph, the Assistant Secretary, in consultation
23 with the Attorney General, shall—

24 “(i) establish a law enforcement offi-
25 cer travel credential that incorporates bio-

1 metric identifier technology and is uniform
2 across all Federal, State, local, tribal, and
3 territorial government law enforcement
4 agencies;

5 “(ii) establish a process by which the
6 travel credential will be used to verify the
7 identity of a Federal, State, local, tribal, or
8 territorial law enforcement officer seeking
9 to carry a weapon on board an aircraft,
10 without unnecessarily disclosing to the
11 public that the individual is a law enforce-
12 ment officer;

13 “(iii) establish procedures—

14 “(I) to ensure that only Federal,
15 State, local, tribal, and territorial gov-
16 ernment law enforcement officers are
17 issued a law enforcement travel cre-
18 dential;

19 “(II) to resolve failures to enroll,
20 false matches, and false non-matches
21 relating to use of the law enforcement
22 travel credential; and

23 “(III) to invalidate any law en-
24 forcement travel credential that is

1 lost, stolen, or no longer authorized
2 for use;

3 “(iv) begin issuance of the travel cre-
4 dential to each Federal, State, local, tribal,
5 or territorial government law enforcement
6 officer authorized by the Assistant Sec-
7 retary to carry a weapon on board an air-
8 craft; and

9 “(v) take such other actions with re-
10 spect to the travel credential as the Assist-
11 ant Secretary considers appropriate.

12 “(B) FUNDING.—There is authorized to be
13 appropriated such sums as may be necessary to
14 carry out this paragraph.

15 “(7) DEFINITIONS.—In this subsection, the fol-
16 lowing definitions apply:

17 “(A) BIOMETRIC IDENTIFIER INFORMA-
18 TION.—The term ‘biometric identifier informa-
19 tion’ means the distinct physical or behavioral
20 characteristics of an individual that are used
21 for unique identification, or verification of the
22 identity, of an individual.

23 “(B) BIOMETRIC IDENTIFIER.—The term
24 ‘biometric identifier’ means a technology that
25 enables the automated identification, or

1 verification of the identity, of an individual
2 based on biometric information.

3 “(C) FAILURE TO ENROLL.—The term
4 ‘failure to enroll’ means the inability of an indi-
5 vidual to enroll in a biometric identifier system
6 due to an insufficiently distinctive biometric
7 sample, the lack of a body part necessary to
8 provide the biometric sample, a system design
9 that makes it difficult to provide consistent bio-
10 metric identifier information, or other factors.

11 “(D) FALSE MATCH.—The term ‘false
12 match’ means the incorrect matching of one in-
13 dividual’s biometric identifier information to an-
14 other individual’s biometric identifier informa-
15 tion by a biometric identifier system.

16 “(E) FALSE NON-MATCH.—The term ‘false
17 non-match’ means the rejection of a valid iden-
18 tity by a biometric identifier system.

19 “(F) SECURE AREA OF AN AIRPORT.—The
20 term ‘secure area of an airport’ means the ster-
21 ile area and the Secure Identification Display
22 Area of an airport (as such terms are defined
23 in section 1540.5 of title 49, Code of Federal
24 Regulations, or any successor regulation to such
25 section).”

1 (b) AVIATION SECURITY RESEARCH AND DEVELOP-
2 MENT.—There is authorized to be appropriated to the Sec-
3 retary of Homeland Security for the use of the Transpor-
4 tation Security Administration \$20,000,000, in addition
5 to any amounts otherwise authorized by law, for research
6 and development of advanced biometric technology appli-
7 cations to aviation security, including mass identification
8 technology.

9 (c) SENSE OF CONGRESS ON TRANSFER OF TECH-
10 NOLOGY.—It is the sense of Congress that the national
11 intelligence community and the Department of Homeland
12 Security should share information on and technological
13 advancements to biometric systems, biometric technology,
14 and biometric identifier systems obtained through re-
15 search and development programs conducted by various
16 Federal agencies.

17 (d) BIOMETRIC CENTER OF EXCELLENCE.—There is
18 authorized to be appropriated \$1,000,000, in addition to
19 any amounts otherwise authorized by law, for the estab-
20 lishment of a competitive center of excellence that will de-
21 velop and expedite the Federal Government's use of bio-
22 metric identifiers.

23 **SEC. 4012. ADVANCED AIRLINE PASSENGER**
24 **PRESCREENING.**

25 (a) IN GENERAL.—

1 (1) DOMESTIC FLIGHTS.—Section 44903(j)(2)
2 of title 49, United States Code, is amended by add-
3 ing at the end the following:

4 “(C) ADVANCED AIRLINE PASSENGER
5 PRESCREENING.—

6 “(i) COMMENCEMENT OF TESTING.—

7 Not later than January 1, 2005, the As-
8 sistant Secretary of Homeland Security
9 (Transportation Security Administration),
10 or the designee of the Assistant Secretary,
11 shall commence testing of an advanced
12 passenger prescreening system that will
13 allow the Department of Homeland Secu-
14 rity to assume the performance of com-
15 paring passenger information, as defined
16 by the Assistant Secretary, to the auto-
17 matic selectee and no fly lists, utilizing all
18 appropriate records in the consolidated and
19 integrated terrorist watchlist maintained
20 by the Federal Government.

21 “(ii) ASSUMPTION OF FUNCTION.—

22 Not later than 180 days after completion
23 of testing under clause (i), the Assistant
24 Secretary, or the designee of the Assistant
25 Secretary, shall begin to assume the per-

1 performance of the passenger prescreening
2 function of comparing passenger informa-
3 tion to the automatic selectee and no fly
4 lists and utilize all appropriate records in
5 the consolidated and integrated terrorist
6 watchlist maintained by the Federal Gov-
7 ernment in performing that function.

8 “(iii) REQUIREMENTS.—In assuming
9 performance of the function under clause
10 (ii), the Assistant Secretary shall—

11 “(I) establish a procedure to en-
12 able airline passengers, who are de-
13 layed or prohibited from boarding a
14 flight because the advanced passenger
15 prescreening system determined that
16 they might pose a security threat, to
17 appeal such determination and correct
18 information contained in the system;

19 “(II) ensure that Federal Gov-
20 ernment databases that will be used
21 to establish the identity of a pas-
22 senger under the system will not
23 produce a large number of false
24 positives;

1 “(III) establish an internal over-
2 sight board to oversee and monitor
3 the manner in which the system is
4 being implemented;

5 “(IV) establish sufficient oper-
6 ational safeguards to reduce the op-
7 portunities for abuse;

8 “(V) implement substantial secu-
9 rity measures to protect the system
10 from unauthorized access;

11 “(VI) adopt policies establishing
12 effective oversight of the use and op-
13 eration of the system; and

14 “(VII) ensure that there are no
15 specific privacy concerns with the
16 technological architecture of the sys-
17 tem.

18 “(iv) PASSENGER INFORMATION.—
19 Not later than 180 days after the comple-
20 tion of the testing of the advanced pas-
21 senger prescreening system, the Assistant
22 Secretary, by order or interim final rule—

23 “(I) shall require air carriers to
24 supply to the Assistant Secretary the
25 passenger information needed to begin

1 implementing the advanced passenger
2 prescreening system; and

3 “(II) shall require entities that
4 provide systems and services to air
5 carriers in the operation of air carrier
6 reservations systems to provide to air
7 carriers passenger information in pos-
8 session of such entities, but only to
9 the extent necessary to comply with
10 subclause (I).

11 “(D) SCREENING OF EMPLOYEES AGAINST
12 WATCHLIST.—The Assistant Secretary of
13 Homeland Security (Transportation Security
14 Administration), in coordination with the Sec-
15 retary of Transportation and the Administrator
16 of the Federal Aviation Administration, shall
17 ensure that individuals are screened against all
18 appropriate records in the consolidated and in-
19 tegrated terrorist watchlist maintained by the
20 Federal Government before—

21 “(i) being certificated by the Federal
22 Aviation Administration;

23 “(ii) being granted unescorted access
24 to the secure area of an airport; or

1 “(iii) being granted unescorted access
2 to the air operations area (as defined in
3 section 1540.5 of title 49, Code of Federal
4 Regulations, or any successor regulation to
5 such section) of an airport.

6 “(E) AIRCRAFT CHARTER CUSTOMER AND
7 LESSEE PRESCREENING.—

8 “(i) IN GENERAL.—Not later than 90
9 days after the date on which the Assistant
10 Secretary assumes the performance of the
11 advanced passenger prescreening function
12 under subparagraph (C)(ii), the Assistant
13 Secretary shall establish a process by
14 which operators of aircraft to be used in
15 charter air transportation with a maximum
16 takeoff weight greater than 12,500 pounds
17 and lessors of aircraft with a maximum
18 takeoff weight greater than 12,500 pounds
19 may—

20 “(I) request the Department of
21 Homeland Security to use the ad-
22 vanced passenger prescreening system
23 to compare information about any in-
24 dividual seeking to charter an aircraft
25 with a maximum takeoff weight great-

1 er than 12,500 pounds, any passenger
2 proposed to be transported aboard
3 such aircraft, and any individual seek-
4 ing to lease an aircraft with a max-
5 imum takeoff weight greater than
6 12,500 pounds to the automatic se-
7 lectee and no fly lists, utilizing all ap-
8 propriate records in the consolidated
9 and integrated terrorist watchlist
10 maintained by the Federal Govern-
11 ment; and

12 “(II) refuse to charter or lease
13 an aircraft with a maximum takeoff
14 weight greater than 12,500 pounds to
15 or transport aboard such aircraft any
16 persons identified on such watch list.

17 “(ii) REQUIREMENTS.—The require-
18 ments of subparagraph (C)(iii) shall apply
19 to this subparagraph.

20 “(iii) NO FLY AND AUTOMATIC SE-
21 LECTEE LISTS.—The Secretary of Home-
22 land Security, in consultation with the Ter-
23 rorist Screening Center, shall design and
24 review, as necessary, guidelines, policies,
25 and operating procedures for the collection,

1 removal, and updating of data maintained,
2 or to be maintained, in the no fly and
3 automatic selectee lists.

4 “(F) APPLICABILITY.—Section 607 of the
5 Vision 100—Century of Aviation Reauthoriza-
6 tion Act (49 U.S.C. 44903 note; 117 Stat.
7 2568) shall not apply to the advanced pas-
8 senger prescreening system established under
9 subparagraph (C).

10 “(G) APPEAL PROCEDURES.—

11 “(i) IN GENERAL.—The Assistant
12 Secretary shall establish a timely and fair
13 process for individuals identified as a
14 threat under one or more of subparagraphs
15 (C), (D), and (E) to appeal to the Trans-
16 portation Security Administration the de-
17 termination and correct any erroneous in-
18 formation.

19 “(ii) RECORDS.—The process shall in-
20 clude the establishment of a method by
21 which the Assistant Secretary will be able
22 to maintain a record of air passengers and
23 other individuals who have been
24 misidentified and have corrected erroneous
25 information. To prevent repeated delays of

1 misidentified passengers and other individ-
2 uals, the Transportation Security Adminis-
3 tration record shall contain information de-
4 termined by the Assistant Secretary to au-
5 thenticate the identity of such a passenger
6 or individual.

7 “(H) DEFINITION.—In this paragraph, the
8 term ‘secure area of an airport’ means the ster-
9 ile area and the Secure Identification Display
10 Area of an airport (as such terms are defined
11 in section 1540.5 of title 49, Code of Federal
12 Regulations, or any successor regulation to such
13 section).”.

14 (2) INTERNATIONAL FLIGHTS.—Section
15 44909(c) of title 49, United States Code, is
16 amended—

17 (i) by striking “paragraph (5),” in
18 paragraph (4) and inserting “paragraphs
19 (5) and (6),”; and

20 (ii) by adding at the end the fol-
21 lowing:

22 “(6) PRESCREENING INTERNATIONAL PAS-
23 SENGERS.—

24 “(A) IN GENERAL.—Not later than 60
25 days after date of enactment of this paragraph,

1 the Secretary of Homeland Security, or the des-
2 ignee of the Secretary, shall issue a notice of
3 proposed rulemaking that will allow the Depart-
4 ment of Homeland Security to compare pas-
5 senger information for any international flight
6 to or from the United States against the con-
7 solidated and integrated terrorist watchlist
8 maintained by the Federal Government before
9 departure of the flight.

10 “(B) APPEAL PROCEDURES.—

11 “(i) IN GENERAL.—The Secretary of
12 Homeland Security shall establish a timely
13 and fair process for individuals identified
14 as a threat under subparagraph (A) to ap-
15 peal to the Department of Homeland Secu-
16 rity the determination and correct any er-
17 roneous information.

18 “(ii) RECORDS.—The process shall in-
19 clude the establishment of a method by
20 which the Secretary will be able to main-
21 tain a record of air passengers and other
22 individuals who have been misidentified
23 and have corrected erroneous information.
24 To prevent repeated delays of misidentified
25 passengers and other individuals, the De-

1 partment of Homeland Security record
2 shall contain information determined by
3 the Secretary to authenticate the identity
4 of such a passenger or individual.”.

5 (b) REPORT ON EFFECTS ON PRIVACY AND CIVIL
6 LIBERTIES.—

7 (1) REQUIREMENT FOR REPORT.—Not later
8 than 180 days after the date of the enactment of
9 this Act, the Security Privacy Officer of the Depart-
10 ment of Homeland Security shall submit a report as-
11 sessing the impact of the automatic selectee and no
12 fly lists on privacy and civil liberties to the Com-
13 mittee on the Judiciary, the Committee on Home-
14 land Security and Governmental Affairs, and the
15 Committee on Commerce, Science, and Transpor-
16 tation of the Senate and the Committee on the Judi-
17 ciary, the Committee on Government Reform, the
18 Committee on Transportation and Infrastructure,
19 and the Select Committee on Homeland Security of
20 the House of Representatives.

21 (2) CONTENT.—The report submitted under
22 paragraph (1) shall include—

23 (A) any recommendations for practices,
24 procedures, regulations, or legislation that the
25 Security Privacy Officer considers necessary to

1 minimize adverse effects of automatic selectee
2 and no fly lists on privacy, discrimination, due
3 process, and other civil liberties;

4 (B) a discussion of the implications of ap-
5 plying those lists to other modes of transpor-
6 tation; and

7 (C) the effect that implementation of the
8 recommendations would have on the effective-
9 ness of the use of such lists to protect the
10 United States against terrorist attacks.

11 (3) FORM.—To the greatest extent consistent
12 with the protection of law enforcement-sensitive in-
13 formation and classified information, and the admin-
14 istration of applicable law, the report shall be sub-
15 mitted in unclassified form and shall be available to
16 the public. The report may contain a classified
17 annex if necessary.

18 (c) REPORT ON CRITERIA FOR CONSOLIDATED TER-
19 RORIST WATCH LIST.—

20 (1) IN GENERAL.—Within 180 days after the
21 date of enactment of this Act, the Director of Na-
22 tional Intelligence, in consultation with the Secretary
23 of Homeland Security, the Secretary of State, and
24 the Attorney General, shall submit to Congress a re-

1 port on the Terrorist Screening Center consolidated
2 screening watch list.

3 (2) CONTENTS.—The report shall include—

4 (A) the criteria for placing the name of an
5 individual on the watch list;

6 (B) the minimum standards for reliability
7 and accuracy of identifying information;

8 (C) the degree of information certainty and
9 the range of threat levels that are to be identi-
10 fied for an individual; and

11 (D) the range of applicable consequences
12 that are to apply to an individual, if located.

13 (3) FORM.—To the greatest extent consistent
14 with the protection of law enforcement-sensitive in-
15 formation and classified information and the admin-
16 istration of applicable law, the report shall be sub-
17 mitted in unclassified form and shall be available to
18 the public. The report may contain a classified
19 annex if necessary.

20 **SEC. 4013. DEPLOYMENT AND USE OF DETECTION EQUIP-**
21 **MENT AT AIRPORT SCREENING CHECK-**
22 **POINTS.**

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

1 **“§ 44925. Deployment and use of detection equipment**
2 **at airport screening checkpoints.**

3 “(a) WEAPONS AND EXPLOSIVES.—The Secretary of
4 Homeland Security shall give a high priority to developing,
5 testing, improving, and deploying, at airport screening
6 checkpoints, equipment that detects nonmetallic, chemical,
7 biological, and radiological weapons, and explosives, in all
8 forms, on individuals and in their personal property. The
9 Secretary shall ensure that the equipment alone, or as
10 part of an integrated system, can detect under realistic
11 operating conditions the types of weapons and explosives
12 that terrorists would likely try to smuggle aboard an air
13 carrier aircraft.

14 “(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE
15 OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT
16 SCREENING CHECKPOINTS.—

17 “(1) IN GENERAL.—Not later than 90 days
18 after the date of enactment of this section, the As-
19 sistant Secretary of Homeland Security (Transpor-
20 tation Security Administration) shall submit to the
21 appropriate congressional committees a strategic
22 plan to promote the optimal utilization and deploy-
23 ment of explosive detection equipment at airports to
24 screen individuals and their personal property. Such
25 equipment includes walk-through explosive detection
26 portals, document scanners, shoe scanners, and

1 backscatter x-ray scanners. The plan may be sub-
2 mitted in a classified format.

3 “(2) CONTENT.—The strategic plan shall in-
4 clude, at minimum—

5 “(A) a description of current efforts to de-
6 tect explosives in all forms on individuals and in
7 their personal property;

8 “(B) a description of the operational appli-
9 cations of explosive detection equipment at air-
10 port screening checkpoints;

11 “(C) a deployment schedule and a descrip-
12 tion of the quantities of equipment needed to
13 implement the plan;

14 “(D) a description of funding needs to im-
15 plement the plan, including a financing plan
16 that provides for leveraging of non-Federal
17 funding;

18 “(E) a description of the measures taken
19 and anticipated to be taken in carrying out sub-
20 section (d); and

21 “(F) a description of any recommended
22 legislative actions.

23 “(c) PORTAL DETECTION SYSTEMS.—There is au-
24 thorized to be appropriated to the Secretary of Homeland
25 Security for the use of the Transportation Security Ad-

1 ministration \$250,000,000, in addition to any amounts
2 otherwise authorized by law, for research, development,
3 and installation of detection systems and other devices for
4 the detection of biological, chemical, radiological, and ex-
5 plosive materials.

6 “(d) INTERIM ACTION.—Until measures are imple-
7 mented that enable the screening of all passengers for ex-
8 plosives, the Assistant Secretary shall provide, by such
9 means as the Assistant Secretary considers appropriate,
10 explosives detection screening for all passengers identified
11 for additional screening and their personal property that
12 will be carried aboard a passenger aircraft operated by an
13 air carrier or foreign air carrier in air transportation or
14 intrastate air transportation.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
16 chapter 449 of title 49, United States Code, is amended
17 by inserting after the item relating to section 44924 the
18 following:

“44925. Deployment and use of detection equipment at airport screening check-
points.”.

19 **SEC. 4014. ADVANCED AIRPORT CHECKPOINT SCREENING**
20 **DEVICES.**

21 (a) ADVANCED INTEGRATED AIRPORT CHECKPOINT
22 SCREENING SYSTEM PILOT PROGRAM.—Not later than
23 March 31, 2005, the Assistant Secretary of Homeland Se-
24 curity (Transportation Security Administration) shall de-

1 velop and initiate a pilot program to deploy and test ad-
2 vanced airport checkpoint screening devices and tech-
3 nology as an integrated system at not less than 5 airports
4 in the United States.

5 (b) FUNDING.—Of the amounts appropriated pursu-
6 ant to section 48301(a) of title 49, United States Code,
7 for each of fiscal years 2005 and 2006, not more than
8 \$150,000,000 shall be available to carry out subsection
9 (a).

10 **SEC. 4015. IMPROVEMENT OF SCREENER JOB PERFORM-**
11 **ANCE.**

12 (a) REQUIRED ACTION.—The Assistant Secretary of
13 Homeland Security (Transportation Security Administra-
14 tion) shall take such action as may be necessary to im-
15 prove the job performance of airport screening personnel.

16 (b) HUMAN FACTORS STUDY.—In carrying out this
17 section, the Assistant Secretary shall provide, not later
18 than 180 days after the date of the enactment of this Act,
19 to the appropriate congressional committees a report on
20 the results of any human factors study conducted by the
21 Department of Homeland Security to better understand
22 problems in screener performance and to improve screener
23 performance.

1 **SEC. 4016. FEDERAL AIR MARSHALS.**

2 (a) FEDERAL AIR MARSHAL ANONYMITY.—The Di-
3 rector of the Federal Air Marshal Service of the Depart-
4 ment of Homeland Security shall continue operational ini-
5 tiatives to protect the anonymity of Federal air marshals.

6 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
7 TIONS.—There is authorized to be appropriated to the
8 Secretary of Homeland Security for the use of the Bureau
9 of Immigration and Customs Enforcement, in addition to
10 any amounts otherwise authorized by law, for the deploy-
11 ment of Federal air marshals under section 44917 of title
12 49, United States Code, \$83,000,000 for the 3 fiscal-year
13 period beginning with fiscal year 2005. Such sums shall
14 remain available until expended.

15 (c) FEDERAL LAW ENFORCEMENT
16 COUNTERTERRORISM TRAINING.—

17 (1) AVAILABILITY OF INFORMATION.—The As-
18 sistant Secretary for Immigration and Customs En-
19 forcement and the Director of Federal Air Marshal
20 Service of the Department of Homeland Security,
21 shall make available, as practicable, appropriate in-
22 formation on in-flight counterterrorism and weapons
23 handling procedures and tactics training to Federal
24 law enforcement officers who fly while in possession
25 of a firearm.

1 (2) IDENTIFICATION OF FRAUDULENT DOCU-
2 MENTS.—The Assistant Secretary for Immigration
3 and Customs Enforcement and the Director of Fed-
4 eral Air Marshal Service of the Department of
5 Homeland Security, in coordination with the Assist-
6 ant Secretary of Homeland Security (Transportation
7 Security Administration), shall ensure that Trans-
8 portation Security Administration screeners and
9 Federal air marshals receive training in identifying
10 fraudulent identification documents, including fraud-
11 ulent or expired visas and passports. Such training
12 shall also be made available to other Federal law en-
13 forcement agencies and local law enforcement agen-
14 cies located in a State that borders Canada or Mex-
15 ico.

16 **SEC. 4017. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**
17 **IMUM DEPLOYMENT OF FEDERAL AIR MAR-**
18 **SHALS.**

19 The President is encouraged to pursue aggressively
20 international agreements with foreign governments to
21 allow the maximum deployment of Federal air marshals
22 on international flights.

23 **SEC. 4018. FOREIGN AIR MARSHAL TRAINING.**

24 Section 44917 of title 49, United States Code, is
25 amended by adding at the end the following:

1 “(d) TRAINING FOR FOREIGN LAW ENFORCEMENT
2 PERSONNEL.—

3 “(1) IN GENERAL.—The Assistant Secretary for
4 Immigration and Customs Enforcement of the De-
5 partment of Homeland Security, after consultation
6 with the Secretary of State, may direct the Federal
7 Air Marshal Service to provide appropriate air mar-
8 shal training to law enforcement personnel of foreign
9 countries.

10 “(2) WATCHLIST SCREENING.—The Federal
11 Air Marshal Service may only provide appropriate
12 air marshal training to law enforcement personnel of
13 foreign countries after comparing the identifying in-
14 formation and records of law enforcement personnel
15 of foreign countries against all appropriate records
16 in the consolidated and integrated terrorist
17 watchlists maintained by the Federal Government.

18 “(3) FEES.—The Assistant Secretary shall es-
19 tablish reasonable fees and charges to pay expenses
20 incurred in carrying out this subsection. Funds col-
21 lected under this subsection shall be credited to the
22 account in the Treasury from which the expenses
23 were incurred and shall be available to the Assistant
24 Secretary for purposes for which amounts in such
25 account are available.”.

1 **SEC. 4019. IN-LINE CHECKED BAGGAGE SCREENING.**

2 (a) **IN-LINE BAGGAGE SCREENING EQUIPMENT.**—

3 The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as
4 may be necessary to expedite the installation and use of
5 in-line baggage screening equipment at airports at which
6 screening is required by section 44901 of title 49, United
7 States Code.
8

9 (b) **SCHEDULE.**—Not later than 180 days after the
10 date of enactment of this Act, the Assistant Secretary
11 shall submit to the appropriate congressional committees
12 a schedule to expedite the installation and use of in-line
13 baggage screening equipment at such airports, with an es-
14 timate of the impact that such equipment, facility modi-
15 fication, and baggage conveyor placement will have on
16 staffing needs and levels related to aviation security.

17 (c) **REPLACEMENT OF TRACE-DETECTION EQUIP-**
18 **MENT.**—Not later than 180 days after the date of enact-
19 ment of this Act, the Assistant Secretary shall establish
20 and submit to the appropriate congressional committees
21 a schedule for replacing trace-detection equipment, as
22 soon as practicable and where appropriate, with explosive
23 detection system equipment.

24 (d) **COST-SHARING STUDY.**—The Secretary of Home-
25 land Security, in consultation with representatives of air
26 carriers, airport operators, and other interested parties,

1 shall submit to the appropriate congressional committees,
2 in conjunction with the submission of the budget for fiscal
3 year 2006 to Congress under section 1105(a) of title 31,
4 United States Code—

5 (1) a proposed formula for cost-sharing among
6 the Federal Government, State and local govern-
7 ments, and the private sector for projects to install
8 in-line baggage screening equipment that reflects the
9 benefits that each of such entities derive from such
10 projects, including national security benefits and
11 labor and other cost savings;

12 (2) recommendations, including recommended
13 legislation, for an equitable, feasible, and expeditious
14 system for defraying the costs of the in-line baggage
15 screening equipment authorized by this title; and

16 (3) the results of a review of innovative financ-
17 ing approaches and possible cost savings associated
18 with the installation of in-line baggage screening
19 equipment at airports.

20 (e) AUTHORIZATION FOR EXPIRING AND NEW
21 LOIs.—

22 (1) IN GENERAL.—Section 44923(i) of title 49,
23 United States Code, is amended by striking
24 “\$250,000,000 for each of fiscal years 2004 through

1 2007.” and inserting “\$400,000,000 for each of fis-
2 cal years 2005, 2006, and 2007.”.

3 (2) PERIOD OF REIMBURSEMENT.—Notwith-
4 standing any other provision of law, the Secretary
5 may provide that the period of reimbursement under
6 any letter of intent may extend for a period not to
7 exceed 10 years after the date that the Secretary
8 issues such letter, subject to the availability of ap-
9 propriations. This paragraph applies to letters of in-
10 tent issued under section 44923 of title 49, United
11 States Code, and letters of intent issued under sec-
12 tion 367 of the Department of Transportation and
13 Related Agencies Appropriation Act, 2003 (49
14 U.S.C. 47110 note).

15 **SEC. 4020. CHECKED BAGGAGE SCREENING AREA MONI-**
16 **TORING.**

17 (a) IN GENERAL.—The Under Secretary for Border
18 and Transportation Security of the Department of Home-
19 land Security shall provide, subject to the availability of
20 funds, assistance to airports at which screening is required
21 by section 44901 of title 49, United States Code, and that
22 have checked baggage screening areas that are not open
23 to public view in the acquisition and installation of secu-
24 rity monitoring cameras for surveillance of such areas in
25 order to deter theft from checked baggage and to aid in

1 the speedy resolution of liability claims against the Trans-
2 portation Security Administration.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to the Secretary of Home-
5 land Security for fiscal year 2005 such sums as may be
6 necessary to carry out this section. Such sums shall re-
7 main available until expended.

8 **SEC. 4021. WIRELESS COMMUNICATION.**

9 (a) STUDY.—The Assistant Secretary of Homeland
10 Security (Transportation Security Administration), in
11 consultation with the Administrator of the Federal Avia-
12 tion Administration, shall conduct a study to determine
13 the viability of providing devices or methods, including
14 wireless methods, to enable a flight crew to discreetly no-
15 tify the pilot in the case of a security breach or safety
16 issue occurring in the cabin.

17 (b) MATTERS TO BE CONSIDERED.—In conducting
18 the study, the Transportation Security Administration
19 and the Federal Aviation Administration shall consider
20 technology that is readily available and can be quickly in-
21 tegrated and customized for use aboard aircraft for flight
22 crew communication.

23 (c) REPORT.—Not later than 180 days after the date
24 of enactment of this Act, the Transportation Security Ad-

1 ministration shall submit to the appropriate congressional
2 committees a report on the results of the study.

3 **SEC. 4022. IMPROVED PILOT LICENSES.**

4 (a) **IN GENERAL.**—Not later than one year after the
5 date of enactment of this Act, the Administrator of the
6 Federal Aviation Administration shall begin to issue im-
7 proved pilot licenses consistent with the requirements of
8 title 49, United States Code, and title 14, Code of Federal
9 Regulations.

10 (b) **REQUIREMENTS.**—Improved pilots licenses issued
11 under subsection (a) shall—

12 (1) be resistant to tampering, alteration, and
13 counterfeiting;

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

16 (3) be capable of accommodating a digital pho-
17 tograph, a biometric identifier, or any other unique
18 identifier that the Administrator considers nec-
19 essary.

20 (c) **TAMPERING.**—To the extent practical, the Admin-
21 istrator shall develop methods to determine or reveal
22 whether any component or security feature of a license
23 issued under subsection (a) has been tampered, altered,
24 or counterfeited.

1 (d) USE OF DESIGNEES.—The Administrator may
2 use designees to carry out subsection (a) to the extent fea-
3 sible in order to minimize the burdens on pilots.

4 **SEC. 4023. AVIATION SECURITY STAFFING.**

5 (a) AVIATION SECURITY STAFFING.—Not later than
6 90 days after the date of enactment of this Act, the Assist-
7 ant Secretary of Homeland Security (Transportation Se-
8 curity Administration) shall develop and submit to the ap-
9 propriate congressional committees standards for deter-
10 mining the aviation security staffing for all airports at
11 which screening is required under section 44901 of title
12 49, United States Code, necessary to—

13 (1) provide necessary levels of aviation security;

14 and

15 (2) ensure that the average aviation security-re-
16 lated delay experienced by airline passengers is mini-
17 mized.

18 (b) GAO ANALYSIS.—As soon as practicable after the
19 date on which the Assistant Secretary has developed
20 standards under subsection (a), the Comptroller General
21 shall conduct an expedited analysis of, and submit a report
22 to the appropriate congressional committees on, the stand-
23 ards for effectiveness, administrability, ease of compliance,
24 and consistency with the requirements of existing law.

1 (c) INTEGRATION OF FEDERAL AIRPORT WORK-
2 FORCE AND AVIATION SECURITY.—The Secretary of
3 Homeland Security shall conduct a study of the feasibility
4 of combining operations of Federal employees involved in
5 screening at commercial airports and aviation security-re-
6 lated functions under the authority of the Department of
7 Homeland Security in order to coordinate security-related
8 activities, increase the efficiency and effectiveness of those
9 activities, and increase commercial air transportation se-
10 curity.

11 **SEC. 4024. IMPROVED EXPLOSIVE DETECTION SYSTEMS.**

12 (a) PLAN AND GUIDELINES.—The Assistant Sec-
13 retary of Homeland Security (Transportation Security Ad-
14 ministration) shall develop a plan and guidelines for imple-
15 menting improved explosive detection system equipment.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to the Secretary of Home-
18 land Security for the use of the Transportation Security
19 Administration \$100,000,000, in addition to any amounts
20 otherwise authorized by law, for the purpose of research
21 and development of improved explosive detection systems
22 for aviation security under section 44913 of title 49,
23 United States Code.

1 **SEC. 4025. PROHIBITED ITEMS LIST.**

2 Not later than 60 days after the date of enactment
3 of this Act, the Assistant Secretary for Homeland Security
4 (Transportation Security Administration) shall complete a
5 review of the list of items prohibited from being carried
6 aboard a passenger aircraft operated by an air carrier or
7 foreign air carrier in air transportation or intrastate air
8 transportation set forth in section 1540 of title 49, Code
9 of Federal Regulations, and shall release a revised list that
10 includes—

11 (1) butane lighters; and

12 (2) any other modification that the Assistant
13 Secretary considers appropriate.

14 **SEC. 4026. MAN-PORTABLE AIR DEFENSE SYSTEMS**
15 **(MANPADS).**

16 (a) UNITED STATES POLICY ON NONPROLIFERATION
17 AND EXPORT CONTROL.—

18 (1) TO LIMIT AVAILABILITY AND TRANSFER OF
19 MANPADS.—The President shall pursue, on an ur-
20 gent basis, further strong international diplomatic
21 and cooperative efforts, including bilateral and mul-
22 tilateral treaties, in the appropriate forum to limit
23 the availability, transfer, and proliferation of
24 MANPADSs worldwide.

25 (2) TO LIMIT THE PROLIFERATION OF
26 MANPADS.—The President is encouraged to seek to

1 enter into agreements with the governments of for-
2 eign countries that, at a minimum, would—

3 (A) prohibit the entry into force of a
4 MANPADS manufacturing license agreement
5 and MANPADS co-production agreement, other
6 than the entry into force of a manufacturing li-
7 cense or co-production agreement with a coun-
8 try that is party to such an agreement;

9 (B) prohibit, except pursuant to transfers
10 between governments, the export of a
11 MANPADS, including any component, part, ac-
12 cessory, or attachment thereof, without an indi-
13 vidual validated license; and

14 (C) prohibit the reexport or retransfer of a
15 MANPADS, including any component, part, ac-
16 cessory, or attachment thereof, to a third per-
17 son, organization, or government unless the
18 written consent of the government that ap-
19 proved the original export or transfer is first
20 obtained.

21 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—

22 The President should continue to pursue further
23 strong international diplomatic and cooperative ef-
24 forts, including bilateral and multilateral treaties, in
25 the appropriate forum to assure the destruction of

1 excess, obsolete, and illicit stocks of MANPADSs
2 worldwide.

3 (4) REPORTING AND BRIEFING REQUIRE-
4 MENT.—

5 (A) PRESIDENT'S REPORT.—Not later
6 than 180 days after the date of enactment of
7 this Act, the President shall transmit to the ap-
8 propriate congressional committees a report
9 that contains a detailed description of the sta-
10 tus of diplomatic efforts under paragraphs (1),
11 (2), and (3) and of efforts by the appropriate
12 United States agencies to comply with the rec-
13 ommendations of the General Accounting Office
14 set forth in its report GAO-04-519, entitled
15 “Nonproliferation: Further Improvements
16 Needed in U.S. Efforts to Counter Threats
17 from Man-Portable Air Defense Systems”.

18 (B) ANNUAL BRIEFINGS.—Annually after
19 the date of submission of the report under sub-
20 paragraph (A) and until completion of the dip-
21 lomatic and compliance efforts referred to in
22 subparagraph (A), the Secretary of State shall
23 brief the appropriate congressional committees
24 on the status of such efforts.

1 (b) FAA AIRWORTHINESS CERTIFICATION OF MIS-
2 SILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

3 (1) IN GENERAL.—As soon as practicable, but
4 not later than the date of completion of Phase II of
5 the Department of Homeland Security's counter-
6 man-portable air defense system (MANPADS) devel-
7 opment and demonstration program, the Adminis-
8 trator of the Federal Aviation Administration shall
9 establish a process for conducting airworthiness and
10 safety certification of missile defense systems for
11 commercial aircraft certified as effective and func-
12 tional by the Department of Homeland Security.
13 The process shall require a certification by the Ad-
14 ministrator that such systems can be safely inte-
15 grated into aircraft systems and ensure airworthi-
16 ness and aircraft system integrity.

17 (2) CERTIFICATION ACCEPTANCE.—Under the
18 process, the Administrator shall accept the certifi-
19 cation of the Department of Homeland Security that
20 a missile defense system is effective and functional
21 to defend commercial aircraft against MANPADSs.

22 (3) EXPEDITIOUS CERTIFICATION.—Under the
23 process, the Administrator shall expedite the air-
24 worthiness and safety certification of missile defense

1 systems for commercial aircraft certified by the De-
2 partment of Homeland Security.

3 (4) REPORTS.—Not later than 90 days after
4 the first airworthiness and safety certification for a
5 missile defense system for commercial aircraft is
6 issued by the Administrator, and annually thereafter
7 until December 31, 2008, the Federal Aviation Ad-
8 ministration shall transmit to the Committee on
9 Transportation and Infrastructure of the House of
10 Representatives and the Committee on Commerce,
11 Science, and Transportation of the Senate a report
12 that contains a detailed description of each air-
13 worthiness and safety certification issued for a mis-
14 sile defense system for commercial aircraft.

15 (c) PROGRAMS TO REDUCE MANPADS.—

16 (1) IN GENERAL.—The President is encouraged
17 to pursue strong programs to reduce the number of
18 MANPADSs worldwide so that fewer MANPADSs
19 will be available for trade, proliferation, and sale.

20 (2) REPORTING AND BRIEFING REQUIRE-
21 MENTS.—Not later than 180 days after the date of
22 enactment of this Act, the President shall transmit
23 to the appropriate congressional committees a report
24 that contains a detailed description of the status of
25 the programs being pursued under subsection (a).

1 Annually thereafter until the programs are no longer
2 needed, the Secretary of State shall brief the appro-
3 priate congressional committees on the status of pro-
4 grams.

5 (3) FUNDING.—There is authorized to be ap-
6 propriated such sums as may be necessary to carry
7 out this section.

8 (d) MANPADS VULNERABILITY ASSESSMENTS RE-
9 PORT.—

10 (1) IN GENERAL.—Not later than one year
11 after the date of enactment of this Act, the Sec-
12 retary of Homeland Security shall transmit to the
13 Committee on Transportation and Infrastructure of
14 the House of Representatives and the Committee on
15 Commerce, Science, and Transportation of the Sen-
16 ate a report describing the Department of Homeland
17 Security's plans to secure airports and the aircraft
18 arriving and departing from airports against
19 MANPADSs attacks.

20 (2) MATTERS TO BE ADDRESSED.—The Sec-
21 retary's report shall address, at a minimum, the fol-
22 lowing:

23 (A) The status of the Department's efforts
24 to conduct MANPADSs vulnerability assess-

1 ments at United States airports at which the
2 Department is conducting assessments.

3 (B) How intelligence is shared between the
4 United States intelligence agencies and Federal,
5 State, and local law enforcement to address the
6 MANPADS threat and potential ways to im-
7 prove such intelligence sharing.

8 (C) Contingency plans that the Depart-
9 ment has developed in the event that it receives
10 intelligence indicating a high threat of a
11 MANPADS attack on aircraft at or near
12 United States airports.

13 (D) The feasibility and effectiveness of im-
14 plementing public education and neighborhood
15 watch programs in areas surrounding United
16 States airports in cases in which intelligence re-
17 ports indicate there is a high risk of
18 MANPADS attacks on aircraft.

19 (E) Any other issues that the Secretary
20 deems relevant.

21 (3) **FORMAT.**—The report required by this sub-
22 section may be submitted in a classified format.

23 (e) **DEFINITIONS.**—In this section, the following defi-
24 nitions apply:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services, the
5 Committee on International Relations, and the
6 Committee on Transportation and Infrastruc-
7 ture of the House of Representatives; and

8 (B) the Committee on Armed Services, the
9 Committee on Foreign Relations, and the Com-
10 mittee on Commerce, Science, and Transpor-
11 tation of the Senate.

12 (2) MANPADS.—The term “MANPADS”
13 means—

14 (A) a surface-to-air missile system de-
15 signed to be man-portable and carried and fired
16 by a single individual; and

17 (B) any other surface-to-air missile system
18 designed to be operated and fired by more than
19 one individual acting as a crew and portable by
20 several individuals.

21 **SEC. 4027. TECHNICAL CORRECTIONS.**

22 (a) ADMINISTRATIVE IMPOSITION OF PENALTIES.—
23 Section 46301(d) of title 49, United States Code, is
24 amended—

1 (1) in the first sentence of paragraph (2) by
2 striking “46302, 46303,” and inserting “46302 (for
3 a violation relating to section 46504),”;

4 (2) in the second sentence of paragraph (2)—

5 (A) by striking “Under Secretary of
6 Transportation for Security” and inserting
7 “Secretary of Homeland Security”; and

8 (B) by striking “44909)” and inserting
9 “44909), 46302 (except for a violation relating
10 to section 46504), 46303,”;

11 (3) in paragraphs (2), (3), and (4) by striking
12 “Under Secretary or” each place it occurs and in-
13 serting “Secretary of Homeland Security or”; and

14 (4) in paragraph (4)(A) by moving clauses (i),
15 (ii), and (iii) 2 ems to the left.

16 (b) COMPROMISE AND SETOFF FOR FALSE INFORMA-
17 TION.—Section 46302(b)(1) of title 49, United States
18 Code, is amended by striking “Secretary of Transpor-
19 tation” and inserting “Secretary of Homeland Security
20 and, for a violation relating to section 46504, the Sec-
21 retary of Transportation,”.

22 (c) CARRYING A WEAPON.—Section 46303 of title
23 49, United States Code, is amended—

1 (1) in subsection (b)(1) by striking “Secretary
2 of Transportation” and inserting “Secretary of
3 Homeland Security”; and

4 (2) in subsection (c)(2) by striking “Under Sec-
5 retary of Transportation for Security” and inserting
6 “Secretary of Homeland Security”.

7 **SEC. 4028. REPORT ON SECONDARY FLIGHT DECK BAR-**
8 **RIERS.**

9 Not later than 6 months after the date of the enact-
10 ment of this Act, the Assistant Secretary of Homeland Se-
11 curity (Transportation Security Administration) shall sub-
12 mit to the appropriate congressional committees a report
13 on the costs and benefits associated with the use of sec-
14 ondary flight deck barriers, including the recommendation
15 of the Assistant Secretary whether or not the use of such
16 barriers should be mandated for all air carriers. The re-
17 port may be submitted in a classified form.

18 **SEC. 4029. EXTENSION OF AUTHORIZATION OF AVIATION**
19 **SECURITY FUNDING.**

20 Section 48301(a) of title 49, United States Code, is
21 amended by striking “and 2005” and inserting “2005,
22 and 2006”.

1 **Subtitle C—Air Cargo Security**

2 **SEC. 4051. PILOT PROGRAM TO EVALUATE USE OF BLAST**
3 **RESISTANT CARGO AND BAGGAGE CON-**
4 **TAINERS.**

5 (a) IN GENERAL.—Beginning not later than 180
6 days after the date of enactment of this Act, the Assistant
7 Secretary of Homeland Security (Transportation Security
8 Administration) shall carry out a pilot program to evalu-
9 ate the use of blast-resistant containers for cargo and bag-
10 gage on passenger aircraft to minimize the potential ef-
11 fects of detonation of an explosive device.

12 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-
13 GRAM.—

14 (1) IN GENERAL.—As part of the pilot pro-
15 gram, the Assistant Secretary shall provide incen-
16 tives to air carriers to volunteer to test the use of
17 blast-resistant containers for cargo and baggage on
18 passenger aircraft.

19 (2) APPLICATIONS.—To volunteer to participate
20 in the incentive program, an air carrier shall submit
21 to the Assistant Secretary an application that is in
22 such form and contains such information as the As-
23 sistant Secretary requires.

24 (3) TYPES OF INCENTIVES.—Incentives pro-
25 vided by the Assistant Secretary to air carriers that

1 volunteer to participate in the pilot program shall in-
2 clude the use of, and financial assistance to cover in-
3 creased costs to the carriers associated with the use
4 and maintenance of, blast-resistant containers, in-
5 cluding increased fuel costs.

6 (c) **TECHNOLOGICAL IMPROVEMENTS.**—The Sec-
7 retary of Homeland Security, in cooperation with the Sec-
8 retary of Transportation, shall support efforts to explore
9 alternative technologies for minimizing the potential ef-
10 fects of detonation of an explosive device on cargo and
11 passenger aircraft.

12 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is
13 authorized to be appropriated to carry out subsections (a)
14 and (b) \$2,000,000. Such sums shall remain available
15 until expended.

16 **SEC. 4052. AIR CARGO SECURITY.**

17 (a) **AIR CARGO SCREENING TECHNOLOGY.**—The As-
18 sistant Secretary of Homeland Security (Transportation
19 Security Administration) shall develop technology to bet-
20 ter identify, track, and screen air cargo.

21 (b) **IMPROVED AIR CARGO AND AIRPORT SECU-**
22 **RITY.**—There is authorized to be appropriated to the Sec-
23 retary of Homeland Security for the use of the Transpor-
24 tation Security Administration, in addition to any
25 amounts otherwise authorized by law, for the purpose of

1 improving aviation security related to the transportation
2 of cargo on both passenger aircraft and all-cargo
3 aircraft—

4 (1) \$200,000,000 for fiscal year 2005;

5 (2) \$200,000,000 for fiscal year 2006; and

6 (3) \$200,000,000 for fiscal year 2007.

7 Such sums shall remain available until expended.

8 (c) RESEARCH, DEVELOPMENT, AND DEPLOY-
9 MENT.—To carry out subsection (a), there is authorized
10 to be appropriated to the Secretary, in addition to any
11 amounts otherwise authorized by law, for research and de-
12 velopment related to enhanced air cargo security tech-
13 nology as well as for deployment and installation of en-
14 hanced air cargo security technology—

15 (1) \$100,000,000 for fiscal year 2005;

16 (2) \$100,000,000 for fiscal year 2006; and

17 (3) \$100,000,000 for fiscal year 2007.

18 Such sums shall remain available until expended.

19 (d) ADVANCED CARGO SECURITY GRANTS.—

20 (1) IN GENERAL.—The Secretary shall establish
21 and carry out a program to issue competitive grants
22 to encourage the development of advanced air cargo
23 security technology, including use of innovative fi-
24 nancing or other means of funding such activities.

25 The Secretary may make available funding for this

1 purpose from amounts appropriated pursuant to
2 subsection (c).

3 (2) **ELIGIBILITY CRITERIA, ETC.**—The Sec-
4 retary shall establish such eligibility criteria, estab-
5 lish such application and administrative procedures,
6 and provide for such matching funding require-
7 ments, if any, as may be necessary and appropriate
8 to ensure that the technology is deployed as fully
9 and rapidly as possible.

10 **SEC. 4053. AIR CARGO SECURITY REGULATIONS.**

11 Not later than 240 days after the date of enactment
12 of this Act, the Assistant Secretary of Homeland Security
13 (Transportation Security Administration) shall issue a
14 final rule in Docket Number TSA-2004-19515 to amend
15 transportation security regulations to enhance and im-
16 prove the security of air cargo transported in both pas-
17 senger and all-cargo aircraft.

18 **SEC. 4054. REPORT ON INTERNATIONAL AIR CARGO**
19 **THREATS.**

20 (a) **REPORT.**—Not later than 180 days after the date
21 of enactment of this Act, the Secretary of Homeland Secu-
22 rity, in coordination with the Secretary of Defense and
23 the Administrator of the Federal Aviation Administration,
24 shall submit to the Committee on Commerce, Science, and
25 Transportation and the Committee on Homeland Security

1 and Governmental Affairs of the Senate and the Com-
2 mittee on Transportation and Infrastructure of the House
3 of Representatives a report that contains the following:

4 (1) A description of the current procedures in
5 place to address the threat of an inbound all-cargo
6 aircraft from outside the United States that intel-
7 ligence sources indicate could carry explosive, incen-
8 diary, chemical, biological, or nuclear devices.

9 (2) An analysis of the potential for establishing
10 secure facilities along established international avia-
11 tion routes for the purposes of diverting and secur-
12 ing aircraft described in paragraph (1).

13 (b) REPORT FORMAT.—The Secretary may submit
14 all, or part, of the report required by this section in such
15 a classified and redacted format as the Secretary deter-
16 mines appropriate or necessary.

17 **Subtitle D—Maritime Security**

18 **SEC. 4071. WATCH LISTS FOR PASSENGERS ABOARD VES-**

19 **SELS.**

20 (a) WATCH LISTS.—

21 (1) IN GENERAL.—As soon as practicable but
22 not later than 180 days after the date of the enact-
23 ment of this Act, the Secretary of Homeland Secu-
24 rity shall—

1 (A) implement a procedure under which
2 the Department of Homeland Security com-
3 pares information about passengers and crew
4 who are to be carried aboard a cruise ship with
5 a comprehensive, consolidated database con-
6 taining information about known or suspected
7 terrorists and their associates;

8 (B) use the information obtained by com-
9 paring the passenger and crew information with
10 the information in the database to prevent
11 known or suspected terrorists and their associ-
12 ates from boarding such ships or to subject
13 them to specific additional security scrutiny,
14 through the use of “no transport” and “auto-
15 matic selectee” lists or other means.

16 (2) WAIVER.—The Secretary may waive the re-
17 quirement in paragraph (1)(B) with respect to cruise
18 ships embarking at foreign ports if the Secretary de-
19 termines that the application of such requirement to
20 such cruise ships is impracticable.

21 (b) COOPERATION FROM OPERATORS OF CRUISE
22 SHIPS.—The Secretary of Homeland Security shall by
23 rulemaking require operators of cruise ships to provide the
24 passenger and crew information necessary to implement
25 the procedure required by subsection (a).

1 (c) MAINTENANCE OF ACCURACY AND INTEGRITY OF
2 “NO TRANSPORT” AND “AUTOMATIC SELECTEE”
3 LISTS.—

4 (1) WATCH LIST DATABASE.—The Secretary of
5 Homeland Security, in consultation with the Ter-
6 rorist Screening Center, shall develop guidelines,
7 policies, and operating procedures for the collection,
8 removal, and updating of data maintained, or to be
9 maintained, in the “no transport” and “automatic
10 selectee” lists described in subsection (a)(1) that are
11 designed to ensure the accuracy and integrity of the
12 lists.

13 (2) ACCURACY OF ENTRIES.—In developing the
14 “no transport” and “automatic selectee” lists under
15 subsection (a)(1)(B), the Secretary shall establish a
16 simple and timely method for correcting erroneous
17 entries, for clarifying information known to cause
18 false hits or misidentification errors, and for updat-
19 ing relevant information that is dispositive in the
20 passenger and crew screening process. The Secretary
21 shall also establish a process to provide an individual
22 whose name is confused with, or similar to, a name
23 in the watch list database with a means of dem-
24 onstrating that such individual is not the person
25 named in the database.

1 (d) CRUISE SHIP DEFINED.—In this section, the
2 term “cruise ship” means a vessel on an international voy-
3 age that embarks or disembarks passengers at a port of
4 United States jurisdiction to which subpart C of part 160
5 of title 33, Code of Federal Regulations, applies and that
6 provides overnight accommodations.

7 **SEC. 4072. DEADLINES FOR COMPLETION OF CERTAIN**
8 **PLANS, REPORTS, AND ASSESSMENTS.**

9 (a) NATIONAL MARITIME TRANSPORTATION SECU-
10 RITY PLAN.—Section 70103(a)(1) of title 46, United
11 States Code, is amended by striking “The Secretary” and
12 inserting “Not later than April 1, 2005, the Secretary”.

13 (b) FACILITY AND VESSEL VULNERABILITY ASSESS-
14 MENTS.—Section 70102(b)(1) of title 46, United States
15 Code, is amended by striking “, the Secretary” and insert-
16 ing “and by not later than December 31, 2004, the Sec-
17 retary”.

18 (c) STRATEGIC PLAN REPORTS.—Not later than 90
19 days after the date of the enactment of this Act, the Sec-
20 retary of the department in which the Coast Guard is op-
21 erating shall submit to the Committee on Commerce,
22 Science, and Transportation of the Senate and the Com-
23 mittee on Transportation and Infrastructure of the House
24 of Representatives—

1 (1) a comprehensive program management plan
2 that identifies specific tasks to be completed, and
3 deadlines for completion, for the transportation se-
4 curity card program under section 70105 of title 46,
5 United States Code, that incorporates best practices
6 for communicating, coordinating, and collaborating
7 with the relevant stakeholders to resolve relevant
8 issues, such as background checks;

9 (2) a report on the status of negotiations under
10 section 103(a) of the Maritime Transportation Secu-
11 rity Act of 2002 (46 U.S.C. 70111);

12 (3) the report required by section 107(b) of the
13 Maritime Transportation Security Act of 2002 (33
14 U.S.C. 1226 note); and

15 (4) a report on the status of the development
16 of the system and standards required by section 111
17 of the Maritime Transportation Security Act of
18 2002 (46 U.S.C. 70116 note).

19 (d) OTHER REPORTS.—Not later than 90 days after
20 the date of the enactment of this Act—

21 (1) the Secretary of Homeland Security shall
22 submit to the appropriate congressional
23 committees—

24 (A) a report on the establishment of the
25 National Maritime Security Advisory Com-

1 mittee under section 70112 of title 46, United
2 States Code; and

3 (B) a report on the status of the program
4 required by section 70116 of title 46, United
5 States Code, to evaluate and certify secure sys-
6 tems of international intermodal transportation;

7 (2) the Secretary of Transportation shall sub-
8 mit to the appropriate congressional committees the
9 annual report required by section 905 of the Inter-
10 national Maritime and Port Security Act (46 U.S.C.
11 App. 1802) that includes information that should
12 have been included in the last preceding annual re-
13 port that was due under that section; and

14 (3) the Commandant of the United States
15 Coast Guard shall submit to the appropriate con-
16 gressional committees the report required by section
17 110(b) of the Maritime Transportation Security Act
18 of 2002 (46 U.S.C. 70101 note).

19 **Subtitle E—General Provisions**

20 **SEC. 4081. DEFINITIONS.**

21 In this title (other than in sections 4001 and 4026),
22 the following definitions apply:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means the Committee on Commerce,

1 Science, and Transportation of the Senate and the
2 Committee on Transportation and Infrastructure of
3 the House of Representatives.

4 (2) AVIATION DEFINITIONS.—The terms “air
5 carrier”, “air transportation”, “aircraft”, “airport”,
6 “cargo”, “foreign air carrier”, and “intrastate air
7 transportation” have the meanings given such terms
8 in section 40102 of title 49, United States Code.

9 (3) SECURE AREA OF AN AIRPORT.—The term
10 “secure area of an airport” means the sterile area
11 and the Secure Identification Display Area of an air-
12 port (as such terms are defined in section 1540.5 of
13 title 49, Code of Federal Regulations, or any suc-
14 cessor regulations).

15 **SEC. 4082. EFFECTIVE DATE.**

16 This title shall take effect on the date of enactment
17 of this Act.

1 **TITLE V—BORDER PROTECTION,**
2 **IMMIGRATION, AND VISA**
3 **MATTERS**

4 **Subtitle A—Advanced Technology**
5 **Northern Border Security Pilot**
6 **Program**

7 **SEC. 5101. ESTABLISHMENT.**

8 The Secretary of Homeland Security may carry out
9 a pilot program to test various advanced technologies that
10 will improve border security between ports of entry along
11 the northern border of the United States.

12 **SEC. 5102. PROGRAM REQUIREMENTS.**

13 (a) **REQUIRED FEATURES.**—The Secretary of Home-
14 land Security shall design the pilot program under this
15 subtitle to have the following features:

16 (1) Use of advanced technological systems, in-
17 cluding sensors, video, and unmanned aerial vehicles,
18 for border surveillance.

19 (2) Use of advanced computing and decision in-
20 tegration software for—

21 (A) evaluation of data indicating border in-
22 cursions;

23 (B) assessment of threat potential; and

1 (C) rapid real-time communication, moni-
2 toring, intelligence gathering, deployment, and
3 response.

4 (3) Testing of advanced technology systems and
5 software to determine best and most cost-effective
6 uses of advanced technology to improve border secu-
7 rity.

8 (4) Operation of the program in remote
9 stretches of border lands with long distances be-
10 tween 24-hour ports of entry with a relatively small
11 presence of United States border patrol officers.

12 (5) Capability to expand the program upon a
13 determination by the Secretary that expansion would
14 be an appropriate and cost-effective means of im-
15 proving border security.

16 (b) COORDINATION WITH OTHER AGENCIES.—The
17 Secretary of Homeland Security shall ensure that the op-
18 eration of the pilot program under this subtitle—

19 (1) is coordinated among United States, State,
20 local, and Canadian law enforcement and border se-
21 curity agencies; and

22 (2) includes ongoing communication among
23 such agencies.

1 **SEC. 5103. ADMINISTRATIVE PROVISIONS.**

2 (a) **PROCUREMENT OF ADVANCED TECHNOLOGY.—**

3 The Secretary of Homeland Security may enter into con-
4 tracts for the procurement or use of such advanced tech-
5 nologies as the Secretary determines appropriate for the
6 pilot program under this subtitle.

7 (b) **PROGRAM PARTNERSHIPS.—**In carrying out the
8 pilot program under this subtitle, the Secretary of Home-
9 land Security may provide for the establishment of cooper-
10 ative arrangements for participation in the pilot program
11 by such participants as law enforcement and border secu-
12 rity agencies referred to in section 5102(b), institutions
13 of higher education, and private sector entities.

14 **SEC. 5104. REPORT.**

15 (a) **REQUIREMENT FOR REPORT.—**Not later than 1
16 year after the date of enactment of this Act, the Secretary
17 of Homeland Security shall submit to Congress a report
18 on the pilot program under this subtitle.

19 (b) **CONTENT.—**The report under subsection (a) shall
20 include the following matters:

21 (1) A discussion of the implementation of the
22 pilot program, including the experience under the
23 pilot program.

24 (2) A recommendation regarding whether to ex-
25 pand the pilot program along the entire northern

1 border of the United States and a timeline for the
2 implementation of the expansion.

3 **SEC. 5105. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated such sums as
5 may be necessary to carry out the pilot program under
6 this subtitle.

7 **Subtitle B—Border and**
8 **Immigration Enforcement**

9 **SEC. 5201. BORDER SURVEILLANCE.**

10 (a) IN GENERAL.—Not later than 6 months after the
11 date of enactment of this Act, the Secretary of Homeland
12 Security shall submit to the President and the appropriate
13 committees of Congress a comprehensive plan for the sys-
14 tematic surveillance of the southwest border of the United
15 States by remotely piloted aircraft.

16 (b) CONTENTS.—The plan submitted under sub-
17 section (a) shall include—

18 (1) recommendations for establishing command
19 and control centers, operations sites, infrastructure,
20 maintenance, and procurement;

21 (2) cost estimates for the implementation of the
22 plan and ongoing operations;

23 (3) recommendations for the appropriate agent
24 within the Department of Homeland Security to be

1 the executive agency for remotely piloted aircraft op-
2 erations;

3 (4) the number of remotely piloted aircraft re-
4 quired for the plan;

5 (5) the types of missions the plan would under-
6 take, including—

7 (A) protecting the lives of people seeking
8 illegal entry into the United States;

9 (B) interdicting illegal movement of people,
10 weapons, and other contraband across the bor-
11 der;

12 (C) providing investigative support to as-
13 sist in the dismantling of smuggling and crimi-
14 nal networks along the border;

15 (D) using remotely piloted aircraft to serve
16 as platforms for the collection of intelligence
17 against smugglers and criminal networks along
18 the border; and

19 (E) further validating and testing of re-
20 motely piloted aircraft for airspace security mis-
21 sions;

22 (6) the equipment necessary to carry out the
23 plan; and

1 crease in border patrol agents during each such fiscal
2 year.

3 **SEC. 5203. INCREASE IN FULL-TIME IMMIGRATION AND**
4 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

5 In each of fiscal years 2006 through 2010, the Sec-
6 retary of Homeland Security shall, subject to the avail-
7 ability of appropriations for such purpose, increase by not
8 less than 800 the number of positions for full-time active
9 duty investigators within the Department of Homeland
10 Security investigating violations of immigration laws (as
11 defined in section 101(a)(17) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1101(a)(17)) above the number of
13 such positions for which funds were made available during
14 the preceding fiscal year.

15 **SEC. 5204. INCREASE IN DETENTION BED SPACE.**

16 (a) IN GENERAL.—Subject to the availability of ap-
17 propriated funds, the Secretary of Homeland Security
18 shall increase by not less than 8,000, in each of the fiscal
19 years 2006 through 2010, the number of beds available
20 for immigration detention and removal operations of the
21 Department of Homeland Security above the number for
22 which funds were allotted for the preceding fiscal year.

23 (b) PRIORITY.—The Secretary shall give priority for
24 the use of these additional beds to the detention of individ-
25 uals charged with removability under section 237(a)(4) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1227(a)(4)) or inadmissibility under section 212(a)(3) of
3 that Act (8 U.S.C. 1182(a)(3)).

4 **Subtitle C—Visa Requirements**

5 **SEC. 5301. IN PERSON INTERVIEWS OF VISA APPLICANTS.**

6 (a) REQUIREMENT FOR INTERVIEWS.—Section 222
7 of the Immigration and Nationality Act (8 U.S.C. 1202)
8 is amended by adding at the end the following new sub-
9 section:

10 “(h) Notwithstanding any other provision of this Act,
11 the Secretary of State shall require every alien applying
12 for a nonimmigrant visa—

13 “(1) who is at least 14 years of age and not
14 more than 79 years of age to submit to an in person
15 interview with a consular officer unless the require-
16 ment for such interview is waived—

17 “(A) by a consular official and such alien
18 is—

19 “(i) within that class of non-
20 immigrants enumerated in subparagraph
21 (A) or (G) of section 101(a)(15);

22 “(ii) within the NATO visa category;

23 “(iii) within that class of non-
24 immigrants enumerated in section

1 101(a)(15)(C)(iii) (referred to as the ‘C-3
2 visa’ category); or

3 “(iv) granted a diplomatic or official
4 visa on a diplomatic or official passport or
5 on the equivalent thereof;

6 “(B) by a consular official and such alien
7 is applying for a visa—

8 “(i) not more than 12 months after
9 the date on which such alien’s prior visa
10 expired;

11 “(ii) for the visa classification for
12 which such prior visa was issued;

13 “(iii) from the consular post located
14 in the country of such alien’s usual resi-
15 dence, unless otherwise prescribed in regu-
16 lations that require an applicant to apply
17 for a visa in the country of which such ap-
18 plicant is a national; and

19 “(iv) the consular officer has no indi-
20 cation that such alien has not complied
21 with the immigration laws and regulations
22 of the United States; or

23 “(C) by the Secretary of State if the Sec-
24 retary determines that such waiver is—

1 “(i) in the national interest of the
2 United States; or

3 “(ii) necessary as a result of unusual
4 or emergent circumstances; and

5 “(2) notwithstanding paragraph (1), to submit
6 to an in person interview with a consular officer if
7 such alien—

8 “(A) is not a national or resident of the
9 country in which such alien is applying for a
10 visa;

11 “(B) was previously refused a visa, unless
12 such refusal was overcome or a waiver of ineli-
13 gibility has been obtained;

14 “(C) is listed in the Consular Lookout and
15 Support System (or successor system at the De-
16 partment of State);

17 “(D) is a national of a country officially
18 designated by the Secretary of State as a state
19 sponsor of terrorism, except such nationals who
20 possess nationalities of countries that are not
21 designated as state sponsors or terrorism;

22 “(E) requires a security advisory opinion
23 or other Department of State clearance, unless
24 such alien is—

1 “(i) within that class of non-
2 immigrants enumerated in subparagraph
3 (A) or (G) of section 101(a)(15);

4 “(ii) within the NATO visa category;

5 “(iii) within that class of non-
6 immigrants enumerated in section
7 101(a)(15)(C)(iii) (referred to as the ‘C-3
8 visa’ category); or

9 “(iv) an alien who qualifies for a dip-
10 lomatic or official visa, or its equivalent; or

11 “(F) is identified as a member of a group
12 or sector that the Secretary of State
13 determines—

14 “(i) poses a substantial risk of sub-
15 mitting inaccurate information in order to
16 obtain a visa;

17 “(ii) has historically had visa applica-
18 tions denied at a rate that is higher than
19 the average rate of such denials; or

20 “(iii) poses a security threat to the
21 United States.”.

22 **SEC. 5302. VISA APPLICATION REQUIREMENTS.**

23 Section 222(c) of the Immigration and Nationality
24 Act (8 U.S.C. 1202(c)) is amended by inserting “The alien
25 shall provide complete and accurate information in re-

1 sponse to any request for information contained in the ap-
2 plication.” after the second sentence.

3 **SEC. 5303. EFFECTIVE DATE.**

4 Notwithstanding section 1086 or any other provision
5 of this Act, sections 5301 and 5302 shall take effect 90
6 days after the date of enactment of this Act.

7 **SEC. 5304. REVOCATION OF VISAS AND OTHER TRAVEL**
8 **DOCUMENTATION.**

9 (a) **LIMITATION ON REVIEW.**—Section 221(i) of the
10 Immigration and Nationality Act (8 U.S.C. 1201(i)) is
11 amended by adding at the end the following: “There shall
12 be no means of judicial review (including review pursuant
13 to section 2241 of title 28, United States Code, or any
14 other habeas corpus provision, and sections 1361 and
15 1651 of such title) of a revocation under this subsection,
16 except in the context of a removal proceeding if such rev-
17 ocation provides the sole ground for removal under section
18 237(a)(1)(B).”.

19 (b) **CLASSES OF DEPORTABLE ALIENS.**—Section
20 237(a)(1)(B) of the Immigration and Nationality Act (8
21 U.S.C. 1227(a)(1)(B)) is amended by striking “United
22 States is” and inserting the following: “United States, or
23 whose nonimmigrant visa (or other documentation author-
24 izing admission into the United States as a nonimmigrant)
25 has been revoked under section 221(i), is”.

1 (c) REVOCATION OF PETITIONS.—Section 205 of the
2 Immigration and Nationality Act (8 U.S.C. 1155) is
3 amended—

4 (1) by striking “Attorney General” and insert-
5 ing “Secretary of Homeland Security”; and

6 (2) by striking the final two sentences.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of enactment of
9 this Act and shall apply to revocations under sections 205
10 and 221(i) of the Immigration and Nationality Act (8
11 U.S.C. 1155, 1201(i)) made before, on, or after such date.

12 **Subtitle D—Immigration Reform**

13 **SEC. 5401. BRINGING IN AND HARBORING CERTAIN ALIENS.**

14 (a) CRIMINAL PENALTIES.—Section 274(a) of the
15 Immigration and Nationality Act (8 U.S.C. 1324(a)) is
16 amended by adding at the end the following:

17 “(4) In the case of a person who has brought aliens
18 into the United States in violation of this subsection, the
19 sentence otherwise provided for may be increased by up
20 to 10 years if—

21 “(A) the offense was part of an ongoing com-
22 mercial organization or enterprise;

23 “(B) aliens were transported in groups of 10 or
24 more; and

1 behalf of any organization that, at the time
2 the training was received, was a terrorist
3 organization (as defined in subclause (I) or
4 (II) of section 212(a)(3)(B)(vi)), is deport-
5 able.

6 “(ii) DEFINITION.—As used in this
7 subparagraph, the term ‘military-type
8 training’ includes training in means or
9 methods that can cause death or serious
10 bodily injury, destroy or damage property,
11 or disrupt services to critical infrastruc-
12 ture, or training on the use, storage, pro-
13 duction, or assembly of any explosive, fire-
14 arm, or other weapon, including any weap-
15 on of mass destruction (as defined in sec-
16 tion 2332a(c)(2) of title 18, United States
17 Code).”.

18 **SEC. 5403. STUDY AND REPORT ON TERRORISTS IN THE**
19 **ASYLUM SYSTEM.**

20 (a) STUDY.—Commencing not later than 30 days
21 after the date of the enactment of this Act, the Comp-
22 troller General of the United States shall conduct a study
23 to evaluate the extent to which weaknesses in the United
24 States asylum system and withholding of removal system

1 have been or could be exploited by aliens connected to,
2 charged in connection with, or tied to terrorist activity.

3 (b) ELEMENTS.—The study under subsection (a)
4 shall address, but not be limited to, the following:

5 (1) The number of aliens connected to, tied to,
6 charged in connection with, or who claim to have
7 been accused of or charged in connection with ter-
8 rorist activity who have applied for, been granted, or
9 been denied asylum.

10 (2) The number of aliens connected to, tied to,
11 charged in connection with, or who claim to have
12 been accused of or charged in connection with ter-
13 rorist activity who have applied for, been granted, or
14 been denied release from detention.

15 (3) The number of aliens connected to, tied to,
16 charged in connection with, or who claim to have
17 been accused of or charged in connection with ter-
18 rorist activity who have been denied asylum but who
19 remain at large in the United States.

20 (4) The effect of the confidentiality provisions
21 of section 208.6 of title 8, Code of Federal Regula-
22 tions, on the ability of the United States Govern-
23 ment to establish that an alien is connected to or
24 tied to terrorist activity, such that the alien is

1 barred from asylum or withholding of removal, is re-
2 movable from the United States, or both.

3 (5) The effect that precedential decisions, if
4 any, holding that the extrajudicial punishment of an
5 individual connected to terrorism, or guerrilla or mil-
6 itant activity abroad, or threats of such punishment,
7 constitute persecution on account of political opinion
8 as defined in section 101(a)(42) of the Immigration
9 and Nationality Act (8 U.S.C. 1101(a)(42)), have
10 had on the ability of the United States Government
11 to remove aliens whom the United States Govern-
12 ment believes are connected to or have ties to ter-
13 rorism,

14 (6) The extent to which court precedents have
15 affected the ability of the United States Government
16 to determine or prove that an alien the United
17 States Government believes to be connected to or
18 tied to terrorism is in fact so connected or tied,
19 including—

20 (A) so-called “imputed political opinion”;

21 (B) judicial review, reversal, or both of the
22 credibility determinations of immigration
23 judges; and

1 (C) the need to use classified information
2 in removal proceedings against aliens suspected
3 of connections or ties to terrorism.

4 (7) The likelihood that an alien connected to or
5 with ties to terrorism has been granted asylum or
6 withholding of removal.

7 (8) The likelihood that an alien connected to or
8 with ties to terrorism has used the United States
9 asylum system to enter or remain in the United
10 States in order to plan, conspire, or carry out, or at-
11 tempt to plan, conspire, or carry out, an act of ter-
12 rorism.

13 (c) CONSIDERATION AND ASSESSMENT.—Solely for
14 purposes of conducting the study under subsection (a), the
15 Comptroller General shall consider the possibility, and as-
16 sess the likelihood, that an alien whom the United States
17 Government accuses or has accused of having a connection
18 to or ties to terrorism is in fact connected to or tied to
19 terrorism, notwithstanding any administrative or judicial
20 determination to the contrary.

21 (d) SCOPE.—In conducting the study under sub-
22 section (a), the Comptroller General shall seek information
23 from the Department of Homeland Security, the Federal
24 Bureau of Investigation, the Central Intelligence Agency,
25 the Department of Justice, foreign governments, experts

1 in the field of alien terrorists, and any other appropriate
2 source.

3 (e) PRIVACY.—

4 (1) IN GENERAL.—Notwithstanding section
5 208.6 of title 8, Code of Federal Regulations, the
6 Comptroller General shall, for purposes of the study
7 under subsection (a), have access to the applications
8 and administrative and judicial records of alien ap-
9 plicants for asylum and withholding of removal. Ex-
10 cept for purposes of preparing the reports under
11 subsection (f), such information shall not be further
12 disclosed or disseminated, nor shall the names or
13 personal identifying information of any applicant be
14 released.

15 (2) SECURITY OF RECORDS.—The Comptroller
16 General shall ensure that records received pursuant
17 to this section are appropriately secured to prevent
18 their inadvertent disclosure.

19 (f) REPORT TO CONGRESS.—

20 (1) IN GENERAL.—Not later than 270 days
21 after the date of the enactment of this Act, the
22 Comptroller General shall submit to the appropriate
23 committees of Congress and the Secretary of Home-
24 land Security a report on the findings and rec-

1 ommendations of the Comptroller General under the
2 study under subsection (a).

3 (2) ELEMENTS.—The report under paragraph
4 (1) shall include the following:

5 (A) The assessment of the Comptroller
6 General on each matter specified in subsection
7 (b).

8 (B) Any recommendations of the Comp-
9 troller General for such administrative action
10 on any matter specified in subsection (a) as the
11 Comptroller General considers necessary to bet-
12 ter protect the national security of the United
13 States.

14 (C) Any recommendations of the Comp-
15 troller General for such legislative action on any
16 matter specified in subsection (a) as the Comp-
17 troller General considers necessary to better
18 protect the national security of the United
19 States.

20 (3) FORM.—If necessary, the Comptroller Gen-
21 eral may submit a classified and unclassified version
22 of the report under paragraph (1).

23 (g) APPROPRIATE COMMITTEES OF CONGRESS DE-
24 FINED.—In this section, the term “appropriate commit-
25 tees of Congress” means—

1 (1) the Committee on Homeland Security and
2 Governmental Affairs, the Committee on the Judici-
3 ary, and the Select Committee on Intelligence of the
4 Senate; and

5 (2) the Committee on the Judiciary and the
6 Permanent Select Committee on Intelligence of the
7 House of Representatives.

8 **Subtitle E—Treatment of Aliens**
9 **Who Commit Acts of Torture,**
10 **Extrajudicial Killings, or Other**
11 **Atrocities Abroad**

12 **SEC. 5501. INADMISSIBILITY AND DEPORTABILITY OF**
13 **ALIENS WHO HAVE COMMITTED ACTS OF**
14 **TORTURE OR EXTRAJUDICIAL KILLINGS**
15 **ABROAD.**

16 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
17 Immigration and Nationality Act (8 U.S.C.
18 1182(a)(3)(E)) is amended—

19 (1) in clause (ii), by striking “has engaged in
20 conduct that is defined as genocide for purposes of
21 the International Convention on the Prevention and
22 Punishment of Genocide is inadmissible” and insert-
23 ing “ordered, incited, assisted, or otherwise partici-
24 pated in conduct outside the United States that
25 would, if committed in the United States or by a

1 United States national, be genocide, as defined in
2 section 1091(a) of title 18, United States Code, is
3 inadmissible”;

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

5 “(iii) COMMISSION OF ACTS OF TOR-
6 TURE OR EXTRAJUDICIAL KILLINGS.—Any
7 alien who, outside the United States, has
8 committed, ordered, incited, assisted, or
9 otherwise participated in the commission
10 of—

11 “(I) any act of torture, as de-
12 fined in section 2340 of title 18,
13 United States Code; or

14 “(II) under color of law of any
15 foreign nation, any extrajudicial kill-
16 ing, as defined in section 3(a) of the
17 Torture Victim Protection Act of
18 1991 (28 U.S.C. 1350 note),

19 is inadmissible.”; and

20 (3) in the subparagraph heading, by striking
21 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
22 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
23 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
24 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

1 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such
2 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

3 (1) by striking “clause (i) or (ii)” and inserting
4 “clause (i), (ii), or (iii)”; and

5 (2) in the subparagraph heading, by striking
6 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
7 GENOCIDE” and inserting “PARTICIPATED IN NAZI
8 PERSECUTION, GENOCIDE, OR THE COMMISSION OF
9 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to offenses committed before, on,
12 or after the date of enactment of this Act.

13 **SEC. 5502. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
14 **EIGN GOVERNMENT OFFICIALS WHO HAVE**
15 **COMMITTED PARTICULARLY SEVERE VIOLA-**
16 **TIONS OF RELIGIOUS FREEDOM.**

17 (a) GROUND OF INADMISSIBILITY.—Section
18 212(a)(2)(G) of the Immigration and Nationality Act (8
19 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

20 “(G) FOREIGN GOVERNMENT OFFICIALS
21 WHO HAVE COMMITTED PARTICULARLY SEVERE
22 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
23 alien who, while serving as a foreign govern-
24 ment official, was responsible for or directly
25 carried out, at any time, particularly severe vio-

1 lations of religious freedom, as defined in sec-
2 tion 3 of the International Religious Freedom
3 Act of 1998 (22 U.S.C. 6402), is inadmis-
4 sible.”.

5 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1227(a)(4)) is amended by adding at the end the fol-
8 lowing:

9 “(E) PARTICIPATED IN THE COMMISSION
10 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-
11 DOM.—Any alien described in section
12 212(a)(2)(G) is deportable.”.

13 **SEC. 5503. WAIVER OF INADMISSIBILITY.**

14 Section 212(d)(3) of the Immigration and Nationality
15 Act (8 U.S.C. 1182(d)(3)) is amended—

16 (1) in subparagraph (A), by striking “and
17 3(E)” and inserting “and clauses (i) and (ii) of
18 paragraph (3)(E)”; and

19 (2) in subparagraph (B), by striking “and
20 3(E)” and inserting “and clauses (i) and (ii) of
21 paragraph (3)(E)”.

1 **SEC. 5504. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
2 **WHO HAVE COMMITTED ACTS OF TORTURE,**
3 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
4 **LATIONS OF RELIGIOUS FREEDOM.**

5 Section 101(f) of the Immigration and Nationality
6 Act (8 U.S.C. 1101(f)) is amended—

7 (1) by striking the period at the end of para-
8 graph (8) and inserting “; or”; and

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

10 “(9) one who at any time has engaged in con-
11 duct described in section 212(a)(3)(E) (relating to
12 assistance in Nazi persecution, participation in geno-
13 cide, or commission of acts of torture or
14 extrajudicial killings) or 212(a)(2)(G) (relating to
15 severe violations of religious freedom).”.

16 **SEC. 5505. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
17 **VESTIGATIONS.**

18 (a) AMENDMENT OF THE IMMIGRATION AND NA-
19 TIONALITY ACT.—Section 103 of the Immigration and
20 Nationality Act (8 U.S.C. 1103) is amended by adding
21 at the end the following:

22 “(h)(1) The Attorney General shall establish within
23 the Criminal Division of the Department of Justice an Of-
24 fice of Special Investigations with the authority to detect
25 and investigate, and, where appropriate, to take legal ac-

1 tion to denaturalize any alien described in section
2 212(a)(3)(E).

3 “(2) The Attorney General shall consult with the Sec-
4 retary of Homeland Security in making determinations
5 concerning the criminal prosecution or extradition of
6 aliens described in section 212(a)(3)(E).

7 “(3) In determining the appropriate legal action to
8 take against an alien described in section 212(a)(3)(E),
9 consideration shall be given to—

10 “(A) the availability of criminal prosecution
11 under the laws of the United States for any conduct
12 that may form the basis for removal and
13 denaturalization; or

14 “(B) the availability of extradition of the alien
15 to a foreign jurisdiction that is prepared to under-
16 take a prosecution for such conduct.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) IN GENERAL.—There are authorized to be
19 appropriated to the Department of Justice such
20 sums as may be necessary to carry out the addi-
21 tional duties established under section 103(h) of the
22 Immigration and Nationality Act (as added by this
23 subtitle) in order to ensure that the Office of Special
24 Investigations fulfills its continuing obligations re-
25 garding Nazi war criminals.

1 (2) AVAILABILITY OF FUNDS.—Amounts appro-
2 priated pursuant to paragraph (1) are authorized to
3 remain available until expended.

4 **SEC. 5506. REPORT ON IMPLEMENTATION.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Attorney General, in consultation with the
7 Secretary of Homeland Security, shall submit to the Com-
8 mittees on the Judiciary of the Senate and the House of
9 Representatives a report on implementation of this sub-
10 title that includes a description of—

11 (1) the procedures used to refer matters to the
12 Office of Special Investigations and other compo-
13 nents within the Department of Justice and the De-
14 partment of Homeland Security in a manner con-
15 sistent with the amendments made by this subtitle;

16 (2) the revisions, if any, made to immigration
17 forms to reflect changes in the Immigration and Na-
18 tionality Act made by the amendments contained in
19 this subtitle; and

20 (3) the procedures developed, with adequate due
21 process protection, to obtain sufficient evidence to
22 determine whether an alien may be inadmissible
23 under the terms of the amendments made by this
24 subtitle.

1 **TITLE VI—TERRORISM**
2 **PREVENTION**
3 **Subtitle A—Individual Terrorists**
4 **as Agents of Foreign Powers**

5 **SEC. 6001. INDIVIDUAL TERRORISTS AS AGENTS OF FOR-**
6 **EIGN POWERS.**

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

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

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

17 **SEC. 6002. ADDITIONAL SEMIANNUAL REPORTING RE-**
18 **QUIREMENTS UNDER THE FOREIGN INTEL-**
19 **LIGENCE SURVEILLANCE ACT OF 1978.**

20 (a) ADDITIONAL REPORTING REQUIREMENTS.—The
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1801 et seq.) is amended—

23 (1) by redesignating—

24 (A) title VI as title VII; and

25 (B) section 601 as section 701; and

1 (2) by inserting after title V the following new
2 title:

3 **“TITLE VI—REPORTING**
4 **REQUIREMENT**

5 **“SEC. 601. SEMIANNUAL REPORT OF THE ATTORNEY GEN-**
6 **ERAL.**

7 “(a) REPORT.—On a semiannual basis, the Attorney
8 General shall submit to the Permanent Select Committee
9 on Intelligence of the House of Representatives, the Select
10 Committee on Intelligence of the Senate, and the commit-
11 tees on the Judiciary of the House of Representatives and
12 the Senate, in a manner consistent with the protection of
13 the national security, a report setting forth with respect
14 to the preceding 6-month period—

15 “(1) the aggregate number of persons targeted
16 for orders issued under this Act, including a break-
17 down of those targeted for—

18 “(A) electronic surveillance under section
19 105;

20 “(B) physical searches under section 304;

21 “(C) pen registers under section 402; and

22 “(D) access to records under section 501;

23 “(2) the number of individuals covered by an
24 order issued pursuant to section 101(b)(1)(C);

1 “(3) the number of times that the Attorney
2 General has authorized that information obtained
3 under this Act may be used in a criminal proceeding
4 or any information derived therefrom may be used
5 in a criminal proceeding;

6 “(4) a summary of significant legal interpreta-
7 tions of this Act involving matters before the For-
8 eign Intelligence Surveillance Court or the Foreign
9 Intelligence Surveillance Court of Review, including
10 interpretations presented in applications or plead-
11 ings filed with the Foreign Intelligence Surveillance
12 Court or the Foreign Intelligence Surveillance Court
13 of Review by the Department of Justice; and

14 “(5) copies of all decisions (not including or-
15 ders) or opinions of the Foreign Intelligence Surveil-
16 lance Court or Foreign Intelligence Surveillance
17 Court of Review that include significant construction
18 or interpretation of the provisions of this Act.

19 “(b) FREQUENCY.—The first report under this sec-
20 tion shall be submitted not later than 6 months after the
21 date of enactment of this section. Subsequent reports
22 under this section shall be submitted semi-annually there-
23 after.”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 for the Foreign Intelligence Act of 1978 (50 U.S.C. 1801

1 et seq.) is amended by striking the items relating to title
2 VI and inserting the following new items:

“TITLE VI—REPORTING REQUIREMENT

“Sec. 601. Semiannual report of the Attorney General.

“TITLE VII—EFFECTIVE DATE

“Sec. 701. Effective date.”.

3 **Subtitle B—Money Laundering and**
4 **Terrorist Financing**

5 **SEC. 6101. ADDITIONAL AUTHORIZATION FOR FINCEN.**

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

8 (1) by striking “APPROPRIATIONS.—There are
9 authorized” and inserting “APPROPRIATIONS.—

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

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

13 “(2) AUTHORIZATION FOR FUNDING KEY TECH-
14 NOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL
15 FINCEN SYSTEMS.—There are authorized to be ap-
16 propriated for fiscal year 2005 the following
17 amounts, which are authorized to remain available
18 until expended:

19 “(A) BSA DIRECT.—For technological im-
20 provements to provide authorized law enforce-
21 ment and financial regulatory agencies with
22 Web-based access to FinCEN data, to fully de-

1 velop and implement the highly secure network
2 required under section 362 of Public Law 107–
3 56 to expedite the filing of, and reduce the fil-
4 ing costs for, financial institution reports, in-
5 cluding suspicious activity reports, collected by
6 FinCEN under chapter 53 and related provi-
7 sions of law, and enable FinCEN to imme-
8 diately alert financial institutions about sus-
9 picious activities that warrant immediate and
10 enhanced scrutiny, and to provide and upgrade
11 advanced information-sharing technologies to
12 materially improve the Government’s ability to
13 exploit the information in the FinCEN data
14 banks, \$16,500,000.

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

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

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

4 “(E) DETECTION AND PREVENTION OF FI-
 5 NANCIAL CRIMES AND TERRORISM.—To provide
 6 development of, and training in the use of, tech-
 7 nology to detect and prevent financial crimes
 8 and terrorism within and without the United
 9 States, \$8,000,000.”.

10 **SEC. 6102. MONEY LAUNDERING AND FINANCIAL CRIMES**
 11 **STRATEGY REAUTHORIZATION.**

12 (a) PROGRAM.—Section 5341(a)(2) of title 31,
 13 United States Code, is amended—

14 (1) by striking “February 1” and inserting
 15 “August 1”; and

16 (2) by striking “and 2003,” and inserting
 17 “2003, 2005, and 2007.”.

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

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

1 **Subtitle C—Money Laundering**
2 **Abatement and Financial**
3 **Antiterrorism Technical Correc-**
4 **tions**

5 **SEC. 6201. SHORT TITLE.**

6 This subtitle may be cited as the “International
7 Money Laundering Abatement and Financial
8 Antiterrorism Technical Corrections Act of 2004”.

9 **SEC. 6202. TECHNICAL CORRECTIONS TO PUBLIC LAW 107-**
10 **56.**

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

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

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

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

21 (c) Section 302 of Public Law 107–56 is amended—
22 (1) in subsection (a)(4), by striking the comma
23 after “movement of criminal funds”;

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

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

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

9 (e) The heading for section 311 of Public Law 107–
10 56 is amended by striking “**OR INTERNATIONAL**
11 **TRANSACTIONS**” and inserting “**INTERNATIONAL**
12 **TRANSACTIONS, OR TYPES OF ACCOUNTS**”.

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

14 (1) in paragraph (1)—

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

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

19 (2) in paragraph (2)(A)—

20 (A) by striking “and” after “nongovern-
21 mental organizations,”; and

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

24 (3) in paragraph (3)(A)—

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

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

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

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

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

12 (i) Subsections (a)(2) and (b)(2) of section 327 of
13 Public Law 107–56 are each amended by striking “2001”
14 and all that follows and inserting a period.

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

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

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

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

1 (3) in the amendment made in that subsection
2 (e), by striking “person.” and inserting the fol-
3 lowing: “person—”.

4 (l) Section 360 of Public Law 107–56 is amended—
5 (1) in subsection (a), by inserting “the” after
6 “utilization of the funds of”; and

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

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

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

13 (1) by redesignating the second of the 2 sub-
14 sections designated as subsection (c) (relating to a
15 clerical amendment) as subsection (d); and

16 (2) by redesignating subsection (f) as sub-
17 section (e).

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

1 **SEC. 6203. TECHNICAL CORRECTIONS TO OTHER PROVI-**
2 **SIONS OF LAW.**

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

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

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

11 (1) in paragraph (3)(B), by inserting a comma
12 after “foreign political figure” the second place such
13 term appears; and

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

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

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

21 **“§ 5318A. Special measures for jurisdictions, financial**
22 **institutions, international transactions,**
23 **or types of accounts of primary money**
24 **laundering concern”.**

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

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

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

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

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

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

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

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

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

23 (i) The table of sections for subchapter II of chapter
24 53 of title 31, United States Code, is amended by striking

1 the item relating to section 5318A and inserting the fol-
2 lowing:

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

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

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

9 (l) Section 626(e) of the Fair Credit Reporting Act
10 (15 U.S.C. 1681v(e)) is amended by striking “govern-
11 mental agency” and inserting “government agency”.

12 **SEC. 6204. REPEAL OF REVIEW.**

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

15 **SEC. 6205. EFFECTIVE DATE.**

16 The amendments made by this subchapter to Public
17 Law 107–56, the United States Code, the Federal Deposit
18 Insurance Act, and any other provision of law shall take
19 effect as if such amendments had been included in Public
20 Law 107–56, as of the date of enactment of such Public
21 Law, and no amendment made by such Public Law that
22 is inconsistent with an amendment made by this sub-
23 chapter shall be deemed to have taken effect.

1 **Subtitle D—Additional**
2 **Enforcement Tools**

3 **SEC. 6301. BUREAU OF ENGRAVING AND PRINTING SECU-**
4 **RITY PRINTING.**

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

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

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

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

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

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

19 “(A) the Secretary of the Treasury deter-
20 mines that such production will not interfere
21 with engraving and printing needs of the
22 United States; and

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

1 “(3) PROCUREMENT GUIDELINES.—Articles,
2 material, and supplies procured for use in the pro-
3 duction of currency, postage stamps, and other secu-
4 rity documents for foreign governments pursuant to
5 paragraph (2) shall be treated in the same manner
6 as articles, material, and supplies procured for pub-
7 lic use within the United States for purposes of title
8 III of the Act of March 3, 1933 (41 U.S.C. 10a et
9 seq.; commonly referred to as the Buy American
10 Act).”.

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

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

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

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

1 **SEC. 6302. REPORTING OF CERTAIN CROSS-BORDER TRANS-**
2 **MITTAL OF FUNDS.**

3 Section 5318 of title 31, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(n) REPORTING OF CERTAIN CROSS-BORDER
7 TRANSMITTALS OF FUNDS.—

8 “(1) IN GENERAL.—Subject to paragraphs (3)
9 and (4), the Secretary shall prescribe regulations re-
10 quiring such financial institutions as the Secretary
11 determines to be appropriate to report to the Finan-
12 cial Crimes Enforcement Network certain cross-bor-
13 der electronic transmittals of funds, if the Secretary
14 determines that reporting of such transmittals is
15 reasonably necessary to conduct the efforts of the
16 Secretary against money laundering and terrorist fi-
17 nancing.

18 “(2) LIMITATION ON REPORTING REQUIRE-
19 MENTS.—Information required to be reported by the
20 regulations prescribed under paragraph (1) shall not
21 exceed the information required to be retained by
22 the reporting financial institution pursuant to sec-
23 tion 21 of the Federal Deposit Insurance Act and
24 the regulations promulgated thereunder, unless—

25 “(A) the Board of Governors of the Fed-
26 eral Reserve System and the Secretary jointly

1 determine that a particular item or items of in-
2 formation are not currently required to be re-
3 tained under such section or such regulations;
4 and

5 “(B) the Secretary determines, after con-
6 sultation with the Board of Governors of the
7 Federal Reserve System, that the reporting of
8 such information is reasonably necessary to
9 conduct the efforts of the Secretary to identify
10 cross-border money laundering and terrorist fi-
11 nancing.

12 “(3) FORM AND MANNER OF REPORTS.—In
13 prescribing the regulations required under para-
14 graph (1), the Secretary shall, subject to paragraph
15 (2), determine the appropriate form, manner, con-
16 tent, and frequency of filing of the required reports.

17 “(4) FEASIBILITY REPORT.—

18 “(A) IN GENERAL.—Before prescribing the
19 regulations required under paragraph (1), and
20 as soon as is practicable after the date of enact-
21 ment of the National Intelligence Reform Act of
22 2004, the Secretary shall submit a report to the
23 Committee on Banking, Housing, and Urban
24 Affairs of the Senate and the Committee on Fi-

1 nancial Services of the House of Representa-
2 tives that—

3 “(i) identifies the information in
4 cross-border electronic transmittals of
5 funds that may be found in particular
6 cases to be reasonably necessary to con-
7 duct the efforts of the Secretary to identify
8 money laundering and terrorist financing,
9 and outlines the criteria to be used by the
10 Secretary to select the situations in which
11 reporting under this subsection may be re-
12 quired;

13 “(ii) outlines the appropriate form,
14 manner, content, and frequency of filing of
15 the reports that may be required under
16 such regulations;

17 “(iii) identifies the technology nec-
18 essary for the Financial Crimes Enforce-
19 ment Network to receive, keep, exploit,
20 protect the security of, and disseminate in-
21 formation from reports of cross-border
22 electronic transmittals of funds to law en-
23 forcement and other entities engaged in ef-
24 forts against money laundering and ter-
25 rorist financing; and

1 “(iv) discusses the information secu-
2 rity protections required by the exercise of
3 the Secretary’s authority under this sub-
4 section.

5 “(B) CONSULTATION.—In reporting the
6 feasibility report under subparagraph (A), the
7 Secretary may consult with the Bank Secrecy
8 Act Advisory Group established by the Sec-
9 retary, and any other group considered by the
10 Secretary to be relevant.

11 “(5) REGULATIONS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the regulations required by para-
14 graph (1) shall be prescribed in final form by
15 the Secretary, in consultation with the Board of
16 Governors of the Federal Reserve System, be-
17 fore the end of the 3-year period beginning on
18 the date of enactment of the National Intel-
19 ligence Reform Act of 2004.

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

1 exploit, protect the security of, and disseminate
2 information from reports of cross-border elec-
3 tronic transmittals of funds to law enforcement
4 and other entities engaged in efforts against
5 money laundering and terrorist financing.”.

6 **SEC. 6303. TERRORISM FINANCING.**

7 (a) REPORT ON TERRORIST FINANCING.—

8 (1) IN GENERAL.—Not later than 270 days
9 after the date of enactment of this Act, the Presi-
10 dent, acting through the Secretary of the Treasury,
11 shall submit to Congress a report evaluating the cur-
12 rent state of United States efforts to curtail the
13 international financing of terrorism.

14 (2) CONTENTS.—The report required by para-
15 graph (1) shall evaluate and make recommendations
16 on—

17 (A) the effectiveness and efficiency of cur-
18 rent United States governmental efforts and
19 methods to detect, track, disrupt, and stop ter-
20 rorist financing;

21 (B) the relationship between terrorist fi-
22 nancing and money laundering, including how
23 the laundering of proceeds related to illegal nar-
24 cotics or foreign political corruption may con-
25 tribute to terrorism or terrorist financing;

1 (C) the nature, effectiveness, and efficiency
2 of current efforts to coordinate intelligence and
3 agency operations within the United States
4 Government to detect, track, disrupt, and stop
5 terrorist financing, including identifying who, if
6 anyone, has primary responsibility for devel-
7 oping priorities, assigning tasks to agencies,
8 and monitoring the implementation of policy
9 and operations;

10 (D) the effectiveness and efficiency of ef-
11 forts to protect the critical infrastructure of the
12 United States financial system, and ways to im-
13 prove the effectiveness of financial institutions;

14 (E) ways to improve multilateral and inter-
15 national governmental cooperation on terrorist
16 financing, including the adequacy of agency co-
17 ordination within the United States related to
18 participating in international cooperative efforts
19 and implementing international treaties and
20 compacts; and

21 (F) ways to improve the setting of prior-
22 ities and coordination of United States efforts
23 to detect, track, disrupt, and stop terrorist fi-
24 nancing, including recommendations for
25 changes in executive branch organization or

1 procedures, legislative reforms, additional re-
2 sources, or use of appropriated funds.

3 (b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN
4 BANK AND THRIFT EXAMINERS.—Section 10 of the Fed-
5 eral Deposit Insurance Act (12 U.S.C. 1820) is amended
6 by adding at the end the following:

7 “(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAM-
8 INERS OF FINANCIAL INSTITUTIONS.—

9 “(1) IN GENERAL.—In addition to other appli-
10 cable restrictions set forth in title 18, United States
11 Code, the penalties set forth in paragraph (6) of this
12 subsection shall apply to any person who—

13 “(A) was an officer or employee (including
14 any special Government employee) of a Federal
15 banking agency or a Federal reserve bank;

16 “(B) served 2 or more months during the
17 final 12 months of his or her employment with
18 such agency or entity as the senior examiner
19 (or a functionally equivalent position) of a de-
20 pository institution or depository institution
21 holding company with continuing, broad respon-
22 sibility for the examination (or inspection) of
23 that depository institution or depository institu-
24 tion holding company on behalf of the relevant
25 agency or Federal reserve bank; and

1 “(C) within 1 year after the termination
2 date of his or her service or employment with
3 such agency or entity, knowingly accepts com-
4 pensation as an employee, officer, director, or
5 consultant from—

6 “(i) such depository institution, any
7 depository institution holding company
8 that controls such depository institution, or
9 any other company that controls such de-
10 pository institution; or

11 “(ii) such depository institution hold-
12 ing company or any depository institution
13 that is controlled by such depository insti-
14 tution holding company.

15 “(2) DEFINITIONS.—For purposes of this
16 subsection—

17 “(A) the term ‘depository institution’ in-
18 cludes an uninsured branch or agency of a for-
19 eign bank, if such branch or agency is located
20 in any State; and

21 “(B) the term ‘depository institution hold-
22 ing company’ includes any foreign bank or com-
23 pany described in section 8(a) of the Inter-
24 national Banking Act of 1978.

1 “(3) RULES OF CONSTRUCTION.—For purposes
2 of this subsection, a foreign bank shall be deemed to
3 control any branch or agency of the foreign bank,
4 and a person shall be deemed to act as a consultant
5 for a depository institution, depository institution
6 holding company, or other company, only if such
7 person directly works on matters for, or on behalf
8 of, such depository institution, depository institution
9 holding company, or other company.

10 “(4) REGULATIONS.—

11 “(A) IN GENERAL.—Each Federal banking
12 agency shall prescribe rules or regulations to
13 administer and carry out this subsection, in-
14 cluding rules, regulations, or guidelines to de-
15 fine the scope of persons referred to in para-
16 graph (1)(B).

17 “(B) CONSULTATION REQUIRED.—The
18 Federal banking agencies shall consult with
19 each other for the purpose of assuring that the
20 rules and regulations issued by the agencies
21 under subparagraph (A) are, to the extent pos-
22 sible, consistent, comparable, and practicable,
23 taking into account any differences in the su-
24 pervisory programs utilized by the agencies for

1 the supervision of depository institutions and
2 depository institution holding companies.

3 “(5) WAIVER.—

4 “(A) AGENCY AUTHORITY.—A Federal
5 banking agency may grant a waiver, on a case
6 by case basis, of the restriction imposed by this
7 subsection to any officer or employee (including
8 any special Government employee) of that agen-
9 cy, and the Board of Governors of the Federal
10 Reserve System may grant a waiver of the re-
11 striction imposed by this subsection to any offi-
12 cer or employee of a Federal reserve bank, if
13 the head of such agency certifies in writing that
14 granting the waiver would not affect the integ-
15 rity of the supervisory program of the relevant
16 Federal banking agency.

17 “(B) DEFINITION.—For purposes of this
18 paragraph, the head of an agency is—

19 “(i) the Comptroller of the Currency,
20 in the case of the Office of the Comptroller
21 of the Currency;

22 “(ii) the Chairman of the Board of
23 Governors of the Federal Reserve System,
24 in the case of the Board of Governors of
25 the Federal Reserve System;

1 “(iii) the Chairperson of the Board of
2 Directors, in the case of the Corporation;
3 and

4 “(iv) the Director of the Office of
5 Thrift Supervision, in the case of the Of-
6 fice of Thrift Supervision.

7 “(6) PENALTIES.—

8 “(A) IN GENERAL.—In addition to any
9 other administrative, civil, or criminal remedy
10 or penalty that may otherwise apply, whenever
11 a Federal banking agency determines that a
12 person subject to paragraph (1) has become as-
13 sociated, in the manner described in paragraph
14 (1)(C), with a depository institution, depository
15 institution holding company, or other company
16 for which such agency serves as the appropriate
17 Federal banking agency, the agency shall im-
18 pose upon such person one or more of the fol-
19 lowing penalties:

20 “(i) INDUSTRY-WIDE PROHIBITION
21 ORDER.—The Federal banking agency
22 shall serve a written notice or order in ac-
23 cordance with and subject to the provisions
24 of section 8(e)(4) for written notices or or-
25 ders under paragraph (1) or (2) of section

1 8(e), upon such person of the intention of
2 the agency—

3 “(I) to remove such person from
4 office or to prohibit such person from
5 further participation in the conduct of
6 the affairs of the depository institu-
7 tion, depository institution holding
8 company, or other company for a pe-
9 riod of up to 5 years; and

10 “(II) to prohibit any further par-
11 ticipation by such person, in any man-
12 ner, in the conduct of the affairs of
13 any insured depository institution for
14 a period of up to 5 years.

15 “(ii) CIVIL MONETARY PENALTY.—
16 The Federal banking agency may, in an
17 administrative proceeding or civil action in
18 an appropriate United States district
19 court, impose on such person a civil mone-
20 tary penalty of not more than \$250,000.
21 Any administrative proceeding under this
22 clause shall be conducted in accordance
23 with section 8(i). In lieu of an action by
24 the Federal banking agency under this
25 clause, the Attorney General of the United

1 States may bring a civil action under this
2 clause in the appropriate United States
3 district court.

4 “(B) SCOPE OF PROHIBITION ORDER.—
5 Any person subject to an order issued under
6 subparagraph (A)(i) shall be subject to para-
7 graphs (6) and (7) of section 8(e) in the same
8 manner and to the same extent as a person
9 subject to an order issued under such section.

10 “(C) DEFINITIONS.—Solely for purposes of
11 this paragraph, the ‘appropriate Federal bank-
12 ing agency’ for a company that is not a deposi-
13 tory institution or depository institution holding
14 company shall be the Federal banking agency
15 on whose behalf the person described in para-
16 graph (1) performed the functions described in
17 paragraph (1)(B).”.

18 (c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN
19 CREDIT UNION EXAMINERS.—Section 206 of the Federal
20 Credit Union Act (12 U.S.C. 1786) is amended by adding
21 at the end the following:

22 “(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAM-
23 INERS OF INSURED CREDIT UNIONS.—

24 “(1) IN GENERAL.—In addition to other appli-
25 cable restrictions set forth in title 18, United States

1 Code, the penalties set forth in paragraph (5) of this
2 subsection shall apply to any person who—

3 “(A) was an officer or employee (including
4 any special Government employee) of the Ad-
5 ministration;

6 “(B) served 2 or more months during the
7 final 12 months of his or her employment with
8 the Administration as the senior examiner (or a
9 functionally equivalent position) of an insured
10 credit union with continuing, broad responsi-
11 bility for the examination (or inspection) of that
12 insured credit union on behalf of the Adminis-
13 tration; and

14 “(C) within 1 year after the termination
15 date of his or her service or employment with
16 the Administration, knowingly accepts com-
17 pensation as an employee, officer, director, or
18 consultant from such insured credit union.

19 “(2) RULE OF CONSTRUCTION.—For purposes
20 of this subsection, a person shall be deemed to act
21 as a consultant for an insured credit union only if
22 such person directly works on matters for, or on be-
23 half of, such insured credit union.

24 “(3) REGULATIONS.—

1 “(A) IN GENERAL.—The Board shall pre-
2 scribe rules or regulations to administer and
3 carry out this subsection, including rules, regu-
4 lations, or guidelines to define the scope of per-
5 sons referred to in paragraph (1)(B).

6 “(B) CONSULTATION.—In prescribing
7 rules or regulations under this paragraph, the
8 Board shall, to the extent it deems necessary,
9 consult with the Federal banking agencies (as
10 defined in section 3 of the Federal Deposit In-
11 surance Act) on regulations issued by such
12 agencies in carrying out section 10(k) of the
13 Federal Deposit Insurance Act.

14 “(4) WAIVER.—The Board may grant a waiver,
15 on a case by case basis, of the restriction imposed
16 by this subsection to any officer or employee (includ-
17 ing any special Government employee) of the Admin-
18 istration if the Chairman certifies in writing that
19 granting the waiver would not affect the integrity of
20 the supervisory program of the Administration.

21 “(5) PENALTIES.—

22 “(A) IN GENERAL.—In addition to any
23 other administrative, civil, or criminal remedy
24 or penalty that may otherwise apply, whenever
25 the Board determines that a person subject to

1 paragraph (1) has become associated, in the
2 manner described in paragraph (1)(C), with an
3 insured credit union, the Board shall impose
4 upon such person one or more of the following
5 penalties:

6 “(i) INDUSTRY-WIDE PROHIBITION
7 ORDER.—The Board shall serve a written
8 notice or order in accordance with and
9 subject to the provisions of subsection
10 (g)(4) for written notices or orders under
11 paragraph (1) or (2) of subsection (g),
12 upon such person of the intention of the
13 Board—

14 “(I) to remove such person from
15 office or to prohibit such person from
16 further participation in the conduct of
17 the affairs of the insured credit union
18 for a period of up to 5 years; and

19 “(II) to prohibit any further par-
20 ticipation by such person, in any man-
21 ner, in the conduct of the affairs of
22 any insured credit union for a period
23 of up to 5 years.

24 “(ii) CIVIL MONETARY PENALTY.—
25 The Board may, in an administrative pro-

1 ceeding or civil action in an appropriate
2 United States district court, impose on
3 such person a civil monetary penalty of not
4 more than \$250,000. Any administrative
5 proceeding under this clause shall be con-
6 ducted in accordance with subsection (k).
7 In lieu of an action by the Board under
8 this clause, the Attorney General of the
9 United States may bring a civil action
10 under this clause in the appropriate United
11 States district court.

12 “(B) SCOPE OF PROHIBITION ORDER.—
13 Any person subject to an order issued under
14 this subparagraph (A)(i) shall be subject to
15 paragraphs (5) and (7) of subsection (g) in the
16 same manner and to the same extent as a per-
17 son subject to an order issued under subsection
18 (g).”.

19 (d) EFFECTIVE DATE.—Notwithstanding any other
20 effective date established pursuant to this Act, subsection
21 (a) shall become effective on the date of enactment of this
22 Act, and the amendments made by subsections (b) and
23 (c) shall become effective at the end of the 12-month pe-
24 riod beginning on the date of enactment of this Act,
25 whether or not final regulations are issued in accordance

1 with the amendments made by this section as of that date
2 of enactment.

3 **Subtitle E—Criminal History**
4 **Background Checks**

5 **SEC. 6401. PROTECT ACT.**

6 Public Law 108–21 is amended—

7 (1) in section 108(a)(2)(A) by striking “an 18
8 month” and inserting “a 30-month”; and

9 (2) in section 108(a)(3)(A) by striking “an 18-
10 month” and inserting “a 30-month”.

11 **SEC. 6402. REVIEWS OF CRIMINAL RECORDS OF APPLI-**
12 **CANTS FOR PRIVATE SECURITY OFFICER EM-**
13 **PLOYMENT.**

14 (a) **SHORT TITLE.**—This section may be cited as the
15 “Private Security Officer Employment Authorization Act
16 of 2004”.

17 (b) **FINDINGS.**—Congress finds that—

18 (1) employment of private security officers in
19 the United States is growing rapidly;

20 (2) private security officers function as an ad-
21 junct to, but not a replacement for, public law en-
22 forcement by helping to reduce and prevent crime;

23 (3) such private security officers protect indi-
24 viduals, property, and proprietary information, and
25 provide protection to such diverse operations as

1 banks, hospitals, research and development centers,
2 manufacturing facilities, defense and aerospace con-
3 tractors, high technology businesses, nuclear power
4 plants, chemical companies, oil and gas refineries,
5 airports, communication facilities and operations, of-
6 fice complexes, schools, residential properties, apart-
7 ment complexes, gated communities, and others;

8 (4) sworn law enforcement officers provide sig-
9 nificant services to the citizens of the United States
10 in its public areas, and are supplemented by private
11 security officers;

12 (5) the threat of additional terrorist attacks re-
13 quires cooperation between public and private sec-
14 tors and demands professional, reliable, and respon-
15 sible security officers for the protection of people, fa-
16 cilities, and institutions;

17 (6) the trend in the Nation toward growth in
18 such security services has accelerated rapidly;

19 (7) such growth makes available more public
20 sector law enforcement officers to combat serious
21 and violent crimes, including terrorism;

22 (8) the American public deserves the employ-
23 ment of qualified, well-trained private security per-
24 sonnel as an adjunct to sworn law enforcement offi-
25 cers; and

1 (9) private security officers and applicants for
2 private security officer positions should be thor-
3 oughly screened and trained.

4 (c) DEFINITIONS.—In this section:

5 (1) EMPLOYEE.—The term “employee” includes
6 both a current employee and an applicant for em-
7 ployment as a private security officer.

8 (2) AUTHORIZED EMPLOYER.—The term “au-
9 thorized employer” means any person that—

10 (A) employs private security officers; and

11 (B) is authorized by regulations promul-
12 gated by the Attorney General to request a
13 criminal history record information search of an
14 employee through a State identification bureau
15 pursuant to this section.

16 (3) PRIVATE SECURITY OFFICER.—The term
17 “private security officer”—

18 (A) means an individual other than an em-
19 ployee of a Federal, State, or local government,
20 whose primary duty is to perform security serv-
21 ices, full or part time, for consideration, wheth-
22 er armed or unarmed and in uniform or plain
23 clothes (except for services excluded from cov-
24 erage under this Act if the Attorney General

1 determines by regulation that such exclusion
2 would serve the public interest); but

3 (B) does not include—

4 (i) employees whose duties are pri-
5 marily internal audit or credit functions;

6 (ii) employees of electronic security
7 system companies acting as technicians or
8 monitors; or

9 (iii) employees whose duties primarily
10 involve the secure movement of prisoners.

11 (4) SECURITY SERVICES.—The term “security
12 services” means acts to protect people or property as
13 defined by regulations promulgated by the Attorney
14 General.

15 (5) STATE IDENTIFICATION BUREAU.—The
16 term “State identification bureau” means the State
17 entity designated by the Attorney General for the
18 submission and receipt of criminal history record in-
19 formation.

20 (d) CRIMINAL HISTORY RECORD INFORMATION
21 SEARCH.—

22 (1) IN GENERAL.—

23 (A) SUBMISSION OF FINGERPRINTS.—An
24 authorized employer may submit to the State
25 identification bureau of a participating State,

1 fingerprints or other means of positive identi-
2 fication, as determined by the Attorney Gen-
3 eral, of an employee of such employer for pur-
4 poses of a criminal history record information
5 search pursuant to this Act.

6 (B) EMPLOYEE RIGHTS.—

7 (i) PERMISSION.—An authorized em-
8 ployer shall obtain written consent from an
9 employee to submit to the State identifica-
10 tion bureau of the participating State the
11 request to search the criminal history
12 record information of the employee under
13 this Act.

14 (ii) ACCESS.—An authorized employer
15 shall provide to the employee confidential
16 access to any information relating to the
17 employee received by the authorized em-
18 ployer pursuant to this Act.

19 (C) PROVIDING INFORMATION TO THE
20 STATE IDENTIFICATION BUREAU.—Upon re-
21 ceipt of a request for a criminal history record
22 information search from an authorized employer
23 pursuant to this Act, submitted through the
24 State identification bureau of a participating
25 State, the Attorney General shall—

1 (i) search the appropriate records of
2 the Criminal Justice Information Services
3 Division of the Federal Bureau of Inves-
4 tigation; and

5 (ii) promptly provide any resulting
6 identification and criminal history record
7 information to the submitting State identi-
8 fication bureau requesting the information.

9 (D) USE OF INFORMATION.—

10 (i) IN GENERAL.—Upon receipt of the
11 criminal history record information from
12 the Attorney General by the State identi-
13 fication bureau, the information shall be
14 used only as provided in clause (ii).

15 (ii) TERMS.—In the case of—

16 (I) a participating State that has
17 no State standards for qualification to
18 be a private security officer, the State
19 shall notify an authorized employer as
20 to the fact of whether an employee
21 has been—

22 (aa) convicted of a felony,
23 an offense involving dishonesty or
24 a false statement if the convic-
25 tion occurred during the previous

1 10 years, or an offense involving
2 the use or attempted use of phys-
3 ical force against the person of
4 another if the conviction occurred
5 during the previous 10 years; or
6 (bb) charged with a criminal
7 felony for which there has been
8 no resolution during the pre-
9 ceeding 365 days; or
10 (II) a participating State that
11 has State standards for qualification
12 to be a private security officer, the
13 State shall use the information re-
14 ceived pursuant to this Act in apply-
15 ing the State standards and shall only
16 notify the employer of the results of
17 the application of the State standards.
18 (E) FREQUENCY OF REQUESTS.—An au-
19 thorized employer may request a criminal his-
20 tory record information search for an employee
21 only once every 12 months of continuous em-
22 ployment by that employee unless the author-
23 ized employer has good cause to submit addi-
24 tional requests.

1 (2) REGULATIONS.—Not later than 180 days
2 after the date of enactment of this Act, the Attorney
3 General shall issue such final or interim final regula-
4 tions as may be necessary to carry out this Act,
5 including—

6 (A) measures relating to the security, con-
7 fidentiality, accuracy, use, submission, dissemi-
8 nation, destruction of information and audits,
9 and record keeping;

10 (B) standards for qualification as an au-
11 thorized employer; and

12 (C) the imposition of reasonable fees nec-
13 essary for conducting the background checks.

14 (3) CRIMINAL PENALTIES FOR USE OF INFOR-
15 MATION.—Whoever knowingly and intentionally uses
16 any information obtained pursuant to this Act other
17 than for the purpose of determining the suitability
18 of an individual for employment as a private security
19 officer shall be fined under title 18, United States
20 Code, or imprisoned for not more than 2 years, or
21 both.

22 (4) USER FEES.—

23 (A) IN GENERAL.—The Director of the
24 Federal Bureau of Investigation may—

1 (i) collect fees to process background
2 checks provided for by this Act; and

3 (ii) establish such fees at a level to in-
4 clude an additional amount to defray ex-
5 penses for the automation of fingerprint
6 identification and criminal justice informa-
7 tion services and associated costs.

8 (B) LIMITATIONS.—Any fee collected
9 under this subsection—

10 (i) shall, consistent with Public Law
11 101–515 and Public Law 104–99, be cred-
12 ited to the appropriation to be used for sal-
13 aries and other expenses incurred through
14 providing the services described in such
15 Public Laws and in subparagraph (A);

16 (ii) shall be available for expenditure
17 only to pay the costs of such activities and
18 services; and

19 (iii) shall remain available until ex-
20 pended.

21 (C) STATE COSTS.—Nothing in this Act
22 shall be construed as restricting the right of a
23 State to assess a reasonable fee on an author-
24 ized employer for the costs to the State of ad-
25 ministering this Act.

1 (5) STATE OPT OUT.—A State may decline to
2 participate in the background check system author-
3 ized by this Act by enacting a law or issuing an
4 order by the Governor (if consistent with State law)
5 providing that the State is declining to participate
6 pursuant to this subsection.

7 **SEC. 6403. CRIMINAL HISTORY BACKGROUND CHECKS.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of enactment of this Act, the Attorney General shall
10 report to the Judiciary Committee of the Senate and the
11 Judiciary Committee of the House of Representatives re-
12 garding all statutory requirements for criminal history
13 record checks that are required to be conducted by the
14 Department of Justice or any of its components.

15 (b) DEFINITIONS.—As used in this section—

16 (1) the terms “criminal history information”
17 and “criminal history records” include—

18 (A) an identifying description of the indi-
19 vidual to whom the information or records per-
20 tain;

21 (B) notations of arrests, detentions, indict-
22 ments, or other formal criminal charges per-
23 taining to such individual; and

1 (C) any disposition to a notation described
2 in subparagraph (B), including acquittal, sen-
3 tencing, correctional supervision, or release; and

4 (2) the term “IAFIS” means the Integrated
5 Automated Fingerprint Identification System of the
6 Federal Bureau of Allocation, which serves as the
7 national depository for fingerprint, biometric, and
8 criminal history information, through which finger-
9 prints are processed electronically.

10 (c) IDENTIFICATION OF INFORMATION.—The Attor-
11 ney General shall identify—

12 (1) the number of criminal history record
13 checks requested, including the type of information
14 requested;

15 (2) the usage of different terms and definitions
16 regarding criminal history information; and

17 (3) the variation in fees charged for such infor-
18 mation and who pays such fees.

19 (d) RECOMMENDATIONS.—The Attorney General
20 shall make recommendations to Congress for improving,
21 standardizing, and consolidating the existing statutory au-
22 thorization, programs, and procedures for the conduct of
23 criminal history record checks for non-criminal justice
24 purposes. In making these recommendations to Congress,
25 the Attorney General shall consider—

1 (1) the effectiveness and efficiency of utilizing
2 commercially available databases as a supplement to
3 IAFIS criminal history information checks;

4 (2) any security concerns created by the exist-
5 ence of these commercially available databases con-
6 cerning their ability to provide sensitive information
7 that is not readily available about law enforcement
8 or intelligence officials, including their identity, resi-
9 dence, and financial status;

10 (3) the effectiveness of utilizing State data-
11 bases;

12 (4) any feasibility studies by the Department of
13 Justice of the resources and structure of the Federal
14 Bureau of Investigation to establish a system to pro-
15 vide criminal history information;

16 (5) privacy rights and other employee protec-
17 tions, including—

18 (A) employee consent;

19 (B) access to the records used if employ-
20 ment was denied;

21 (C) the disposition of the fingerprint sub-
22 missions after the records are searched;

23 (D) an appeal mechanism; and

24 (E) penalties for misuse of the informa-
25 tion;

1 (6) the scope and means of processing back-
2 ground checks for private employers utilizing data
3 maintained by the Federal Bureau of Investigation
4 that the Attorney General should be allowed to au-
5 thorize in cases where the authority for such checks
6 is not available at the State level;

7 (7) any restrictions that should be placed on
8 the ability of an employer to charge an employee or
9 prospective employee for the cost associated with the
10 background check;

11 (8) which requirements should apply to the
12 handling of incomplete records;

13 (9) the circumstances under which the criminal
14 history information should be disseminated to the
15 employer;

16 (10) the type of restrictions that should be pre-
17 scribed for the handling of criminal history informa-
18 tion by an employer;

19 (11) the range of Federal and State fees that
20 might apply to such background check requests;

21 (12) any requirements that should be imposed
22 concerning the time for responding to such back-
23 ground check requests;

1 (13) any infrastructure that may need to be de-
2 veloped to support the processing of such checks,
3 including—

4 (A) the means by which information is col-
5 lected and submitted in support of the checks;
6 and

7 (B) the system capacity needed to process
8 such checks at the Federal and State level;

9 (14) the role that States should play; and

10 (15) any other factors that the Attorney Gen-
11 eral determines to be relevant to the subject of the
12 report.

13 (e) CONSULTATION.—In developing the report under
14 this section, the Attorney General shall consult with rep-
15 resentatives of State criminal history record repositories,
16 the National Crime Prevention and Privacy Compact
17 Council, appropriate representatives of private industry,
18 and representatives of labor, as determined appropriate by
19 the Attorney General.

20 **Subtitle F—Grand Jury**
21 **Information Sharing**

22 **SEC. 6501. GRAND JURY INFORMATION SHARING.**

23 (a) RULE AMENDMENTS.—Rule 6(e) of the Federal
24 Rules of Criminal Procedure is amended—

25 (1) in paragraph (3)—

1 (A) in subparagraph (A)(ii), by striking
2 “or state subdivision or of an Indian tribe” and
3 inserting “, state subdivision, Indian tribe, or
4 foreign government”;

5 (B) in subparagraph (D)—

6 (i) by inserting after the first sentence
7 the following: “An attorney for the govern-
8 ment may also disclose any grand jury
9 matter involving, within the United States
10 or elsewhere, a threat of attack or other
11 grave hostile acts of a foreign power or its
12 agent, a threat of domestic or international
13 sabotage or terrorism, or clandestine intel-
14 ligence gathering activities by an intel-
15 ligence service or network of a foreign
16 power or by its agent, to any appropriate
17 Federal, State, State subdivision, Indian
18 tribal, or foreign government official, for
19 the purpose of preventing or responding to
20 such threat or activities.”; and

21 (ii) in clause (i)—

22 (I) by striking “federal”; and

23 (II) by adding at the end the fol-
24 lowing: “Any State, State subdivision,
25 Indian tribal, or foreign government

1 official who receives information
2 under Rule 6(e)(3)(D) may use the
3 information only consistent with such
4 guidelines as the Attorney General
5 and the Director of National Intel-
6 ligence shall jointly issue.”; and

7 (C) in subparagraph (E)—

8 (i) by redesignating clauses (iii) and
9 (iv) as clauses (iv) and (v), respectively;

10 (ii) by inserting after clause (ii) the
11 following:

12 “(iii) at the request of the govern-
13 ment, when sought by a foreign court or
14 prosecutor for use in an official criminal
15 investigation;”; and

16 (iii) in clause (iv), as redesignated—

17 (I) by striking “state or Indian
18 tribal” and inserting “State, Indian
19 tribal, or foreign”; and

20 (II) by striking “or Indian tribal
21 official” and inserting “Indian tribal,
22 or foreign government official”; and

23 (2) in paragraph (7), by inserting “, or of
24 guidelines jointly issued by the Attorney General and

1 the Director of National Intelligence pursuant to
2 Rule 6,” after “Rule 6”.

3 (b) CONFORMING AMENDMENT.—Section 203(c) of
4 Public Law 107–56 (18 U.S.C. 2517 note) is amended
5 by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting
6 “Rule 6(e)(3)(D)”.

7 **Subtitle G—Providing Material**
8 **Support to Terrorism**

9 **SEC. 6601. SHORT TITLE.**

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

12 **SEC. 6602. RECEIVING MILITARY-TYPE TRAINING FROM A**
13 **FOREIGN TERRORIST ORGANIZATION.**

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

17 **“§ 2339D. Receiving military-type training from a for-**
18 **eign terrorist organization**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **SEC. 6603. ADDITIONS TO OFFENSE OF PROVIDING MATE-**
15 **RIAL SUPPORT TO TERRORISM.**

16 (a) IN GENERAL.—Chapter 113B of title 18, United
17 States Code, is amended—

18 (1) in section 2332b(g)(5)(B)(i)—

19 (A) by inserting “1361 (relating to govern-
20 ment property or contracts),” before “1362”;
21 and

22 (B) by inserting “2156 (relating to na-
23 tional defense material, premises, or utilities),”
24 before “2280”; and

25 (2) in section 2339A—

1 (A) by striking “or” before “section
2 46502”; and

3 (B) by inserting “or any offense listed in
4 section 2332b(g)(5)(B) (except for sections
5 2339A and 2339B)” after “section 60123(b) of
6 title 49.”.

7 (b) DEFINITIONS.—Section 2339A(b) of title 18,
8 United States Code, is amended to read as follows:

9 “(b) DEFINITIONS.—As used in this section—

10 “(1) the term ‘material support or resources’
11 means any property, tangible or intangible, or serv-
12 ice, including currency or monetary instruments or
13 financial securities, financial services, lodging, train-
14 ing, expert advice or assistance, safehouses, false
15 documentation or identification, communications
16 equipment, facilities, weapons, lethal substances, ex-
17 plosives, personnel (1 or more individuals who may
18 be or include oneself), and transportation, except
19 medicine or religious materials;

20 “(2) the term ‘training’ means instruction or
21 teaching designed to impart a specific skill, as op-
22 posed to general knowledge; and

23 “(3) the term ‘expert advice or assistance’
24 means advice or assistance derived from scientific,
25 technical or other specialized knowledge.”.

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

5 (1) by striking “, within the United States or
6 subject to the jurisdiction of the United States,”;
7 and

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

18 (d) FEDERAL AUTHORITY.—Section 2339B(d) of
19 title 18 is amended by striking “There” and inserting the
20 following:

21 “(1) IN GENERAL.—There is jurisdiction over
22 an offense under subsection (a) if—

23 “(A) an offender is a national of the United
24 States (as defined in section 101(a)(22) of the Im-
25 migration and Nationality Act (8 U.S.C.

1 1101(a)(22))) or an alien lawfully admitted for per-
2 manent residence in the United States (as defined in
3 section 101(a)(20) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1101(a)(20)));

5 “(B) an offender is a stateless person whose ha-
6 bitual residence is in the United States;

7 “(C) after the conduct required for the offense
8 occurs an offender is brought into or found in the
9 United States, even if the conduct required for the
10 offense occurs outside the United States;

11 “(D) the offense occurs in whole or in part
12 within the United States;

13 “(E) the offense occurs in or affects interstate
14 or foreign commerce; or

15 “(F) an offender aids or abets any person over
16 whom jurisdiction exists under this paragraph in
17 committing an offense under subsection (a) or con-
18 spires with any person over whom jurisdiction exists
19 under this paragraph to commit an offense under
20 subsection (a).”.

21 “(2) EXTRATERRITORIAL JURISDICTION.—
22 There”.

23 (e) DEFINITION.—Section 2339B(g)(4) of title 18,
24 United States Code, is amended to read as follows:

1 “(4) the term ‘material support or resources’
2 has the same meaning given that term in section
3 2339A (including the definitions of ‘training’ and
4 ‘expert advice or assistance’ in that section);”.

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

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

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

24 “(j) EXCEPTION.—No person may be prosecuted
25 under this section in connection with the term ‘personnel’,

1 ‘training’, or ‘expert advice or assistance’ if the provision
2 of that material support or resources to a foreign terrorist
3 organization was approved by the Secretary of State with
4 the concurrence of the Attorney General. The Secretary
5 of State may not approve the provision of any material
6 support that may be used to carry out terrorist activity
7 (as defined in section 212(a)(3)(B)(iii) of the Immigration
8 and Nationality Act).”.

9 (g) SUNSET PROVISION.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), this section and the amendments made by
12 this section shall cease to be effective on December
13 31, 2006.

14 (2) EXCEPTION.—This section and the amend-
15 ments made by this section shall continue in effect
16 with respect to any particular offense that—

17 (A) is prohibited by this section or amend-
18 ments made by this section; and

19 (B) began or occurred before December
20 31, 2006.

21 **SEC. 6604. FINANCING OF TERRORISM.**

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

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

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

7 (3) in subparagraph (B)—

8 (A) by striking “or any proceeds of such
9 funds”; and

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

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

16 (1) by striking “and” at the end of paragraph
17 (12);

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

20 (3) by inserting after paragraph (12) the fol-
21 lowing:

22 “(13) the term ‘material support or resources’
23 has the same meaning given that term in section
24 2339B(g)(4) of this title; and”.

1 **Subtitle H—Stop Terrorist and**
2 **Military Hoaxes Act of 2004**

3 **SEC. 6701. SHORT TITLE.**

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

6 **SEC. 6702. HOAXES AND RECOVERY COSTS.**

7 (a) PROHIBITION ON HOAXES.—Chapter 47 of title
8 18, United States Code, is amended by inserting after sec-
9 tion 1037 the following:

10 **“§ 1038. False information and hoaxes**

11 “(a) CRIMINAL VIOLATION.—

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

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

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

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

9 “(2) ARMED FORCES.—Any person who makes
10 a false statement, with intent to convey false or mis-
11 leading information, about the death, injury, cap-
12 ture, or disappearance of a member of the Armed
13 Forces of the United States during a war or armed
14 conflict in which the United States is engaged—

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

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

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

23 “(b) CIVIL ACTION.—Whoever engages in any con-
24 duct with intent to convey false or misleading information
25 under circumstances where such information may reason-

1 ably be believed and where such information indicates that
2 an activity has taken, is taking, or will take place that
3 would constitute a violation of chapter 2, 10, 11B, 39,
4 40, 44, 111, or 113B of this title, section 236 of the Atom-
5 ic Energy Act of 1954 (42 U.S.C. 2284), or section
6 46502, the second sentence of section 46504, section
7 46505 (b)(3) or (c), section 46506 if homicide or at-
8 tempted homicide is involved, or section 60123(b) of title
9 49 is liable in a civil action to any party incurring expenses
10 incident to any emergency or investigative response to that
11 conduct, for those expenses.

12 “(c) REIMBURSEMENT.—

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

21 “(2) LIABILITY.—A person ordered to make re-
22 imbursement under this subsection shall be jointly
23 and severally liable for such expenses with each
24 other person, if any, who is ordered to make reim-

1 (b) SENTENCING GUIDELINES.—Not later than 30
2 days of the enactment of this section, the United States
3 Sentencing Commission shall amend the Sentencing
4 Guidelines to provide for an increased offense level for an
5 offense under sections 1001(a) and 1505 of title 18,
6 United States Code, if the offense involves international
7 or domestic terrorism, as defined in section 2331 of such
8 title.

9 **SEC. 6704. CLARIFICATION OF DEFINITION.**

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

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

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

16 **Subtitle I—Weapons of Mass De-**
17 **struction Prohibition Improve-**
18 **ment Act of 2004**

19 **SEC. 6801. SHORT TITLE.**

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

22 **SEC. 6802. WEAPONS OF MASS DESTRUCTION.**

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

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

3 “(2) against any person or property within the
4 United States, and

5 “(A) the mail or any facility of interstate
6 or foreign commerce is used in furtherance of
7 the offense;

8 “(B) such property is used in interstate or
9 foreign commerce or in an activity that affects
10 interstate or foreign commerce;

11 “(C) any perpetrator travels in or causes
12 another to travel in interstate or foreign com-
13 merce in furtherance of the offense; or

14 “(D) the offense, or the results of the of-
15 fense, affect interstate or foreign commerce, or,
16 in the case of a threat, attempt, or conspiracy,
17 would have affected interstate or foreign com-
18 merce;”;

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

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

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

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

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

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

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

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

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

14 (2) in subsection (a), by striking “(other than
15 a chemical weapon as that term is defined in section
16 229F)”;

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

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

24 (1) in subparagraph (G) by—

25 (A) inserting “(i)” after “(G)”;

1 (B) inserting “, or (ii) acts for or on behalf
2 of, or operates subject to the direction or con-
3 trol of, a government or official of a country de-
4 scribed in this subparagraph” after “ter-
5 rorism”; and

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

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

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

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

16 (d) CONFORMING AMENDMENT TO REGULATIONS.—

17 (1) Section 175b(a)(1) of title 18, United
18 States Code, is amended by striking “as a select
19 agent in Appendix A” and all that follows and in-
20 serting the following: “as a non-overlap or overlap
21 select biological agent or toxin in sections 73.4 and
22 73.5 of title 42, Code of Federal Regulations, pursu-
23 ant to section 351A of the Public Health Service
24 Act, and is not excluded under sections 73.4 and

1 73.5 or exempted under section 73.6 of title 42,
2 Code of Federal Regulations.”.

3 (2) The amendment made by paragraph (1)
4 shall take effect at the same time that sections 73.4,
5 73.5, and 73.6 of title 42, Code of Federal Regula-
6 tions, become effective.

7 (e) ENHANCING PROSECUTION OF WEAPONS OF
8 MASS DESTRUCTION OFFENSES.—Section 1961(1)(B) of
9 title 18, United States Code, is amended by adding at the
10 end the following: “sections 175–178 (relating to biologi-
11 cal weapons), sections 229–229F (relating to chemical
12 weapons), section 831 (relating to nuclear materials),”.

13 **SEC. 6803. PARTICIPATION IN NUCLEAR AND WEAPONS OF**
14 **MASS DESTRUCTION THREATS TO THE**
15 **UNITED STATES.**

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

21 (b) Section 92 of the Atomic Energy Act of 1954 (42
22 U.S.C. 2122) is amended—

23 (1) by inserting “, inside or outside of the
24 United States,” after “for any person”; and

1 erty that is owned, leased, funded, or used by the United
2 States, whether that property is within or outside of the
3 United States, shall be imprisoned for any term of years
4 or for life.

5 “(d) As used in this section—

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

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

13 “(3) ‘foreign terrorist power’ means a terrorist
14 organization designated under section 219 of the
15 Immigration and Nationality Act, or a state sponsor
16 of terrorism designated under section 6(j) of the Ex-
17 port Administration Act of 1979 or section 620A of
18 the Foreign Assistance Act of 1961; and

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

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

1 **Subtitle J—Prevention of Terrorist**
2 **Access to Destructive Weapons**
3 **Act of 2004**

4 **SEC. 6901. SHORT TITLE.**

5 This subtitle may be cited as the “Prevention of Ter-
6 rorist Access to Destructive Weapons Act of 2004”.

7 **SEC. 6902. FINDINGS AND PURPOSE.**

8 (a) FINDINGS.—Congress makes the following find-
9 ings:

10 (1) The criminal use of man-portable air de-
11 fense systems (referred to in this section as
12 “MANPADS”) presents a serious threat to civil
13 aviation worldwide, especially in the hands of terror-
14 ists or foreign states that harbor them.

15 (2) Atomic weapons or weapons designed to re-
16 lease radiation (commonly known as “dirty bombs”)
17 could be used by terrorists to inflict enormous loss
18 of life and damage to property and the environment.

19 (3) Variola virus is the causative agent of
20 smallpox, an extremely serious, contagious, and
21 sometimes fatal disease. Variola virus is classified as
22 a Category A agent by the Centers for Disease Con-
23 trol and Prevention, meaning that it is believed to
24 pose the greatest potential threat for adverse public
25 health impact and has a moderate to high potential

1 for large-scale dissemination. The last case of small-
2 pox in the United States was in 1949. The last nat-
3 urally occurring case in the world was in Somalia in
4 1977. Although smallpox has been officially eradi-
5 cated after a successful worldwide vaccination pro-
6 gram, there remain two official repositories of the
7 variola virus for research purposes. Because it is so
8 dangerous, the variola virus may appeal to terror-
9 ists.

10 (4) The use, or even the threatened use, of
11 MANPADS, atomic or radiological weapons, or the
12 variola virus, against the United States, its allies, or
13 its people, poses a grave risk to the security, foreign
14 policy, economy, and environment of the United
15 States. Accordingly, the United States has a compel-
16 ling national security interest in preventing unlawful
17 activities that lead to the proliferation or spread of
18 such items, including their unauthorized production,
19 construction, acquisition, transfer, possession, im-
20 port, or export. All of these activities markedly in-
21 crease the chances that such items will be obtained
22 by terrorist organizations or rogue states, which
23 could use them to attack the United States, its al-
24 lies, or United States nationals or corporations.

1 (5) There is no legitimate reason for a private
2 individual or company, absent explicit government
3 authorization, to produce, construct, otherwise ac-
4 quire, transfer, receive, possess, import, export, or
5 use MANPADS, atomic or radiological weapons, or
6 the variola virus.

7 (b) PURPOSE.—The purpose of this subtitle is to
8 combat the potential use of weapons that have the ability
9 to cause widespread harm to United States persons and
10 the United States economy (and that have no legitimate
11 private use) and to threaten or harm the national security
12 or foreign relations of the United States.

13 **SEC. 6903. MISSILE SYSTEMS DESIGNED TO DESTROY AIR-**
14 **CRAFT.**

15 Chapter 113B of title 18, United States Code, is
16 amended by adding after section 2332f the following:

17 **“§ 2332g. Missile systems designed to destroy aircraft**

18 “(a) UNLAWFUL CONDUCT.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (3), it shall be unlawful for any person to
21 knowingly produce, construct, otherwise acquire,
22 transfer directly or indirectly, receive, possess, im-
23 port, export, or use, or possess and threaten to
24 use—

1 “(A) an explosive or incendiary rocket or
2 missile that is guided by any system designed to
3 enable the rocket or missile to—

4 “(i) seek or proceed toward energy ra-
5 diated or reflected from an aircraft or to-
6 ward an image locating an aircraft; or

7 “(ii) otherwise direct or guide the
8 rocket or missile to an aircraft;

9 “(B) any device designed or intended to
10 launch or guide a rocket or missile described in
11 subparagraph (A); or

12 “(C) any part or combination of parts de-
13 signed or redesigned for use in assembling or
14 fabricating a rocket, missile, or device described
15 in subparagraph (A) or (B).

16 “(2) NONWEAPON.—Paragraph (1)(A) does not
17 apply to any device that is neither designed nor re-
18 designed for use as a weapon.

19 “(3) EXCLUDED CONDUCT.—This subsection
20 does not apply with respect to—

21 “(A) conduct by or under the authority of
22 the United States or any department or agency
23 thereof or of a State or any department or
24 agency thereof; or

1 “(B) conduct pursuant to the terms of a
2 contract with the United States or any depart-
3 ment or agency thereof or with a State or any
4 department or agency thereof.

5 “(b) JURISDICTION.—Conduct prohibited by sub-
6 section (a) is within the jurisdiction of the United States
7 if—

8 “(1) the offense occurs in or affects interstate
9 or foreign commerce;

10 “(2) the offense occurs outside of the United
11 States and is committed by a national of the United
12 States;

13 “(3) the offense is committed against a national
14 of the United States while the national is outside the
15 United States;

16 “(4) the offense is committed against any prop-
17 erty that is owned, leased, or used by the United
18 States or by any department or agency of the United
19 States, whether the property is within or outside the
20 United States; or

21 “(5) an offender aids or abets any person over
22 whom jurisdiction exists under this subsection in
23 committing an offense under this section or con-
24 spires with any person over whom jurisdiction exists

1 under this subsection to commit an offense under
2 this section.

3 “(c) CRIMINAL PENALTIES.—

4 “(1) IN GENERAL.—Any person who violates, or
5 attempts or conspires to violate, subsection (a) shall
6 be fined not more than \$2,000,000 and shall be sen-
7 tenced to a term of imprisonment not less than 25
8 years or to imprisonment for life.

9 “(2) OTHER CIRCUMSTANCES.—Any person
10 who, in the course of a violation of subsection (a),
11 uses, attempts or conspires to use, or possesses and
12 threatens to use, any item or items described in sub-
13 section (a), shall be fined not more than \$2,000,000
14 and imprisoned for not less than 30 years or impris-
15 oned for life.

16 “(3) SPECIAL CIRCUMSTANCES.—If the death
17 of another results from a person’s violation of sub-
18 section (a), the person shall be fined not more than
19 \$2,000,000 and punished by imprisonment for life.

20 “(d) DEFINITION.—As used in this section, the term
21 ‘aircraft’ has the definition set forth in section
22 40102(a)(6) of title 49, United States Code.”.

23 **SEC. 6904. ATOMIC WEAPONS.**

24 (a) PROHIBITIONS.—Section 92 of the Atomic En-
25 ergy Act of 1954 (42 U.S.C. 2122) is amended—

1 (1) by inserting at the beginning “a.” before
2 “It”;

3 (2) by inserting “knowingly” after “for any per-
4 son to”;

5 (3) by striking “or” before “export”;

6 (4) by striking “transfer or receive in interstate
7 or foreign commerce,” before “manufacture”;

8 (5) by inserting “receive,” after “acquire,”;

9 (6) by inserting “, or use, or possess and
10 threaten to use,” before “any atomic weapon”; and

11 (7) by inserting at the end the following:

12 “b. Conduct prohibited by subsection a. is within the
13 jurisdiction of the United States if—

14 “(1) the offense occurs in or affects interstate
15 or foreign commerce; the offense occurs outside of
16 the United States and is committed by a national of
17 the United States;

18 “(2) the offense is committed against a national
19 of the United States while the national is outside the
20 United States;

21 “(3) the offense is committed against any prop-
22 erty that is owned, leased, or used by the United
23 States or by any department or agency of the United
24 States, whether the property is within or outside the
25 United States; or

1 “(4) an offender aids or abets any person over
2 whom jurisdiction exists under this subsection in
3 committing an offense under this section or con-
4 spires with any person over whom jurisdiction exists
5 under this subsection to commit an offense under
6 this section.”.

7 (b) VIOLATIONS.—Section 222 of the Atomic Energy
8 Act of 1954 (42 U.S.C. 2272) is amended by—

9 (1) inserting at the beginning “a.” before
10 “Whoever”;

11 (2) striking “, 92,”; and

12 (3) inserting at the end the following:

13 “b. Any person who violates, or attempts or conspires
14 to violate, section 92 shall be fined not more than
15 \$2,000,000 and sentenced to a term of imprisonment not
16 less than 25 years or to imprisonment for life. Any person
17 who, in the course of a violation of section 92, uses, at-
18 tempts or conspires to use, or possesses and threatens to
19 use, any atomic weapon shall be fined not more than
20 \$2,000,000 and imprisoned for not less than 30 years or
21 imprisoned for life. If the death of another results from
22 a person’s violation of section 92, the person shall be fined
23 not more than \$2,000,000 and punished by imprisonment
24 for life.”.

1 **SEC. 6905. RADIOLOGICAL DISPERSAL DEVICES.**

2 Chapter 113B of title 18, United States Code, is
3 amended by adding after section 2332g the following:

4 **“§ 2332h. Radiological dispersal devices**

5 “(a) UNLAWFUL CONDUCT.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), it shall be unlawful for any person to
8 knowingly produce, construct, otherwise acquire,
9 transfer directly or indirectly, receive, possess, im-
10 port, export, or use, or possess and threaten to
11 use—

12 “(A) any weapon that is designed or in-
13 tended to release radiation or radioactivity at a
14 level dangerous to human life; or

15 “(B) or any device or other object that is
16 capable of and designed or intended to endan-
17 ger human life through the release of radiation
18 or radioactivity.

19 “(2) EXCEPTION.—This subsection does not
20 apply with respect to—

21 “(A) conduct by or under the authority of
22 the United States or any department or agency
23 thereof; or

24 “(B) conduct pursuant to the terms of a
25 contract with the United States or any depart-
26 ment or agency thereof.

1 “(b) JURISDICTION.—Conduct prohibited by sub-
2 section (a) is within the jurisdiction of the United States
3 if—

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

6 “(2) the offense occurs outside of the United
7 States and is committed by a national of the United
8 States;

9 “(3) the offense is committed against a national
10 of the United States while the national is outside the
11 United States;

12 “(4) the offense is committed against any prop-
13 erty that is owned, leased, or used by the United
14 States or by any department or agency of the United
15 States, whether the property is within or outside the
16 United States; or

17 “(5) an offender aids or abets any person over
18 whom jurisdiction exists under this subsection in
19 committing an offense under this section or con-
20 spires with any person over whom jurisdiction exists
21 under this subsection to commit an offense under
22 this section.

23 “(c) CRIMINAL PENALTIES.—

24 “(1) IN GENERAL.—Any person who violates, or
25 attempts or conspires to violate, subsection (a) shall

1 be fined not more than \$2,000,000 and shall sen-
2 tenced to a term of imprisonment not less than 25
3 years or to imprisonment for life.

4 “(2) OTHER CIRCUMSTANCES.—Any person
5 who, in the course of a violation of subsection (a),
6 uses, attempts or conspires to use, or possesses and
7 threatens to use, any item or items described in sub-
8 section (a), shall be fined not more than \$2,000,000
9 and imprisoned for not less than 30 years or impris-
10 oned for life.

11 “(3) SPECIAL CIRCUMSTANCES.—If the death
12 of another results from a person’s violation of sub-
13 section (a), the person shall be fined not more than
14 \$2,000,000 and punished by imprisonment for life.”.

15 **SEC. 6906. VARIOLA VIRUS.**

16 Chapter 10 of title 18, United States Code, is amend-
17 ed by inserting after section 175b the following:

18 **“§ 175c. Variola virus**

19 “(a) UNLAWFUL CONDUCT.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), it shall be unlawful for any person to
22 knowingly produce, engineer, synthesize, acquire,
23 transfer directly or indirectly, receive, possess, im-
24 port, export, or use, or possess and threaten to use,
25 variola virus.

1 “(2) EXCEPTION.—This subsection does not
2 apply to conduct by, or under the authority of, the
3 Secretary of Health and Human Services.

4 “(b) JURISDICTION.—Conduct prohibited by sub-
5 section (a) is within the jurisdiction of the United States
6 if—

7 “(1) the offense occurs in or affects interstate
8 or foreign commerce;

9 “(2) the offense occurs outside of the United
10 States and is committed by a national of the United
11 States;

12 “(3) the offense is committed against a national
13 of the United States while the national is outside the
14 United States;

15 “(4) the offense is committed against any prop-
16 erty that is owned, leased, or used by the United
17 States or by any department or agency of the United
18 States, whether the property is within or outside the
19 United States; or

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

1 “(c) CRIMINAL PENALTIES.—

2 “(1) IN GENERAL.—Any person who violates, or
3 attempts or conspires to violate, subsection (a) shall
4 be fined not more than \$2,000,000 and shall be sen-
5 tenced to a term of imprisonment not less than 25
6 years or to imprisonment for life.

7 “(2) OTHER CIRCUMSTANCES.—Any person
8 who, in the course of a violation of subsection (a),
9 uses, attempts or conspires to use, or possesses and
10 threatens to use, any item or items described in sub-
11 section (a), shall be fined not more than \$2,000,000
12 and imprisoned for not less than 30 years or impris-
13 oned for life.

14 “(3) SPECIAL CIRCUMSTANCES.—If the death
15 of another results from a person’s violation of sub-
16 section (a), the person shall be fined not more than
17 \$2,000,000 and punished by imprisonment for life.

18 “(d) DEFINITION.—As used in this section, the term
19 ‘variola virus’ means a virus that can cause human small-
20 pox or any derivative of the variola major virus that con-
21 tains more than 85 percent of the gene sequence of the
22 variola major virus or the variola minor virus.”.

23 **SEC. 6907. INTERCEPTION OF COMMUNICATIONS.**

24 Section 2516(1) of title 18, United States Code, is
25 amended—

1 (1) in paragraph (a), by inserting “2122 and”
2 after “sections”;

3 (2) in paragraph (c), by inserting “section 175c
4 (relating to variola virus),” after “section 175 (relat-
5 ing to biological weapons),”; and

6 (3) in paragraph (q), by inserting “2332g,
7 2332h,” after “2332f.”

8 **SEC. 6908. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF**
9 **TITLE 18, UNITED STATES CODE.**

10 Section 2332b(g)(5)(B) of title 18, United States
11 Code, is amended—

12 (1) in clause (i)—

13 (A) by inserting before “2339 (relating to
14 harboring terrorists)” the following: “2332g
15 (relating to missile systems designed to destroy
16 aircraft), 2332h (relating to radiological dis-
17 persal devices),”; and

18 (B) by inserting “175c (relating to variola
19 virus),” after “175 or 175b (relating to biologi-
20 cal weapons),”; and

21 (2) in clause (ii)—

22 (A) by striking “section” and inserting
23 “sections 92 (relating to prohibitions governing
24 atomic weapons) or”; and

25 (B) by inserting “2122 or” before “2284”.

1 **SEC. 6909. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE**
2 **18, UNITED STATES CODE.**

3 Section 1956(c)(7)(D), title 18, United States Code,
4 is amended—

5 (1) by inserting after “section 152 (relating to
6 concealment of assets; false oaths and claims; brib-
7 ery),” the following: “section 175c (relating to the
8 variola virus),”;

9 (2) by inserting after “section 2332(b) (relating
10 to international terrorist acts transcending national
11 boundaries),” the following: “section 2332g (relating
12 to missile systems designed to destroy aircraft), sec-
13 tion 2332h (relating to radiological dispersal de-
14 vices),”; and

15 (3) striking “or” after “any felony violation of
16 the Foreign Agents Registration Act of 1938,” and
17 after “any felony violation of the Foreign Corrupt
18 Practices Act”, striking “;” and inserting “, or sec-
19 tion 92 of the Atomic Energy Act of 1954 (42
20 U.S.C. 2122) (relating to prohibitions governing
21 atomic weapons)”.

22 **SEC. 6910. EXPORT LICENSING PROCESS.**

23 Section 38(g)(1)(A) of the Arms Export Control Act
24 (22 U.S.C. 2778) is amended—

25 (1) by striking “or” before “(xi)”; and

1 **SEC. 6952. PRESUMPTION FOR PRETRIAL DETENTION IN**
2 **CASES INVOLVING TERRORISM.**

3 Section 3142 of title 18, United States Code, is
4 amended—

5 (1) in subsection (e)—

6 (A) by inserting “or” before “the Mari-
7 time”; and

8 (B) by inserting “or an offense listed in
9 section 2332b(g)(5)(B) of title 18, United
10 States Code, for which a maximum term of im-
11 prisonment of 10 years or more is prescribed”
12 after “or 2332b of this title,”; and

13 (2) in subsections (f)(1)(A) and (g)(1), by in-
14 serting “, or an offense listed in section
15 2332b(g)(5)(B) for which a maximum term of im-
16 prisonment of 10 years or more is prescribed” after
17 “violence” each place such term appears.

18 **TITLE VII—IMPLEMENTATION**
19 **OF 9/11 COMMISSION REC-**
20 **COMMENDATIONS**

21 **SEC. 7001. SHORT TITLE.**

22 This title may be cited as the “9/11 Commission Im-
23 plementation Act of 2004”.

1 **Subtitle A—Diplomacy, Foreign**
2 **Aid, and the Military in the War**
3 **on Terrorism**

4 **SEC. 7101. FINDINGS.**

5 Consistent with the report of the National Commis-
6 sion on Terrorist Attacks Upon the United States, Con-
7 gress makes the following findings:

8 (1) Long-term success in the war on terrorism
9 demands the use of all elements of national power,
10 including diplomacy, military action, intelligence,
11 covert action, law enforcement, economic policy, for-
12 eign aid, public diplomacy, and homeland defense.

13 (2) To win the war on terrorism, the United
14 States must assign to economic and diplomatic capa-
15 bilities the same strategic priority that is assigned to
16 military capabilities.

17 (3) The legislative and executive branches of
18 the Government of the United States must commit
19 to robust, long-term investments in all of the tools
20 necessary for the foreign policy of the United States
21 to successfully accomplish the goals of the United
22 States.

23 (4) The investments referred to in paragraph
24 (3) will require increased funding to United States

1 foreign affairs programs in general, and to priority
2 areas as described in this title in particular.

3 **SEC. 7102. TERRORIST SANCTUARIES.**

4 (a) FINDINGS.—Consistent with the report of the Na-
5 tional Commission on Terrorist Attacks Upon the United
6 States, Congress makes the following findings:

7 (1) Complex terrorist operations require loca-
8 tions that provide such operations sanctuary from
9 interference by Government or law enforcement per-
10 sonnel.

11 (2) A terrorist sanctuary existed in Afghanistan
12 before September 11, 2001.

13 (3) The terrorist sanctuary in Afghanistan pro-
14 vided direct and indirect value to members of al
15 Qaeda who participated in the terrorist attacks on
16 the United States on September 11, 2001, and in
17 other terrorist operations.

18 (4) Terrorist organizations have fled to some of
19 the least governed and most lawless places in the
20 world to find sanctuary.

21 (5) During the 21st century, terrorists are
22 often focusing on remote regions and failing states
23 as locations to seek sanctuary.

1 (b) SENSE OF CONGRESS ON UNITED STATES POL-
2 ICY ON TERRORIST SANCTUARIES.—It is the sense of Con-
3 gress that it should be the policy of the United States—

4 (1) to identify foreign countries that are being
5 used as terrorist sanctuaries;

6 (2) to assess current United States resources
7 and tools being used to assist foreign governments
8 to eliminate such sanctuaries;

9 (3) to develop and implement a coordinated
10 strategy to prevent terrorists from using such for-
11 eign countries as sanctuaries; and

12 (4) to work in bilateral and multilateral fora to
13 elicit the cooperation needed to identify and address
14 terrorist sanctuaries that may exist today, but, so
15 far, remain unknown to governments.

16 (c) AMENDMENTS TO EXISTING LAW TO INCLUDE
17 TERRORIST SANCTUARIES.—

18 (1) IN GENERAL.—Section 6(j) of the Export
19 Administration Act of 1979 (50 U.S.C. App.
20 2405(j)) is amended—

21 (A) by redesignating paragraph (5) as
22 paragraph (6); and

23 (B) by inserting after paragraph (4) the
24 following:

1 “(5)(A) As used in paragraph (1), the term ‘re-
2 peatedly provided support for acts of international
3 terrorism’ shall include the recurring use of any part
4 of the territory of the country as a sanctuary for ter-
5 rorists or terrorist organizations.

6 “(B) In this paragraph—

7 “(i) the term ‘territory of a country’ means
8 the land, waters, and airspace of the country;
9 and

10 “(ii) the term ‘sanctuary’ means an area in
11 the territory of a country—

12 “(I) that is used by a terrorist or ter-
13 rorist organization—

14 “(aa) to carry out terrorist activi-
15 ties, including training, financing, and
16 recruitment; or

17 “(bb) as a transit point; and

18 “(II) the government of which ex-
19 pressly consents to, or with knowledge, al-
20 lows, tolerates, or disregards such use of
21 its territory.”.

22 (2) RULE OF CONSTRUCTION.—Nothing in this
23 subsection or the amendments made by this sub-
24 section shall be construed as affecting any deter-
25 mination made by the Secretary of State pursuant

1 to section 6(j) of the Export Administration Act of
2 1979 with respect to a country prior to the date of
3 enactment of this Act.

4 (3) IMPLEMENTATION.—The President shall
5 implement the amendments made by paragraph (1)
6 by exercising the authorities of the President under
7 the International Emergency Economic Powers Act
8 (50 U.S.C. 1701 et seq.).

9 (d) AMENDMENTS TO GLOBAL PATTERNS OF TER-
10 RORISM REPORT.—

11 (1) IN GENERAL.—Section 140(a)(1) of the
12 Foreign Relations Authorization Act, Fiscal Years
13 1988 and 1989 (22 U.S.C. 2656f(a)(1)) is
14 amended—

15 (A) by striking “(1)” and inserting
16 “(1)(A)”;

17 (B) by redesignating subparagraphs (A)
18 through (C) as clauses (i) through (iii), respec-
19 tively;

20 (C) in subparagraph (A)(iii) (as redesign-
21 nated), by adding “and” at the end; and

22 (D) by adding at the end the following:

23 “(B) detailed assessments with respect to
24 each foreign country whose territory is being

1 used as a sanctuary for terrorists or terrorist
2 organizations;”.

3 (2) CONTENTS.—Section 140(b) of such Act
4 (22 U.S.C. 2656f(b)) is amended—

5 (A) in paragraph (1)—

6 (i) in the matter preceding subpara-
7 graph (A), by striking “subsection (a)(1)”
8 and inserting “subsection (a)(1)(A)”; and

9 (ii) by striking “and” at the end;

10 (B) by redesignating paragraph (2) as
11 paragraph (3);

12 (C) by inserting after paragraph (1) the
13 following:

14 “(2) with respect to subsection (a)(1)(B)—

15 “(A) the extent of knowledge by the gov-
16 ernment of the country with respect to terrorist
17 activities in the territory of the country; and

18 “(B) the actions by the country—

19 “(i) to eliminate each terrorist sanc-
20 tuary in the territory of the country;

21 “(ii) to cooperate with United States
22 antiterrorism efforts; and

23 “(iii) to prevent the proliferation of
24 and trafficking in weapons of mass de-

1 struction in and through the territory of
2 the country;”;

3 (D) in paragraph (3), as redesignated, by
4 striking the period at the end and inserting a
5 semicolon; and

6 (E) by inserting after paragraph (3) the
7 following:

8 “(4) a strategy for addressing, and where pos-
9 sible eliminating, terrorist sanctuaries that shall
10 include—

11 “(A) a description of terrorist sanctuaries,
12 together with an assessment of the priorities of
13 addressing and eliminating such sanctuaries;

14 “(B) an outline of strategies for disrupting
15 or eliminating the security provided to terrorists
16 by such sanctuaries;

17 “(C) a description of efforts by the United
18 States to work with other countries in bilateral
19 and multilateral fora to address or eliminate
20 terrorist sanctuaries and disrupt or eliminate
21 the security provided to terrorists by such sanc-
22 tuaries; and

23 “(D) a description of long-term goals and
24 actions designed to reduce the conditions that
25 allow the formation of terrorist sanctuaries; and

1 “(5) an update of the information contained in
2 the report required to be transmitted to Congress
3 under 7119(b) of the 9/11 Commission Implementa-
4 tion Act of 2004.”.

5 (3) DEFINITIONS.—Section 140(d) of the For-
6 eign Relations Authorization Act, Fiscal Years 1988
7 and 1989 (22 U.S.C. 2656f(d)) is amended—

8 (A) in paragraph (2), by striking “and” at
9 the end;

10 (B) in paragraph (3), by striking the pe-
11 riod at the end and inserting a semicolon; and

12 (C) by adding at the end the following:

13 “(4) the terms ‘territory’ and ‘territory of the
14 country’ mean the land, waters, and airspace of the
15 country; and

16 “(5) the terms ‘terrorist sanctuary’ and ‘sanc-
17 tuary’ mean an area in the territory of the
18 country—

19 “(A) that is used by a terrorist or terrorist
20 organization—

21 “(i) to carry out terrorist activities,
22 including training, fundraising, financing,
23 and recruitment; or

24 “(ii) as a transit point; and

1 “(B) the government of which expressly
2 consents to, or with knowledge, allows, toler-
3 ates, or disregards such use of its territory and
4 is not subject to a determination under—

5 “(i) section 6(j)(1)(A) of the Export
6 Administration Act of 1979 (50 U.S.C.
7 App. 2405(j)(1)(A));

8 “(ii) section 620A(a) of the Foreign
9 Assistance Act of 1961 (22 U.S.C.
10 2371(a)); or

11 “(iii) section 40(d) of the Arms Ex-
12 port Control Act (22 U.S.C. 2780(d)).”.

13 (4) **EFFECTIVE DATE.**—The amendments made
14 by this subsection apply with respect to the report
15 required to be transmitted under section 140 of the
16 Foreign Relations Authorization Act, Fiscal Years
17 1988 and 1989 (22 U.S.C. 2656f), by April 30,
18 2006, and by April 30 of each subsequent year.

19 **SEC. 7103. UNITED STATES COMMITMENT TO THE FUTURE**
20 **OF PAKISTAN.**

21 (a) **FINDINGS.**—Consistent with the report of the Na-
22 tional Commission on Terrorist Attacks Upon the United
23 States, Congress makes the following findings:

24 (1) The Government of Pakistan has a critical
25 role to perform in the struggle against terrorism.

1 (2) Due to its location, topography, social con-
2 ditions, and other factors, Pakistan can be attractive
3 to extremists seeking refuge or opportunities to re-
4 cruit or train, or a place from which to operate
5 against Coalition Forces in Afghanistan.

6 (3) A stable Pakistan, with a moderate, respon-
7 sible government that serves as a voice of tolerance
8 in the Muslim world, is critical to stability in the re-
9 gion.

10 (b) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that the United States should—

12 (1) help to ensure a promising, stable, and se-
13 cure future for Pakistan over the long term;

14 (2) provide a comprehensive program of assist-
15 ance to encourage and enable Pakistan—

16 (A) to continue and improve upon its com-
17 mitment to combating extremists;

18 (B) to seek to resolve any outstanding dif-
19 ficulties with its neighbors and other countries
20 in its region;

21 (C) to continue to make efforts to fully
22 control its territory and borders;

23 (D) to progress toward becoming a more
24 effective and participatory democracy;

1 (E) to participate more vigorously in the
2 global marketplace and to continue to mod-
3 ernize its economy;

4 (F) to take all necessary steps to halt the
5 spread of weapons of mass destruction;

6 (G) to improve and expand access to edu-
7 cation for all citizens; and

8 (H) to increase the number and level of ex-
9 changes between the Pakistani people and the
10 American people; and

11 (3) continue to provide assistance to Pakistan
12 at not less than the overall levels requested by the
13 President for fiscal year 2005.

14 (c) EXTENSION OF PAKISTAN WAIVERS.—The Act
15 entitled “An Act to authorize the President to exercise
16 waivers of foreign assistance restrictions with respect to
17 Pakistan through September 30, 2003, and for other pur-
18 poses”, approved October 27, 2001 (Public Law 107–57;
19 115 Stat. 403), as amended by section 2213 of the Emer-
20 gency Supplemental Appropriations Act for Defense and
21 for the Reconstruction of Iraq and Afghanistan, 2004
22 (Public Law 108–106; 117 Stat. 1232), is further
23 amended—

24 (1) in section 1(b)—

1 (A) in the heading, by striking “FISCAL
2 YEAR 2004” and inserting “FISCAL YEARS
3 2005 and 2006”; and

4 (B) in paragraph (1), by striking “2004”
5 and inserting “2005 or 2006”;

6 (2) in section 3(2), by striking “and 2004,”
7 and inserting “2004, 2005, and 2006”; and

8 (3) in section 6, by striking “2004” and insert-
9 ing “2006”.

10 **SEC. 7104. ASSISTANCE FOR AFGHANISTAN.**

11 (a) **SHORT TITLE.**—This section may be cited as the
12 “Afghanistan Freedom Support Act Amendments of
13 2004”.

14 (b) **COORDINATION OF ASSISTANCE.**—

15 (1) **FINDINGS.**—Consistent with the report of
16 the National Commission on Terrorist Attacks Upon
17 the United States, Congress makes the following
18 findings:

19 (A) The United States and its allies in the
20 international community have made progress in
21 promoting economic and political reform within
22 Afghanistan, including the establishment of a
23 central government with a democratic constitu-
24 tion, a new currency, and a new army, the in-

1 crease of personal freedom, and the elevation of
2 the standard of living of many Afghans.

3 (B) A number of significant obstacles must
4 be overcome if Afghanistan is to become a se-
5 cure and prosperous democracy, and such a
6 transition depends in particular upon—

7 (i) improving security throughout the
8 country;

9 (ii) disarming and demobilizing mili-
10 tias;

11 (iii) curtailing the rule of the war-
12 lords;

13 (iv) promoting equitable economic de-
14 velopment;

15 (v) protecting the human rights of the
16 people of Afghanistan;

17 (vi) continuing to hold elections for
18 public officials; and

19 (vii) ending the cultivation, produc-
20 tion, and trafficking of narcotics.

21 (C) The United States and the inter-
22 national community must make a long-term
23 commitment to addressing the unstable security
24 situation in Afghanistan and the burgeoning
25 narcotics trade, endemic poverty, and other se-

1 rious problems in Afghanistan in order to pre-
2 vent that country from relapsing into a sanc-
3 tuary for international terrorism.

4 (2) SENSE OF CONGRESS.—It is the sense of
5 Congress that the United States Government should
6 take, with respect to Afghanistan, the following ac-
7 tions:

8 (A) Work with other nations to obtain
9 long-term security, political, and financial com-
10 mitments and fulfillment of pledges to the Gov-
11 ernment of Afghanistan to accomplish the ob-
12 jectives of the Afghanistan Freedom Support
13 Act of 2002 (22 U.S.C. 7501 et seq.), especially
14 to ensure a secure, democratic, and prosperous
15 Afghanistan that respects the rights of its citi-
16 zens and is free of international terrorist orga-
17 nizations.

18 (B) Use the voice and vote of the United
19 States in relevant international organizations,
20 including the North Atlantic Treaty Organiza-
21 tion and the United Nations Security Council,
22 to strengthen international commitments to as-
23 sist the Government of Afghanistan in enhanc-
24 ing security, building national police and mili-
25 tary forces, increasing counter-narcotics efforts,

1 and expanding infrastructure and public serv-
2 ices throughout the country.

3 (C) Take appropriate steps to increase the
4 assistance provided under programs of the De-
5 partment of State and the United States Agen-
6 cy for International Development throughout
7 Afghanistan and to increase the number of per-
8 sonnel of those agencies in Afghanistan as nec-
9 essary to support the increased assistance.

10 (c) COORDINATOR FOR ASSISTANCE.—

11 (1) FINDINGS.—Congress makes the following
12 findings:

13 (A) The Final Report of the National
14 Commission on Terrorist Attacks Upon the
15 United States criticized the provision of United
16 States assistance to Afghanistan for being too
17 inflexible.

18 (B) The Afghanistan Freedom Support
19 Act of 2002 (22 U.S.C. 7501 et seq.) contains
20 provisions that provide for flexibility in the pro-
21 vision of assistance for Afghanistan and are not
22 subject to the requirements of typical foreign
23 assistance programs and provide for the des-
24 ignation of a coordinator to oversee United
25 States assistance for Afghanistan.

1 (2) DESIGNATION OF COORDINATOR.—Section
2 104(a) of the Afghanistan Freedom Support Act of
3 2002 (22 U.S.C. 7514(a)) is amended in the matter
4 preceding paragraph (1) by striking “is strongly
5 urged to” and inserting “shall”.

6 (d) ASSISTANCE PLAN; INTERNATIONAL COORDINA-
7 TION.—Section 104 of the Afghanistan Freedom Support
8 Act of 2002 (22 U.S.C. 7514) is amended by adding at
9 the end the following:

10 “(c) ASSISTANCE PLAN.—

11 “(1) SUBMISSION TO CONGRESS.—The coordi-
12 nator designated under subsection (a) shall annually
13 submit the Afghanistan assistance plan of the Ad-
14 ministration to—

15 “(A) the Committee on Foreign Relations
16 of the Senate;

17 “(B) the Committee on International Rela-
18 tions of the House of Representatives;

19 “(C) the Committee on Appropriations of
20 the Senate; and

21 “(D) the Committee on Appropriations of
22 the House of Representatives.

23 “(2) CONTENTS.—The assistance plan sub-
24 mitted under paragraph (1) shall describe—

1 “(A) how the plan relates to the strategy
2 provided pursuant to section 304; and

3 “(B) how the plan builds upon United
4 States assistance provided to Afghanistan since
5 2001.

6 “(d) COORDINATION WITH INTERNATIONAL COMMU-
7 NITY.—

8 “(1) IN GENERAL.—The coordinator designated
9 under subsection (a) shall work with the inter-
10 national community and the Government of Afghani-
11 stan to ensure that assistance to Afghanistan is im-
12 plemented in a coherent, consistent, and efficient
13 manner to prevent duplication and waste.

14 “(2) INTERNATIONAL FINANCIAL INSTITU-
15 TIONS.—The coordinator designated under sub-
16 section (a), under the direction of the Secretary of
17 State, shall work through the Secretary of the
18 Treasury and the United States Executive Directors
19 at the international financial institutions (as defined
20 in section 1701(c)(2) of the International Financial
21 Institutions Act (22 U.S.C. 262r(c)(2))) to coordi-
22 nate United States assistance for Afghanistan with
23 international financial institutions.

24 “(e) GENERAL PROVISIONS RELATING TO THE AF-
25 GHANISTAN FREEDOM SUPPORT ACT OF 2002.—

1 (1) ASSISTANCE TO PROMOTE ECONOMIC, PO-
2 LITICAL AND SOCIAL DEVELOPMENT.—

3 (A) DECLARATION OF POLICY.—Congress
4 reaffirms the authorities contained in title I of
5 the Afghanistan Freedom Support Act of 2002
6 (22 U.S.C. 7501 et seq.), relating to economic
7 and democratic development assistance for Af-
8 ghanistan.

9 (B) PROVISION OF ASSISTANCE.—Section
10 103(a) of such Act (22 U.S.C. 7513(a)) is
11 amended in the matter preceding paragraph (1)
12 by striking “section 512 of Public Law 107–
13 115 or any other similar” and inserting “any
14 other”.

15 (2) DECLARATIONS OF GENERAL POLICY.—
16 Congress makes the following declarations:

17 (A) The United States reaffirms the sup-
18 port that it and other countries expressed for
19 the report entitled “Securing Afghanistan’s Fu-
20 ture” in their Berlin Declaration of April 2004.
21 The United States should help enable the
22 growth needed to create an economically sus-
23 tainable Afghanistan capable of the poverty re-
24 duction and social development foreseen in the
25 report.

1 (B) The United States supports the par-
2 liamentary elections to be held in Afghanistan
3 by April 2005 and will help ensure that such
4 elections are not undermined, including by war-
5 lords or narcotics traffickers.

6 (C) The United States continues to urge
7 North Atlantic Treaty Organization members
8 and other friendly countries to make much
9 greater military contributions toward securing
10 the peace in Afghanistan.

11 (3) FORM OF REPORTS.—Section 304 of the Af-
12 ghanistan Freedom Support Act of 2002 (22 U.S.C.
13 7554) is amended—

14 (A) by striking “The Secretary” and in-
15 serting the following:

16 “(a) IN GENERAL.—The Secretary”;

17 (B) by striking “The first report” and in-
18 serting the following:

19 “(b) DEADLINE FOR SUBMISSION.—The first re-
20 port”; and

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

22 “(c) FORM OF REPORTS.—Any report or other mat-
23 ter that is required to be submitted to Congress (including
24 a committee of Congress) by this Act may contain a classi-
25 fied annex.”.

1 (4) LONG-TERM STRATEGY.—

2 (A) STRATEGY.—Title III of the Afghani-
3 stan Freedom Support Act of 2002 (22 U.S.C.
4 7551 et seq.) is amended by adding at the end
5 the following:

6 **“SEC. 305. FORMULATION OF LONG-TERM STRATEGY FOR**
7 **AFGHANISTAN.**

8 “(a) STRATEGY.—

9 “(1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of this section, the
11 President shall formulate a 5-year strategy for Af-
12 ghanistan and submit such strategy to—

13 “(A) the Committee on Foreign Relations
14 of the Senate;

15 “(B) the Committee on International Rela-
16 tions of the House of Representatives;

17 “(C) the Committee on Appropriations of
18 the Senate; and

19 “(D) the Committee on Appropriations of
20 the House of Representatives.

21 “(2) CONTENTS.—The strategy formulated
22 under paragraph (1) shall include specific and meas-
23 urable goals for addressing the long-term develop-
24 ment and security needs of Afghanistan, including
25 sectors such as agriculture and irrigation, par-

1 liamentary and democratic development, the judicial
2 system and rule of law, human rights, education,
3 health, telecommunications, electricity, women's
4 rights, counternarcotics, police, border security, anti-
5 corruption, and other law-enforcement activities, as
6 well as the anticipated costs and time frames associ-
7 ated with achieving those goals.

8 “(b) MONITORING.—

9 “(1) ANNUAL REPORT.—The President shall
10 transmit on an annual basis through 2010 a report
11 describing the progress made toward the implemen-
12 tation of the strategy required by subsection (a) and
13 any changes to the strategy since the date of the
14 submission of the last report to—

15 “(A) the Committee on Foreign Relations
16 of the Senate;

17 “(B) the Committee on International Rela-
18 tions of the House of Representatives;

19 “(C) the Committee on Appropriations of
20 the Senate; and

21 “(D) the Committee on Appropriations of
22 the House of Representatives.”.

23 (B) CLERICAL AMENDMENT.—The table of
24 contents for such Act (22 U.S.C. 7501 note) is

1 amended by adding after the item relating to
2 section 303 the following new item:

“Sec. 305. Formulation of long-term strategy for Afghanistan.”.

3 (f) EDUCATION, THE RULE OF LAW, AND RELATED
4 ISSUES.—

5 (1) DECLARATION OF POLICY.—Congress de-
6 clares that, although Afghanistan has adopted a new
7 constitution and made progress on primary edu-
8 cation, the United States must invest in a concerted
9 effort in Afghanistan to improve the rule of law,
10 good governance, and effective policing, to accelerate
11 work on secondary and university education systems,
12 and to establish new initiatives to increase the ca-
13 pacity of civil society.

14 (2) AMENDMENT.—Section 103(a)(5) of the Af-
15 ghanistan Freedom Support Act of 2002 (22 U.S.C.
16 7513(a)(5)) is amended to read as follows:

17 “(5) EDUCATION, THE RULE OF LAW, AND RE-
18 LATED ISSUES.—

19 “(A) EDUCATION.—To assist in the devel-
20 opment of the capacity of the Government of
21 Afghanistan to provide education to the people
22 of Afghanistan, including assistance such as—

23 “(i) support for an educated citizenry
24 through improved access to basic edu-

1 cation, with particular emphasis on basic
2 education for children, especially orphans;

3 “(ii) programs to enable the Govern-
4 ment of Afghanistan to recruit and train
5 teachers, with special focus on the recruit-
6 ment and training of female teachers;

7 “(iii) programs to enable the Govern-
8 ment of Afghanistan to develop school cur-
9 ricula that incorporate relevant informa-
10 tion such as landmine awareness, food se-
11 curity and agricultural education, civic
12 education, and human rights education, in-
13 cluding education relating to religious free-
14 dom;

15 “(iv) programs to construct, renovate,
16 or rebuild, and to equip and provide teach-
17 er training, for primary schools, secondary
18 schools, and universities; and

19 “(v) programs to increase educational
20 exchanges and partnerships between the
21 United States and Afghanistan.

22 “(B) RULE OF LAW.—To assist in the de-
23 velopment of the rule of law and good govern-
24 ance and reduced corruption in Afghanistan, in-
25 cluding assistance such as—

1 “(i) support for the activities of the
2 Government of Afghanistan to implement
3 its constitution, to develop modern legal
4 codes and court rules, to provide for the
5 creation of legal assistance programs, and
6 other initiatives to promote the rule of law
7 in Afghanistan;

8 “(ii) support for improvements in the
9 capacity and physical infrastructure of the
10 justice system in Afghanistan, such as for
11 professional training (including for women)
12 to improve the administration of justice,
13 for programs to enhance prosecutorial and
14 judicial capabilities and to protect partici-
15 pants in judicial cases, for improvements
16 in the instruction of law enforcement per-
17 sonnel (including human rights training),
18 and for the promotion of civilian police
19 roles that support democracy;

20 “(iii) support for rehabilitation and
21 rebuilding of courthouses and detention fa-
22 cilities;

23 “(iv) support for the effective admin-
24 istration of justice at the national, re-
25 gional, and local levels, including programs

1 to improve penal institutions and the reha-
2 bilitation of prisoners, and to establish a
3 responsible and community-based police
4 force;

5 “(v) support to increase the trans-
6 parency, accountability, and participatory
7 nature of governmental institutions, includ-
8 ing programs designed to combat corrup-
9 tion and other programs for the promotion
10 of good governance, such as the develop-
11 ment of regulations relating to financial
12 disclosure for public officials, political par-
13 ties, and candidates for public office, and
14 transparent budgeting processes and finan-
15 cial management systems;

16 “(vi) support for establishment of a
17 central bank and central budgeting author-
18 ity;

19 “(vii) support for international organi-
20 zations that provide civil advisers to the
21 Government of Afghanistan; and

22 “(viii) support for Afghan and inter-
23 national efforts to investigate human
24 rights atrocities committed in Afghanistan
25 by the Taliban regime, opponents of such

1 regime, and terrorist groups operating in
2 Afghanistan, including the collection of fo-
3 rensic evidence relating to such atrocities.

4 “(C) CIVIL SOCIETY AND DEMOCRACY.—

5 To support the development of democratic insti-
6 tutions in Afghanistan, including assistance
7 for—

8 “(i) international monitoring and ob-
9 serving of, and the promotion of, free and
10 fair elections;

11 “(ii) strengthening democratic polit-
12 ical parties;

13 “(iii) international exchanges and pro-
14 fessional training for members or officials
15 of government, political, and civic or other
16 nongovernmental entities;

17 “(iv) national, regional, and local elec-
18 tions and political party development;

19 “(v) an independent media;

20 “(vi) programs that support the ex-
21 panded participation of women and mem-
22 bers of all ethnic groups in government at
23 national, regional, and local levels; and

24 “(vii) programs to strengthen civil so-
25 ciety organizations that promote human

1 rights, including religious freedom, free-
2 dom of expression, and freedom of associa-
3 tion, and support human rights moni-
4 toring.

5 “(D) PROTECTION OF SITES.—To provide
6 for the protection of Afghanistan’s culture, his-
7 tory, and national identity, including the reha-
8 bilitation of Afghanistan’s museums and sites
9 of cultural significance.”.

10 (3) CONFORMING AMENDMENT.—Section
11 103(a)(4) of the Afghanistan Freedom Support Act
12 of 2002 (22 U.S.C. 7513(a)(4)) is amended—

13 (A) in subparagraph (K), by striking
14 “and” at the end;

15 (B) in subparagraph (L), by striking the
16 period at the end and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(M) assistance in identifying and sur-
19 veying key road and rail routes that are essen-
20 tial for economic renewal in Afghanistan and
21 the region and support for the establishment of
22 a customs service and training for customs offi-
23 cers.”.

24 (g) MONITORING OF ASSISTANCE FOR AFGHANI-
25 STAN.—Section 103 of the Afghanistan Freedom Support

1 Act of 2002 (22 U.S.C. 7513), is amended by adding at
2 the end the following:

3 “(d) MONITORING OF ASSISTANCE FOR AFGHANI-
4 STAN.—

5 “(1) REPORT.—

6 “(A) IN GENERAL.—The Secretary of
7 State, in consultation with the Administrator
8 for the United States Agency for International
9 Development, shall submit to the Committee on
10 Foreign Relations of the Senate and the Com-
11 mittee on International Relations of the House
12 of Representatives a report on the obligations of
13 United States assistance for Afghanistan from
14 all United States Government departments and
15 agencies.

16 “(B) CONTENTS.—Each such report shall
17 set forth, for the preceding annual period and
18 cumulatively, a description of—

19 “(i) the activities and the purposes for
20 which funds were obligated;

21 “(ii) the source of the funds stated
22 specifically by fiscal year, agency, and pro-
23 gram;

1 “(iii) the participation of each United
2 States Government department or agency;
3 and

4 “(iv) such other information as the
5 Secretary considers appropriate to fully in-
6 form Congress on such matters.

7 “(C) ADDITIONAL REQUIREMENTS.—The
8 first report submitted under this paragraph
9 shall include a cumulative account of informa-
10 tion described in subparagraph (B) from all
11 prior periods beginning with fiscal year 2001.
12 The first report under this paragraph shall be
13 submitted not later than March 15, 2005. Sub-
14 sequent reports shall be submitted every 12
15 months thereafter and may be included in the
16 report required under section 206(c)(2).

17 “(2) SUBMISSION OF INFORMATION FOR RE-
18 PORT.—The head of each United States Government
19 agency referred to in paragraph (1) shall provide on
20 a timely basis to the Secretary of State such infor-
21 mation as the Secretary may reasonably require to
22 allow the Secretary to prepare and submit the report
23 required under paragraph (1).”.

24 (h) UNITED STATES POLICY TO SUPPORT DISAR-
25 MAMENT OF PRIVATE MILITIAS AND EXPANSION OF

1 INTERNATIONAL PEACEKEEPING AND SECURITY OPER-
2 ATIONS IN AFGHANISTAN.—

3 (1) UNITED STATES POLICY RELATING TO DIS-
4 ARMAMENT OF PRIVATE MILITIAS.—

5 (A) IN GENERAL.—It shall be the policy of
6 the United States to take immediate steps to
7 provide active support for the disarmament, de-
8 mobilization, and reintegration of armed sol-
9 diers, particularly child soldiers, in Afghanistan,
10 in close consultation with the President of Af-
11 ghanistan.

12 (B) REPORT.—The report required under
13 section 206(c)(2) of the Afghanistan Freedom
14 Support Act of 2002 (22 U.S.C. 7536(c)(2))
15 shall include a description of the progress to
16 implement paragraph (1).

17 (2) INTERNATIONAL PEACEKEEPING AND SECUR-
18 RITY OPERATIONS.—Section 206 of such Act (22
19 U.S.C. 7536) is amended by adding at the end the
20 following:

21 “(e) UNITED STATES POLICY RELATING TO INTER-
22 NATIONAL PEACEKEEPING AND SECURITY OPER-
23 ATIONS.—It shall be the policy of the United States to
24 make every effort to support the expansion of inter-

1 national peacekeeping and security operations in Afghani-
2 stan in order to—

3 “(1) increase the area in which security is pro-
4 vided and undertake vital tasks related to promoting
5 security, such as disarming warlords, militias, and
6 irregulars, and disrupting opium production; and

7 “(2) safeguard highways in order to allow the
8 free flow of commerce and to allow material assist-
9 ance to the people of Afghanistan, and aid personnel
10 in Afghanistan, to move more freely.”.

11 (i) EFFORTS TO EXPAND INTERNATIONAL PEACE-
12 KEEPING AND SECURITY OPERATIONS IN AFGHANI-
13 STAN.—Section 206(d)(1) of the Afghanistan Freedom
14 Support Act of 2002 (22 U.S.C. 7536(d)(1)) is amended
15 to read as follows:

16 “(1) EFFORTS TO EXPAND INTERNATIONAL
17 PEACEKEEPING AND SECURITY OPERATIONS IN AF-
18 GHANISTAN.—

19 “(A) EFFORTS.—The President shall en-
20 courage, and, as authorized by law, enable other
21 countries to actively participate in expanded
22 international peacekeeping and security oper-
23 ations in Afghanistan, especially through the
24 provision of military personnel for extended pe-
25 riods of time.

1 “(B) REPORTS.—The President shall pre-
2 pare and transmit a report on the efforts car-
3 ried out pursuant to subparagraph (A) to the
4 Committee on Foreign Relations of the Senate
5 and the Committee on International Relations
6 of the House of Representatives. The first re-
7 port under this subparagraph shall be trans-
8 mitted not later than 60 days after the date of
9 the enactment of the Afghanistan Freedom
10 Support Act Amendments of 2004 and subse-
11 quent reports shall be transmitted every 6
12 months thereafter and may be included in the
13 report required by subsection (c)(2).”.

14 (j) PROVISIONS RELATING TO COUNTERNARCOTICS
15 EFFORTS IN AFGHANISTAN.—

16 (1) AUTHORIZATION OF ASSISTANCE.—Section
17 103(a)(3)(A) of the Afghanistan Freedom Support
18 Act of 2002 (22 U.S.C. 7513(a)(3)(A)) is
19 amended—

20 (A) in clause (i), by striking “establish
21 crop substitution programs,” and inserting
22 “promote alternatives to poppy cultivation, in-
23 cluding the introduction of high value crops
24 that are suitable for export and the provision of

1 appropriate technical assistance and credit
2 mechanisms for farmers,”;

3 (B) in clause (ii), by inserting before the
4 semicolon at the end the following: “, and to
5 create special counternarcotics courts, prosecu-
6 tors, and places of incarceration”;

7 (C) in clause (iii), by inserting before the
8 semicolon at the end the following: “, in par-
9 ticular, notwithstanding section 660 of the For-
10 eign Assistance Act of 1961 (22 U.S.C. 2420),
11 by providing non-lethal equipment, training (in-
12 cluding training in internationally recognized
13 standards of human rights, the rule of law,
14 anti-corruption, and the promotion of civilian
15 police roles that support democracy), and pay-
16 ments, during fiscal years 2005 through 2008,
17 for salaries for special counternarcotics police
18 and supporting units”;

19 (D) in clause (iv), by striking “and” at the
20 end;

21 (E) in clause (v), by striking the period at
22 the end and inserting “; and”; and

23 (F) by adding after clause (v) the fol-
24 lowing:

1 “(vi) assist the Afghan National Army
2 with respect to any of the activities under
3 this paragraph.”.

4 (2) SENSE OF CONGRESS AND REPORT.—Title
5 II of the Afghanistan Freedom Support Act of 2002
6 (22 U.S.C. 7531 et seq.) is amended—

7 (A) by redesignating sections 207 and 208
8 as sections 208 and 209, respectively; and

9 (B) by inserting after section 206 the fol-
10 lowing:

11 **“SEC. 207. SENSE OF CONGRESS AND REPORT REGARDING**
12 **COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

13 “(a) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that—

15 “(1) the President should make the substantial
16 reduction of illegal drug production and trafficking
17 in Afghanistan a priority in the Global War on Ter-
18 rorism;

19 “(2) the Secretary of Defense, in coordination
20 with the Secretary of State and the heads of other
21 appropriate Federal agencies, should expand co-
22 operation with the Government of Afghanistan and
23 international organizations involved in counter-drug
24 activities to assist in providing a secure environment
25 for counter-drug personnel in Afghanistan; and

1 “(3) the United States, in conjunction with the
2 Government of Afghanistan and coalition partners,
3 should undertake additional efforts to reduce illegal
4 drug trafficking and related activities that provide
5 financial support for terrorist organizations in Af-
6 ghanistan and neighboring countries.

7 “(b) REPORT REQUIRED.—(1) The Secretary of De-
8 fense and the Secretary of State shall jointly prepare a
9 report that describes—

10 “(A) the progress made toward substantially re-
11 ducing poppy cultivation and heroin production ca-
12 pabilities in Afghanistan; and

13 “(B) the extent to which profits from illegal
14 drug activity in Afghanistan are used to financially
15 support terrorist organizations and groups seeking
16 to undermine the Government of Afghanistan.

17 “(2) The report required by this subsection shall be
18 submitted to Congress not later than 120 days after the
19 date of the enactment of the 9/11 Recommendations Im-
20 plementation Act.”.

21 (3) CLERICAL AMENDMENT.—The table of con-
22 tents for such Act (22 U.S.C. 7501 note) is amend-
23 ed by striking the items relating to sections 207 and
24 208 and inserting the following:

“Sec. 207. Sense of Congress and report regarding counter-drug efforts in Af-
 ghanistan.

“Sec. 208. Relationship to other authority.
“Sec. 209. Authorization of appropriations.”.

1 (k) ADDITIONAL AMENDMENTS TO AFGHANISTAN
2 FREEDOM SUPPORT ACT OF 2002.—

3 (1) EXTENSION OF REPORTS ON IMPLEMENTA-
4 TION OF STRATEGY.—Section 206(c)(2) of the Af-
5 ghanistan Freedom Support Act of 2002 (22 U.S.C.
6 7536(c)(2)) is amended in the matter preceding sub-
7 paragraph (A) by striking “2007” and inserting
8 “2010”.

9 (2) TECHNICAL AMENDMENT.—Section
10 103(a)(7)(A)(xii) of such Act (22 U.S.C.
11 7513(a)(7)(A)(xii)) is amended by striking “Na-
12 tional” and inserting “Afghan Independent”.

13 (l) REPEAL OF PROHIBITION ON ASSISTANCE.—Sec-
14 tion 620D of the Foreign Assistance Act of 1961 (22
15 U.S.C. 2374; relating to prohibition on assistance to Af-
16 ghanistan) is repealed.

17 (m) AUTHORIZATION OF APPROPRIATIONS.—Section
18 108(a) of the Afghanistan Freedom Assistance Act of
19 2002 (22 U.S.C. 7518(a)) is amended by striking
20 “\$1,825,000,000 for fiscal year 2004” and all that follows
21 and inserting “such sums as may be necessary for each
22 of the fiscal years 2005 and 2006.”.

1 **SEC. 7105. THE RELATIONSHIP BETWEEN THE UNITED**
2 **STATES AND SAUDI ARABIA.**

3 (a) FINDINGS.—Consistent with the report of the Na-
4 tional Commission on Terrorist Attacks Upon the United
5 States, Congress makes the following findings:

6 (1) Despite a long history of friendly relations
7 with the United States, there have been problems in
8 cooperation between the United States and Saudi
9 Arabia.

10 (2) The Government of Saudi Arabia has not
11 always responded promptly or fully to United States
12 requests for assistance in the global war on Islamist
13 terrorism.

14 (3) The Government of Saudi Arabia has not
15 done all it can to prevent financial or other support
16 from being provided to, or reaching, extremist orga-
17 nizations in Saudi Arabia or other countries.

18 (4) Counterterrorism cooperation between the
19 Governments of the United States and Saudi Arabia
20 has improved significantly since the terrorist bomb-
21 ing attacks in Riyadh, Saudi Arabia, on May 12,
22 2003, and the Government of Saudi Arabia is now
23 pursuing al Qaeda and other terror groups operating
24 inside Saudi Arabia.

25 (5) The United States must enhance its co-
26 operation and strong relationship with Saudi Arabia

1 based upon a shared and public commitment to po-
2 litical and economic reform, greater tolerance and
3 respect for religious and cultural diversity and joint
4 efforts to prevent funding for and support of ex-
5 tremist organizations in Saudi Arabia and elsewhere.

6 (b) SENSE OF CONGRESS.—It is the sense of Con-
7 gress that there should be a more robust dialogue between
8 the people and Government of the United States and the
9 people and Government of Saudi Arabia in order to im-
10 prove the relationship between the United States and
11 Saudi Arabia.

12 **SEC. 7106. EFFORTS TO COMBAT ISLAMIST TERRORISM.**

13 (a) FINDINGS.—Consistent with the report of the Na-
14 tional Commission on Terrorist Attacks Upon the United
15 States, Congress makes the following findings:

16 (1) While support for the United States has
17 plummeted in the Islamic world, many negative
18 views are uninformed, at best, and, at worst, are in-
19 formed by coarse stereotypes and caricatures.

20 (2) Local newspapers in countries with pre-
21 dominantly Muslim populations and influential
22 broadcasters who reach Muslim audiences through
23 satellite television often reinforce the idea that the
24 people and Government of the United States are
25 anti-Muslim.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) the Government of the United States should
4 offer an example of moral leadership in the world
5 that includes a commitment to treat all people hu-
6 manely, abide by the rule of law, and be generous
7 to the people and governments of other countries;

8 (2) the United States should cooperate with
9 governments of countries with predominantly Mus-
10 lim populations to foster agreement on respect for
11 human dignity and opportunity, and to offer a vision
12 of a better future that includes stressing life over
13 death, individual educational and economic oppor-
14 tunity, widespread political participation, contempt
15 for violence, respect for the rule of law, openness in
16 discussing differences, and tolerance for opposing
17 points of view;

18 (3) the United States should encourage reform,
19 freedom, democracy, and opportunity for Muslims;
20 and

21 (4) the United States should work to defeat ex-
22 tremism in all its form, especially in nations with
23 predominantly Muslim populations by providing as-
24 sistance to governments, non-governmental organiza-
25 tions, and individuals who promote modernization.

1 **SEC. 7107. UNITED STATES POLICY TOWARD DICTATOR-**
2 **SHIPS.**

3 (a) FINDING.—Consistent with the report of the Na-
4 tional Commission on Terrorist Attacks Upon the United
5 States, Congress finds that short-term gains enjoyed by
6 the United States through cooperation with repressive dic-
7 tatorships have often been outweighed by long-term set-
8 backs for the stature and interests of the United States.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

11 (1) United States foreign policy should promote
12 the importance of individual educational and eco-
13 nomic opportunity, encourage widespread political
14 participation, condemn violence, and promote respect
15 for the rule of law, openness in discussing dif-
16 ferences among people, and tolerance for opposing
17 points of view; and

18 (2) the United States Government must encour-
19 age the governments of all countries with predomi-
20 nantly Muslim populations, including those that are
21 friends and allies of the United States, to promote
22 the value of life and the importance of individual
23 education and economic opportunity, encourage
24 widespread political participation, condemn violence
25 and promote the rule of law, openness in discussing

1 differences among people, and tolerance for opposing
2 points of view.

3 **SEC. 7108. PROMOTION OF FREE MEDIA AND OTHER AMER-**
4 **ICAN VALUES.**

5 (a) PROMOTION OF UNITED STATES VALUES
6 THROUGH BROADCAST MEDIA.—

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

11 (A) Although the United States has dem-
12 onstrated and promoted its values in defending
13 Muslims against tyrants and criminals in Soma-
14 lia, Bosnia, Kosovo, Afghanistan, and Iraq, this
15 message is neither convincingly presented nor
16 widely understood.

17 (B) If the United States does not act to
18 vigorously define its message in countries with
19 predominantly Muslim populations, the image
20 of the United States will be defined by Islamic
21 extremists who seek to demonize the United
22 States.

23 (C) Recognizing that many Muslim audi-
24 ences rely on satellite television and radio, the
25 United States Government has launched prom-

1 ising initiatives in television and radio broad-
2 casting to the Islamic world, including Iran and
3 Afghanistan.

4 (2) SENSE OF CONGRESS.—It is the sense of
5 Congress that—

6 (A) the United States must do more to de-
7 fend and promote its values and ideals to the
8 broadest possible audience in countries with
9 predominantly Muslim populations;

10 (B) United States efforts to defend and
11 promote these values and ideals are beginning
12 to ensure that accurate expressions of these val-
13 ues reach large Muslim audiences and should be
14 robustly supported;

15 (C) the United States Government could
16 and should do more to engage Muslim audi-
17 ences in the struggle of ideas; and

18 (D) the United States Government should
19 more intensively employ existing broadcast
20 media in the Islamic world as part of this en-
21 gagement.

22 (b) ENHANCING FREE AND INDEPENDENT MEDIA.—

23 (1) FINDINGS.—Congress makes the following
24 findings:

1 (A) Freedom of speech and freedom of the
2 press are fundamental human rights.

3 (B) The United States has a national in-
4 terest in promoting these freedoms by sup-
5 porting free media abroad, which is essential to
6 the development of free and democratic societies
7 consistent with our own.

8 (C) Free media is undermined, endan-
9 gered, or nonexistent in many repressive and
10 transitional societies around the world, includ-
11 ing in Eurasia, Africa, and the Middle East.

12 (D) Individuals lacking access to a plu-
13 rality of free media are vulnerable to misin-
14 formation and propaganda and are potentially
15 more likely to adopt anti-United States views.

16 (E) Foreign governments have a responsi-
17 bility to actively and publicly discourage and
18 rebut unprofessional and unethical media while
19 respecting journalistic integrity and editorial
20 independence.

21 (2) STATEMENT OF POLICY.—It shall be the
22 policy of the United States, acting through the Sec-
23 retary of State, to—

24 (A) ensure that the promotion of freedom
25 of the press and freedom of media worldwide is

1 a priority of United States foreign policy and
2 an integral component of United States public
3 diplomacy;

4 (B) respect the journalistic integrity and
5 editorial independence of free media worldwide;
6 and

7 (C) ensure that widely accepted standards
8 for professional and ethical journalistic and edi-
9 torial practices are employed when assessing
10 international media.

11 (c) ESTABLISHMENT OF MEDIA NETWORK.—

12 (1) GRANTS FOR ESTABLISHMENT OF NET-
13 WORK.—The Secretary of State shall, utilizing
14 amounts authorized to be appropriated by subsection
15 (e)(2), make grants to the National Endowment for
16 Democracy (NED) under the National Endowment
17 for Democracy Act (22 U.S.C. 4411 et seq.) for uti-
18 lization by the Endowment to provide funding to a
19 private sector group to establish and manage a free
20 and independent media network as specified in para-
21 graph (2).

22 (2) MEDIA NETWORK.—The media network es-
23 tablished using funds under paragraph (1) shall pro-
24 vide an effective forum to convene a broad range of
25 individuals, organizations, and governmental partici-

1 pants involved in journalistic activities and the devel-
2 opment of free and independent media in order to—

3 (A) fund a clearinghouse to collect and
4 share information concerning international
5 media development and training;

6 (B) improve research in the field of media
7 assistance and program evaluation to better in-
8 form decisions regarding funding and program
9 design for government and private donors;

10 (C) explore the most appropriate use of ex-
11 isting means to more effectively encourage the
12 involvement of the private sector in the field of
13 media assistance; and

14 (D) identify effective methods for the de-
15 velopment of a free and independent media in
16 societies in transition.

17 (d) AUTHORIZATIONS OF APPROPRIATIONS.—

18 (1) IN GENERAL.—There are authorized to be
19 appropriated for each of fiscal years 2005 and 2006,
20 unless otherwise authorized by Congress, such sums
21 as may be necessary to carry out United States Gov-
22 ernment broadcasting activities consistent with this
23 section under the United States Information and
24 Educational Exchange Act of 1948 (22 U.S.C. 1431
25 et seq.), the United States International Broad-

1 casting Act of 1994 (22 U.S.C. 6201 et seq.), and
2 the Foreign Affairs Reform and Restructuring Act
3 of 1998 (22 U.S.C. 6501 et seq.), and to carry out
4 other activities under this section consistent with the
5 purposes of such Acts, unless otherwise authorized
6 by Congress.

7 (2) GRANTS FOR MEDIA NETWORK.—In addi-
8 tion to the amounts authorized to be appropriated
9 under paragraph (1), there are authorized to be ap-
10 propriated for each of fiscal years 2005 and 2006,
11 unless otherwise authorized by Congress, such sums
12 as may be necessary for grants under subsection
13 (c)(1) for the establishment of the media network
14 described in subsection (c)(2).

15 **SEC. 7109. PUBLIC DIPLOMACY RESPONSIBILITIES OF THE**
16 **DEPARTMENT OF STATE.**

17 (a) IN GENERAL.—The State Department Basic Au-
18 thorities Act of 1956 (22 U.S.C. 2651a et seq.) is amend-
19 ed by inserting after section 59 the following new section:

20 **“SEC. 60. PUBLIC DIPLOMACY RESPONSIBILITIES OF THE**
21 **DEPARTMENT OF STATE.**

22 “(a) INTEGRAL COMPONENT.—The Secretary of
23 State shall make public diplomacy an integral component
24 in the planning and execution of United States foreign pol-
25 icy.

1 “(b) COORDINATION AND DEVELOPMENT OF STRAT-
2 EGY.—The Secretary shall make every effort to—

3 “(1) coordinate, subject to the direction of the
4 President, the public diplomacy activities of Federal
5 agencies; and

6 “(2) coordinate with the Broadcasting Board of
7 Governors to—

8 “(A) develop a comprehensive and coherent
9 strategy for the use of public diplomacy re-
10 sources; and

11 “(B) develop and articulate long-term
12 measurable objectives for United States public
13 diplomacy.

14 “(c) OBJECTIVES.—The strategy developed pursuant
15 to subsection (b) shall include public diplomacy efforts tar-
16 geting developed and developing countries and select and
17 general audiences, using appropriate media to properly ex-
18 plain the foreign policy of the United States to the govern-
19 ments and populations of such countries, with the objec-
20 tives of increasing support for United States policies and
21 providing news and information. The Secretary shall,
22 through the most effective mechanisms, counter misin-
23 formation and propaganda concerning the United States.
24 The Secretary shall continue to articulate the importance

1 of freedom, democracy, and human rights as fundamental
2 principles underlying United States foreign policy goals.

3 “(d) IDENTIFICATION OF UNITED STATES FOREIGN
4 ASSISTANCE.—In cooperation with the United States
5 Agency for International Development (USAID) and other
6 public and private assistance organizations and agencies,
7 the Secretary should ensure that information relating to
8 foreign assistance provided by the United States, non-
9 governmental organizations, and private entities of the
10 United States is disseminated widely, and particularly, to
11 the extent practicable, within countries and regions that
12 receive such assistance. The Secretary should ensure that,
13 to the extent practicable, projects funded by USAID not
14 involving commodities, including projects implemented by
15 private voluntary organizations, are identified as provided
16 by the people of the United States.”.

17 (b) FUNCTIONS OF THE UNDER SECRETARY OF
18 STATE FOR PUBLIC DIPLOMACY.—

19 (1) AMENDMENT.—Section 1(b)(3) of such Act
20 (22 U.S.C. 2651a(b)(3)) is amended by adding at
21 the end the following new sentence: “The Under
22 Secretary for Public Diplomacy shall—

23 “(A) prepare an annual strategic plan for
24 public diplomacy in collaboration with overseas

1 posts and in consultation with the regional and
2 functional bureaus of the Department;

3 “(B) ensure the design and implementa-
4 tion of appropriate program evaluation meth-
5 odologies;

6 “(C) provide guidance to Department per-
7 sonnel in the United States and overseas who
8 conduct or implement public diplomacy policies,
9 programs, and activities;

10 “(D) assist the United States Agency for
11 International Development and the Broad-
12 casting Board of Governors to present the poli-
13 cies of the United States clearly and effectively;
14 and

15 “(E) submit statements of United States
16 policy and editorial material to the Broad-
17 casting Board of Governors for broadcast con-
18 sideration.”.

19 (2) CONSULTATION.—The Under Secretary of
20 State for Public Diplomacy, in carrying out the re-
21 sponsibilities described in section 1(b)(3) of such Act
22 (as amended by paragraph (1)), shall consult with
23 public diplomacy officers operating at United States
24 overseas posts and in the regional bureaus of the
25 Department of State.

1 **SEC. 7110. PUBLIC DIPLOMACY TRAINING.**

2 (a) STATEMENT OF POLICY.—The following should
3 be the policy of the United States:

4 (1) The Foreign Service should recruit individ-
5 uals with expertise and professional experience in
6 public diplomacy.

7 (2) United States chiefs of mission should have
8 a prominent role in the formulation of public diplo-
9 macy strategies for the countries and regions to
10 which they are assigned and should be accountable
11 for the operation and success of public diplomacy ef-
12 forts at their posts.

13 (3) Initial and subsequent training of Foreign
14 Service officers should be enhanced to include infor-
15 mation and training on public diplomacy and the
16 tools and technology of mass communication.

17 (b) PERSONNEL.—

18 (1) QUALIFICATIONS.—In the recruitment,
19 training, and assignment of members of the Foreign
20 Service, the Secretary of State—

21 (A) should emphasize the importance of
22 public diplomacy and applicable skills and tech-
23 niques;

24 (B) should consider the priority recruit-
25 ment into the Foreign Service, including at
26 middle-level entry, of individuals with expertise

1 and professional experience in public diplomacy,
2 mass communications, or journalism; and

3 (C) shall give special consideration to indi-
4 viduals with language facility and experience in
5 particular countries and regions.

6 (2) LANGUAGES OF SPECIAL INTEREST.—The
7 Secretary of State shall seek to increase the number
8 of Foreign Service officers proficient in languages
9 spoken in countries with predominantly Muslim pop-
10 ulations. Such increase should be accomplished
11 through the recruitment of new officers and incen-
12 tives for officers in service.

13 (c) PUBLIC DIPLOMACY SUGGESTED FOR PRO-
14 MOTION IN FOREIGN SERVICE.—Section 603(b) of the
15 Foreign Service Act of 1980 (22 U.S.C. 4003(b)) is
16 amended by adding at the end the following: “The pre-
17 cepts for selection boards shall include, whether the mem-
18 ber of the Service or the member of the Senior Foreign
19 Service, as the case may be, has demonstrated—

20 (1) a willingness and ability to explain United
21 States policies in person and through the media
22 when occupying positions for which such willingness
23 and ability is, to any degree, an element of the mem-
24 ber’s duties, or

25 (2) other experience in public diplomacy.

1 **SEC. 7111. PROMOTING DEMOCRACY AND HUMAN RIGHTS**
2 **AT INTERNATIONAL ORGANIZATIONS.**

3 (a) SUPPORT AND EXPANSION OF DEMOCRACY CAU-
4 CUS.—

5 (1) IN GENERAL.—The President, acting
6 through the Secretary of State and the relevant
7 United States chiefs of mission, should—

8 (A) continue to strongly support and seek
9 to expand the work of the democracy caucus at
10 the United Nations General Assembly and the
11 United Nations Human Rights Commission;
12 and

13 (B) seek to establish a democracy caucus
14 at the United Nations Conference on Disar-
15 mament and at other broad-based international
16 organizations.

17 (2) PURPOSES OF THE CAUCUS.—A democracy
18 caucus at an international organization should—

19 (A) forge common positions, including, as
20 appropriate, at the ministerial level, on matters
21 of concern before the organization and work
22 within and across regional lines to promote
23 agreed positions;

24 (B) work to revise an increasingly out-
25 moded system of membership selection, regional
26 voting, and decisionmaking; and

1 (C) establish a rotational leadership agree-
2 ment to provide member countries an oppor-
3 tunity, for a set period of time, to serve as the
4 designated president of the caucus, responsible
5 for serving as its voice in each organization.

6 (b) LEADERSHIP AND MEMBERSHIP OF INTER-
7 NATIONAL ORGANIZATIONS.—The President, acting
8 through the Secretary of State, the relevant United States
9 chiefs of mission, and, where appropriate, the Secretary
10 of the Treasury, should use the voice, vote, and influence
11 of the United States to—

12 (1) where appropriate, reform the criteria for
13 leadership and, in appropriate cases, for member-
14 ship, at all United Nations bodies and at other inter-
15 national organizations and multilateral institutions
16 to which the United States is a member so as to ex-
17 clude countries that violate the principles of the spe-
18 cific organization;

19 (2) make it a policy of the United Nations and
20 other international organizations and multilateral in-
21 stitutions of which the United States is a member
22 that a member country may not stand in nomination
23 for membership or in nomination or in rotation for
24 a significant leadership position in such bodies if the

1 member country is subject to sanctions imposed by
2 the United Nations Security Council; and

3 (3) work to ensure that no member country
4 stand in nomination for membership, or in nomina-
5 tion or in rotation for a significant leadership posi-
6 tion in such organizations, or for membership on the
7 United Nations Security Council, if the government
8 of the member country has been determined by the
9 Secretary of State to have repeatedly provided sup-
10 port for acts of international terrorism.

11 (c) INCREASED TRAINING IN MULTILATERAL DIPLO-
12 MACY.—

13 (1) STATEMENT OF POLICY.—It shall be the
14 policy of the United States that training courses
15 should be established for Foreign Service Officers
16 and civil service employees of the State Department,
17 including appropriate chiefs of mission, on the con-
18 duct of multilateral diplomacy, including the conduct
19 of negotiations at international organizations and
20 multilateral institutions, negotiating skills that are
21 required at multilateral settings, coalition-building
22 techniques, and lessons learned from previous
23 United States multilateral negotiations.

24 (2) PERSONNEL.—

1 (A) IN GENERAL.—The Secretary shall en-
2 sure that the training described in paragraph
3 (1) is provided at various stages of the career
4 of members of the Service.

5 (B) ACTIONS OF THE SECRETARY.—The
6 Secretary shall ensure that—

7 (i) officers of the Service receive train-
8 ing on the conduct of diplomacy at inter-
9 national organizations and other multilat-
10 eral institutions and at broad-based multi-
11 lateral negotiations of international instru-
12 ments as part of their training upon entry
13 into the Service; and

14 (ii) officers of the Service, including
15 chiefs of mission, who are assigned to
16 United States missions representing the
17 United States to international organiza-
18 tions and other multilateral institutions or
19 who are assigned in Washington, D.C., to
20 positions that have as their primary re-
21 sponsibility formulation of policy toward
22 such organizations and institutions or to-
23 ward participation in broad-based multilat-
24 eral negotiations of international instru-
25 ments, receive specialized training in the

1 areas described in paragraph (1) prior to
2 beginning of service for such assignment
3 or, if receiving such training at that time
4 is not practical, within the first year of be-
5 ginning such assignment.

6 (3) TRAINING FOR CIVIL SERVICE EMPLOY-
7 EES.—The Secretary shall ensure that employees of
8 the Department of State who are members of the
9 civil service and who are assigned to positions de-
10 scribed in paragraph (2) receive training described
11 in paragraph (1) prior to the beginning of service for
12 such assignment or, if receiving such training at
13 such time is not practical, within the first year of
14 beginning such assignment.

15 **SEC. 7112. EXPANSION OF UNITED STATES SCHOLARSHIP**
16 **AND EXCHANGE PROGRAMS IN THE ISLAMIC**
17 **WORLD.**

18 (a) FINDINGS.—Consistent with the report of the Na-
19 tional Commission on Terrorist Attacks Upon the United
20 States, Congress makes the following findings:

21 (1) Exchange, scholarship, and library pro-
22 grams are effective ways for the United States Gov-
23 ernment to promote internationally the values and
24 ideals of the United States.

1 (2) Exchange, scholarship, and library pro-
2 grams can expose young people from other countries
3 to United States values and offer them knowledge
4 and hope.

5 (b) DECLARATION OF POLICY.—Consistent with the
6 report of the National Commission on Terrorist Attacks
7 Upon the United States, Congress declares that—

8 (1) the United States should commit to a long-
9 term and sustainable investment in promoting en-
10 gagement with people of all levels of society in coun-
11 tries with predominantly Muslim populations, par-
12 ticularly with youth and those who influence youth;

13 (2) such an investment should make use of the
14 talents and resources in the private sector and
15 should include programs to increase the number of
16 people who can be exposed to the United States and
17 its fundamental ideas and values in order to dispel
18 misconceptions; and

19 (3) such programs should include youth ex-
20 change programs, young ambassadors programs,
21 international visitor programs, academic and cul-
22 tural exchange programs, American Corner pro-
23 grams, library programs, journalist exchange pro-
24 grams, sister city programs, and other programs re-
25 lated to people-to-people diplomacy.

1 (c) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the United States should significantly increase
3 its investment in the people-to-people programs described
4 in subsection (b).

5 (d) AUTHORITY TO EXPAND EDUCATIONAL AND
6 CULTURAL EXCHANGES.—The President is authorized to
7 substantially expand the exchange, scholarship, and li-
8 brary programs of the United States, especially such pro-
9 grams that benefit people in the Muslim world.

10 (e) AVAILABILITY OF FUNDS.—Of the amounts au-
11 thorized to be appropriated in each of the fiscal years
12 2005 and 2006 for educational and cultural exchange pro-
13 grams, there shall be available to the Secretary of State
14 such sums as may be necessary to carry out programs
15 under this section, unless otherwise authorized by Con-
16 gress.

17 **SEC. 7112. PILOT PROGRAM TO PROVIDE GRANTS TO AMER-**
18 **ICAN-SPONSORED SCHOOLS IN PREDOMI-**
19 **NANTLY MUSLIM COUNTRIES TO PROVIDE**
20 **SCHOLARSHIPS.**

21 (a) FINDINGS.—Congress makes the following find-
22 ings:

23 (1) During the 2003–2004 school year, the Of-
24 fice of Overseas Schools of the Department of State

1 is financially assisting 189 elementary and sec-
2 ondary schools in foreign countries.

3 (2) United States-sponsored elementary and
4 secondary schools are located in more than 20 coun-
5 tries with predominantly Muslim populations in the
6 Near East, Africa, South Asia, Central Asia, and
7 East Asia.

8 (3) United States-sponsored elementary and
9 secondary schools provide an American-style edu-
10 cation in English, with curricula that typically in-
11 clude an emphasis on the development of critical
12 thinking and analytical skills.

13 (b) STATEMENT OF POLICY.—The United States has
14 an interest in increasing the level of financial support pro-
15 vided to United States-sponsored elementary and sec-
16 ondary schools in countries with predominantly Muslim
17 populations in order to—

18 (1) increase the number of students in such
19 countries who attend such schools;

20 (2) increase the number of young people who
21 may thereby gain at any early age an appreciation
22 for the culture, society, and history of the United
23 States; and

1 (3) increase the number of young people who
2 may thereby improve their proficiency in the English
3 language.

4 (c) PILOT PROGRAM.—The Secretary of State, acting
5 through the Director of the Office of Overseas Schools of
6 the Department of State, may conduct a pilot program
7 to make grants to United States-sponsored elementary
8 and secondary schools in countries with predominantly
9 Muslim populations for the purpose of providing full or
10 partial merit-based scholarships to students from lower-
11 income and middle-income families of such countries to
12 attend such schools.

13 (d) DETERMINATION OF ELIGIBLE STUDENTS.—For
14 purposes of the pilot program, a United States-sponsored
15 elementary and secondary school that receives a grant
16 under the pilot program may establish criteria to be imple-
17 mented by such school to determine what constitutes
18 lower-income and middle-income families in the country
19 (or region of the country, if regional variations in income
20 levels in the country are significant) in which such school
21 is located.

22 (e) RESTRICTION ON USE OF FUNDS.—Amounts ap-
23 propriated to the Secretary of State pursuant to the au-
24 thorization of appropriations in subsection (h) shall be
25 used for the sole purpose of making grants under this sec-

1 tion, and may not be used for the administration of the
2 Office of Overseas Schools of the Department of State or
3 for any other activity of the Office.

4 (f) VOLUNTARY PARTICIPATION.—Nothing in this
5 section shall be construed to require participation in the
6 pilot program by a United States-sponsored elementary or
7 secondary school in a predominantly Muslim country.

8 (g) REPORT.—Not later than April 15, 2006, the
9 Secretary of State shall submit to the Committee on Inter-
10 national Relations of the House of Representatives and
11 the Committee on Foreign Relations of the Senate a re-
12 port on the pilot program. The report shall assess the suc-
13 cess of the program, examine any obstacles encountered
14 in its implementation, and address whether it should be
15 continued, and if so, provide recommendations to increase
16 its effectiveness.

17 (h) FUNDING.—There are authorized to be appro-
18 priated to the Secretary of State for each of the fiscal
19 years 2005 and 2006, unless otherwise authorized by Con-
20 gress, such sums as necessary to implement the pilot pro-
21 gram under this section.

22 **SEC. 7113. INTERNATIONAL YOUTH OPPORTUNITY FUND.**

23 (a) FINDINGS.—Consistent with the report of the Na-
24 tional Commission on Terrorist Attacks Upon the United
25 States, Congress makes the following findings:

1 (1) Education that teaches tolerance, the dig-
2 nity and value of each individual, and respect for
3 different beliefs is a key element in any global strat-
4 egy to eliminate terrorism.

5 (2) Education in the Middle East about the
6 world outside that region is weak.

7 (3) The United Nations has rightly equated lit-
8 eracy with freedom.

9 (4) The international community is moving to-
10 ward setting a concrete goal of reducing by half the
11 illiteracy rate in the Middle East by 2010, through
12 the implementation of education programs targeting
13 women and girls and programs for adult literacy,
14 and by other means.

15 (5) To be effective, efforts to improve education
16 in the Middle East must also include—

17 (A) support for the provision of basic edu-
18 cation tools, such as textbooks that translate
19 more of the world's knowledge into local lan-
20 guages and local libraries to house such mate-
21 rials; and

22 (B) more vocational education in trades
23 and business skills.

24 (6) The Middle East can benefit from some of
25 the same programs to bridge the digital divide that

1 already have been developed for other regions of the
2 world.

3 (b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

4 (1) ESTABLISHMENT.—The Secretary of State
5 is authorized to establish through an existing inter-
6 national organization, such as the United Nations
7 Educational, Science and Cultural Organization
8 (UNESCO) or other similar body, an International
9 Youth Opportunity Fund to provide financial assist-
10 ance for the improvement of public education in the
11 Middle East and other countries of strategic interest
12 with predominantly Muslim populations.

13 (2) INTERNATIONAL PARTICIPATION.—The Sec-
14 retary should seek the cooperation of the inter-
15 national community in establishing and generously
16 supporting the Fund.

17 **SEC. 7114. THE USE OF ECONOMIC POLICIES TO COMBAT**
18 **TERRORISM.**

19 (a) FINDINGS.—Consistent with the report of the Na-
20 tional Commission on Terrorist Attacks Upon the United
21 States, Congress makes the following findings:

22 (1) While terrorism is not caused by poverty,
23 breeding grounds for terrorism are created by back-
24 ward economic policies and repressive political re-
25 gimes.

1 (2) Policies that support economic development
2 and reform also have political implications, as eco-
3 nomic and political liberties are often linked.

4 (3) The United States is working toward cre-
5 ating a Middle East Free Trade Area by 2013 and
6 implementing a free trade agreement with Bahrain,
7 and free trade agreements exist between the United
8 States and Israel and the United States and Jordan.

9 (4) Existing and proposed free trade agree-
10 ments between the United States and countries with
11 predominantly Muslim populations are drawing in-
12 terest from other countries in the Middle East re-
13 gion, and countries with predominantly Muslim pop-
14 ulations can become full participants in the rules-
15 based global trading system, as the United States
16 considers lowering its barriers to trade.

17 (b) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that—

19 (1) a comprehensive United States strategy to
20 counter terrorism should include economic policies
21 that encourage development, open societies, and op-
22 portunities for people to improve the lives of their
23 families and to enhance prospects for their children's
24 future;

1 (2) one element of such a strategy should en-
2 compass the lowering of trade barriers with the
3 poorest countries that have a significant population
4 of Muslim individuals;

5 (3) another element of such a strategy should
6 encompass United States efforts to promote eco-
7 nomic reform in countries that have a significant
8 population of Muslim individuals, including efforts to
9 integrate such countries into the global trading sys-
10 tem; and

11 (4) given the importance of the rule of law in
12 promoting economic development and attracting in-
13 vestment, the United States should devote an in-
14 creased proportion of its assistance to countries in
15 the Middle East to the promotion of the rule of law.

16 **SEC. 7115. MIDDLE EAST PARTNERSHIP INITIATIVE.**

17 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
18 are authorized to be appropriated for each of fiscal years
19 2005 and 2006, (unless otherwise authorized by Congress)
20 such sums as may be necessary for the Middle East Part-
21 nership Initiative.

22 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
23 gress that, given the importance of the rule of law and
24 economic reform to development in the Middle East, a sig-
25 nificant portion of the funds authorized to be appropriated

1 under subsection (a) should be made available to promote
2 the rule of law in the Middle East.

3 **SEC. 7116. COMPREHENSIVE COALITION STRATEGY FOR**
4 **FIGHTING TERRORISM.**

5 (a) FINDINGS.—Consistent with the report of the Na-
6 tional Commission on Terrorist Attacks Upon the United
7 States, Congress makes the following findings:

8 (1) Almost every aspect of the counterterrorism
9 strategy of the United States relies on international
10 cooperation.

11 (2) Since September 11, 2001, the number and
12 scope of United States Government contacts with
13 foreign governments concerning counterterrorism
14 have expanded significantly, but such contacts have
15 often been ad hoc and not integrated as a com-
16 prehensive and unified approach to counterterrorism.

17 (b) IN GENERAL.—The Secretary of State is author-
18 ized in consultation with relevant United States Govern-
19 ment agencies, to negotiate on a bilateral or multilateral
20 basis, as appropriate, international agreements under
21 which parties to an agreement work in partnership to ad-
22 dress and interdict acts of international terrorism.

23 (c) INTERNATIONAL CONTACT GROUP ON
24 COUNTERTERRORISM.—

1 (1) SENSE OF CONGRESS.—It is the sense of
2 Congress that the President—

3 (A) should seek to engage the leaders of
4 the governments of other countries in a process
5 of advancing beyond separate and uncoordi-
6 nated national counterterrorism strategies to
7 develop with those other governments a com-
8 prehensive multilateral strategy to fight ter-
9 rorism; and

10 (B) to that end, should seek to establish
11 an international counterterrorism policy contact
12 group with the leaders of governments pro-
13 viding leadership in global counterterrorism ef-
14 forts and governments of countries with sizable
15 Muslim populations, to be used as a ready and
16 flexible international means for discussing and
17 coordinating the development of important
18 counterterrorism policies by the participating
19 governments.

20 (2) AUTHORITY.—The President is authorized
21 to establish an international counterterrorism policy
22 contact group with the leaders of governments re-
23 ferred to in paragraph (1) for the following pur-
24 poses:

1 (A) To meet annually, or more frequently
2 as the President determines appropriate, to de-
3 velop in common with such other governments
4 important policies and a strategy that address
5 the various components of international pros-
6 ecution of the war on terrorism, including poli-
7 cies and a strategy that address military issues,
8 law enforcement, the collection, analysis, and
9 dissemination of intelligence, issues relating to
10 interdiction of travel by terrorists,
11 counterterrorism-related customs issues, finan-
12 cial issues, and issues relating to terrorist sanc-
13 tuaries.

14 (B) To address, to the extent (if any) that
15 the President and leaders of other participating
16 governments determine appropriate, long-term
17 issues that can contribute to strengthening sta-
18 bility and security in the Middle East.

19 **SEC. 7117. FINANCING OF TERRORISM.**

20 (a) FINDINGS.—Consistent with the report of the Na-
21 tional Commission on Terrorist Attacks Upon the United
22 States, Congress makes the following findings:

23 (1) The death or capture of several important
24 financial facilitators has decreased the amount of

1 money available to al Qaeda, and has made it more
2 difficult for al Qaeda to raise and move money.

3 (2) The capture of al Qaeda financial
4 facilitators has provided a windfall of intelligence
5 that can be used to continue the cycle of disruption.

6 (3) The United States Government has rightly
7 recognized that information about terrorist money
8 helps in understanding terror networks, searching
9 them out, and disrupting their operations.

10 (b) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that—

12 (1) a critical weapon in the effort to stop ter-
13 rorist financing should be the targeting of terrorist
14 financial facilitators by intelligence and law enforce-
15 ment agencies; and

16 (2) efforts to track terrorist financing must be
17 paramount in United States counterterrorism ef-
18 forts.

19 **SEC. 7118. DESIGNATION OF FOREIGN TERRORIST ORGANI-**
20 **ZATIONS.**

21 (a) PERIOD OF DESIGNATION.—Section 219(a)(4) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1189(a)(4)) is amended—

24 (1) in subparagraph (A)—

1 (A) by striking “Subject to paragraphs (5)
2 and (6), a” and inserting “A”; and

3 (B) by striking “for a period of 2 years be-
4 ginning on the effective date of the designation
5 under paragraph (2)(B)” and inserting “until
6 revoked under paragraph (5) or (6) or set aside
7 pursuant to subsection (c)”;

8 (2) by striking subparagraph (B) and inserting
9 the following:

10 “(B) REVIEW OF DESIGNATION UPON PE-
11 TITION.—

12 “(i) IN GENERAL.—The Secretary
13 shall review the designation of a foreign
14 terrorist organization under the procedures
15 set forth in clauses (iii) and (iv) if the des-
16 ignated organization files a petition for
17 revocation within the petition period de-
18 scribed in clause (ii).

19 “(ii) PETITION PERIOD.—For pur-
20 poses of clause (i)—

21 “(I) if the designated organiza-
22 tion has not previously filed a petition
23 for revocation under this subpara-
24 graph, the petition period begins 2

1 years after the date on which the des-
2 ignation was made; or

3 “(II) if the designated organiza-
4 tion has previously filed a petition for
5 revocation under this subparagraph,
6 the petition period begins 2 years
7 after the date of the determination
8 made under clause (iv) on that peti-
9 tion.

10 “(iii) PROCEDURES.—Any foreign ter-
11 rorist organization that submits a petition
12 for revocation under this subparagraph
13 must provide evidence in that petition that
14 the relevant circumstances described in
15 paragraph (1) are sufficiently different
16 from the circumstances that were the basis
17 for the designation such that a revocation
18 with respect to the organization is war-
19 ranted.

20 “(iv) DETERMINATION.—

21 “(I) IN GENERAL.—Not later
22 than 180 days after receiving a peti-
23 tion for revocation submitted under
24 this subparagraph, the Secretary shall

1 make a determination as to such rev-
2 ocation.

3 “(II) CLASSIFIED INFORMA-
4 TION.—The Secretary may consider
5 classified information in making a de-
6 termination in response to a petition
7 for revocation. Classified information
8 shall not be subject to disclosure for
9 such time as it remains classified, ex-
10 cept that such information may be
11 disclosed to a court ex parte and in
12 camera for purposes of judicial review
13 under subsection (c).

14 “(III) PUBLICATION OF DETER-
15 MINATION.—A determination made by
16 the Secretary under this clause shall
17 be published in the Federal Register.

18 “(IV) PROCEDURES.—Any rev-
19 ocation by the Secretary shall be
20 made in accordance with paragraph
21 (6).”; and

22 (3) by adding at the end the following:

23 “(C) OTHER REVIEW OF DESIGNATION.—

24 “(i) IN GENERAL.—If in a 5-year pe-
25 riod no review has taken place under sub-

1 paragraph (B), the Secretary shall review
2 the designation of the foreign terrorist or-
3 ganization in order to determine whether
4 such designation should be revoked pursu-
5 ant to paragraph (6).

6 “(ii) PROCEDURES.—If a review does
7 not take place pursuant to subparagraph
8 (B) in response to a petition for revocation
9 that is filed in accordance with that sub-
10 paragraph, then the review shall be con-
11 ducted pursuant to procedures established
12 by the Secretary. The results of such re-
13 view and the applicable procedures shall
14 not be reviewable in any court.

15 “(iii) PUBLICATION OF RESULTS OF
16 REVIEW.—The Secretary shall publish any
17 determination made pursuant to this sub-
18 paragraph in the Federal Register.”.

19 (b) ALIASES.—Section 219 of the Immigration and
20 Nationality Act (8 U.S.C. 1189) is amended—

21 (1) by redesignating subsections (b) and (c) as
22 subsections (c) and (d), respectively; and

23 (2) by inserting after subsection (a) the fol-
24 lowing new subsection (b):

25 “(b) AMENDMENTS TO A DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary may amend
2 a designation under this subsection if the Secretary
3 finds that the organization has changed its name,
4 adopted a new alias, dissolved and then reconsti-
5 tuted itself under a different name or names, or
6 merged with another organization.

7 “(2) PROCEDURE.—Amendments made to a
8 designation in accordance with paragraph (1) shall
9 be effective upon publication in the Federal Register.
10 Subparagraphs (B) and (C) of subsection (a)(2)
11 shall apply to an amended designation upon such
12 publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),
13 and (8) of subsection (a) shall also apply to an
14 amended designation.

15 “(3) ADMINISTRATIVE RECORD.—The adminis-
16 trative record shall be corrected to include the
17 amendments as well as any additional relevant infor-
18 mation that supports those amendments.

19 “(4) CLASSIFIED INFORMATION.—The Sec-
20 retary may consider classified information in amend-
21 ing a designation in accordance with this subsection.
22 Classified information shall not be subject to disclo-
23 sure for such time as it remains classified, except
24 that such information may be disclosed to a court ex

1 parte and in camera for purposes of judicial review
2 under subsection (c).”.

3 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

4 Section 219 of the Immigration and Nationality Act (8
5 U.S.C. 1189) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (3)(B), by striking “sub-
8 section (b)” and inserting “subsection (c)”;

9 (B) in paragraph (6)(A)—

10 (i) in the matter preceding clause (i),
11 by striking “or a redesignation made under
12 paragraph (4)(B)” and inserting “at any
13 time, and shall revoke a designation upon
14 completion of a review conducted pursuant
15 to subparagraphs (B) and (C) of para-
16 graph (4)”;

17 (ii) in clause (i), by striking “or redesi-
18 gnation”;

19 (C) in paragraph (7), by striking “, or the
20 revocation of a redesignation under paragraph
21 (6),”; and

22 (D) in paragraph (8)—

23 (i) by striking “, or if a redesignation
24 under this subsection has become effective
25 under paragraph (4)(B),”; and

1 (ii) by striking “or redesignation”;

2 and

3 (2) in subsection (c), as so redesignated—

4 (A) in paragraph (1), by striking “of the
5 designation in the Federal Register,” and all
6 that follows through “review of the designa-
7 tion” and inserting “in the Federal Register of
8 a designation, an amended designation, or a de-
9 termination in response to a petition for revoca-
10 tion, the designated organization may seek judi-
11 cial review”;

12 (B) in paragraph (2), by inserting “,
13 amended designation, or determination in re-
14 sponse to a petition for revocation” after “des-
15 ignation”;

16 (C) in paragraph (3), by inserting “,
17 amended designation, or determination in re-
18 sponse to a petition for revocation” after “des-
19 ignation”; and

20 (D) in paragraph (4), by inserting “,
21 amended designation, or determination in re-
22 sponse to a petition for revocation” after “des-
23 ignation” each place that term appears.

24 (d) SAVINGS PROVISION.—For purposes of applying
25 section 219 of the Immigration and Nationality Act on

1 or after the date of enactment of this Act, the term “des-
2 ignation”, as used in that section, includes all redesigna-
3 tions made pursuant to section 219(a)(4)(B) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1189(a)(4)(B))
5 prior to the date of enactment of this Act, and such redес-
6 ignations shall continue to be effective until revoked as
7 provided in paragraph (5) or (6) of section 219(a) of the
8 Immigration and Nationality Act (8 U.S.C. 1189(a)).

9 **SEC. 7119. REPORT TO CONGRESS.**

10 (a) **IN GENERAL.**—Not later than 180 days after the
11 date of enactment of this Act, the President shall submit
12 to Congress a report on the activities of the Government
13 of the United States to carry out the provisions of this
14 subtitle.

15 (b) **CONTENTS.**—The report required under this sec-
16 tion shall include the following:

17 (1) **TERRORIST SANCTUARIES.**—A description
18 of the strategy of the United States to address and,
19 where possible, eliminate terrorist sanctuaries,
20 including—

21 (A) a description of the terrorist sanc-
22 tuaries that exist;

23 (B) an outline of strategies, tactics, and
24 tools for disrupting or eliminating the security
25 provided to terrorists by such sanctuaries;

1 (C) a description of efforts by the United
2 States Government to work with other countries
3 in bilateral and multilateral fora to elicit the co-
4 operation needed to identify and address ter-
5 rorist sanctuaries that may exist unknown to
6 governments; and

7 (D) a description of long-term goals and
8 actions designed to reduce the conditions that
9 allow the formation of terrorist sanctuaries,
10 such as supporting and strengthening host gov-
11 ernments, reducing poverty, increasing eco-
12 nomic development, strengthening civil society,
13 securing borders, strengthening internal secu-
14 rity forces, and disrupting logistics and commu-
15 nications networks of terrorist groups.

16 (2) SUPPORT FOR PAKISTAN.—A description of
17 a United States strategy to engage with Pakistan
18 and to support it over the long term, including—

19 (A) recommendations on the composition
20 and levels of assistance required in future
21 years, with special consideration of the proper
22 balance between security assistance and other
23 forms of assistance;

24 (B) a description of the composition and
25 levels of assistance, other than security assist-

1 ance, at present and in the recent past, struc-
2 tured to permit a comparison of current and
3 past practice with that recommended for the fu-
4 ture;

5 (C) measures that could be taken to ensure
6 that all forms of foreign assistance to Pakistan
7 have the greatest possible long-term positive im-
8 pact on the welfare of the Pakistani people and
9 on the ability of Pakistan to cooperate in global
10 efforts against terror; and

11 (D) measures that could be taken to allevi-
12 ate difficulties, misunderstandings, and com-
13 plications in the relationship between the
14 United States and Pakistan.

15 (3) COLLABORATION WITH SAUDI ARABIA.—A
16 description of the strategy of the United States for
17 expanding collaboration with the Government of
18 Saudi Arabia on subjects of mutual interest and of
19 importance, including a description of—

20 (A) steps that could usefully be taken to
21 institutionalize and make more transparent gov-
22 ernment to government relationships between
23 the United States and Saudi Arabia, including
24 the utility of undertaking periodic, formal, and
25 visible high-level dialogues between government

1 officials of both countries to address challenges
2 in the relationship between the 2 governments
3 and to identify areas and mechanisms for co-
4 operation;

5 (B) intelligence and security cooperation
6 between the United States and Saudi Arabia in
7 the fight against Islamist terrorism;

8 (C) ways to increase the contribution of
9 Saudi Arabia to the stability of the Middle East
10 and the Islamic world, particularly to the Mid-
11 dle East peace process, by eliminating support
12 from or within Saudi Arabia for extremist
13 groups or tendencies;

14 (D) political and economic reform in Saudi
15 Arabia and throughout the Islamic world;

16 (E) ways to promote greater tolerance and
17 respect for cultural and religious diversity in
18 Saudi Arabia and throughout the Islamic world;
19 and

20 (F) ways to assist the Government of
21 Saudi Arabia in reversing the impact of any fi-
22 nancial, moral, intellectual, or other support
23 provided in the past from Saudi sources to ex-
24 tremist groups in Saudi Arabia and other coun-

1 tries, and to prevent this support from con-
2 tinuing in the future.

3 (4) STRUGGLE OF IDEAS IN THE ISLAMIC
4 WORLD.—A description of a cohesive, long-term
5 strategy of the United States to help win the strug-
6 gle of ideas in the Islamic world, including the fol-
7 lowing:

8 (A) A description of specific goals related
9 to winning this struggle of ideas.

10 (B) A description of the range of tools
11 available to the United States Government to
12 accomplish such goals and the manner in which
13 such tools will be employed.

14 (C) A list of benchmarks for measuring
15 success and a plan for linking resources to the
16 accomplishment of such goals.

17 (D) A description of any additional re-
18 sources that may be necessary to help win this
19 struggle of ideas.

20 (E) Any recommendations for the creation
21 of, and United States participation in, inter-
22 national institutions for the promotion of de-
23 mocracy and economic diversification in the Is-
24 lamic world, and intraregional trade in the Mid-
25 dle East.

1 (F) An estimate of the level of United
2 States financial assistance that would be suffi-
3 cient to convince United States allies and peo-
4 ple in the Islamic world that engaging in the
5 struggle of ideas in the Islamic world is a top
6 priority of the United States and that the
7 United States intends to make a substantial
8 and sustained commitment toward winning this
9 struggle.

10 (5) OUTREACH THROUGH BROADCAST MEDIA.—
11 A description of a cohesive, long-term strategy of the
12 United States to expand its outreach to foreign Mus-
13 lim audiences through broadcast media, including
14 the following:

15 (A) The initiatives of the Broadcasting
16 Board of Governors with respect to outreach to
17 foreign Muslim audiences.

18 (B) An outline of recommended actions
19 that the United States Government should take
20 to more regularly and comprehensively present
21 a United States point of view through indige-
22 nous broadcast media in countries with pre-
23 dominantly Muslim populations, including in-
24 creasing appearances by United States Govern-
25 ment officials, experts, and citizens.

1 (C) An assessment of the major themes of
2 biased or false media coverage of the United
3 States in foreign countries and the actions
4 taken to address this type of media coverage.

5 (D) An assessment of potential incentives
6 for, and costs associated with, encouraging
7 United States broadcasters to dub or subtitle
8 into Arabic and other relevant languages their
9 news and public affairs programs broadcast in
10 the Muslim world in order to present those pro-
11 grams to a much broader Muslim audience than
12 is currently reached.

13 (E) Any recommendations the President
14 may have for additional funding and legislation
15 necessary to achieve the objectives of the strat-
16 egy.

17 (6) VISAS FOR PARTICIPANTS IN UNITED
18 STATES PROGRAMS.—A description of—

19 (A) any recommendations for expediting
20 the issuance of visas to individuals who are en-
21 tering the United States for the purpose of par-
22 ticipating in a scholarship, exchange, or visitor
23 program described in section 7111(b) without
24 compromising the security of the United States;
25 and

1 (B) a proposed schedule for implementing
2 any recommendations described in subpara-
3 graph (A).

4 (7) BASIC EDUCATION IN MUSLIM COUN-
5 TRIES.—A description of a strategy, that was devel-
6 oped after consultation with nongovernmental orga-
7 nizations and individuals involved in education as-
8 sistance programs in developing countries, to pro-
9 mote free universal basic education in the countries
10 of the Middle East and in other countries with pre-
11 dominantly Muslim populations designated by the
12 President. The strategy shall include the following
13 elements:

14 (A) A description of the manner in which
15 the resources of the United States and the
16 international community shall be used to help
17 achieve free universal basic education in such
18 countries, including—

19 (i) efforts of the United states to co-
20 ordinate an international effort;

21 (ii) activities of the United States to
22 leverage contributions from members of
23 the Group of Eight or other donors; and

24 (iii) assistance provided by the United
25 States to leverage contributions from the

1 private sector and civil society organiza-
2 tions.

3 (B) A description of the efforts of the
4 United States to coordinate with other donors
5 to reduce duplication and waste at the global
6 and country levels and to ensure efficient co-
7 ordination among all relevant departments and
8 agencies of the Government of the United
9 States.

10 (C) A description of the strategy of the
11 United States to assist efforts to overcome chal-
12 lenges to achieving free universal basic edu-
13 cation in such countries, including strategies to
14 target hard to reach populations to promote
15 education.

16 (D) A listing of countries that the Presi-
17 dent determines might be eligible for assistance
18 under the International Youth Opportunity
19 Fund described in section 7113(b) and related
20 programs.

21 (E) A description of the efforts of the
22 United States to encourage countries in the
23 Middle East and other countries with predomi-
24 nantly Muslim populations designated by the

1 President to develop and implement a national
2 education plan.

3 (F) A description of activities that could be
4 carried out as part of the International Youth
5 Opportunity Fund to help close the digital di-
6 vide and expand vocational and business skills
7 in such countries.

8 (G) An estimate of the funds needed to
9 achieve free universal basic education by 2015
10 in each country described in subparagraph (D),
11 and an estimate of the amount that has been
12 expended by the United States and by each
13 such country during the previous fiscal year.

14 (H) A description of the United States
15 strategy for garnering programmatic and finan-
16 cial support from countries in the Middle East
17 and other countries with predominantly Muslim
18 populations designated by the President, inter-
19 national organizations, and other countries that
20 share the objectives of the International Youth
21 Opportunity Fund.

22 (8) ECONOMIC REFORM.—A description of the
23 efforts of the United States Government to encour-
24 age development and promote economic reform in

1 countries that have a predominantly Muslim popu-
2 lation, including a description of—

3 (A) efforts to integrate countries with pre-
4 dominantly Muslim populations into the global
5 trading system; and

6 (B) actions that the United States Govern-
7 ment, acting alone and in partnership with gov-
8 ernments in the Middle East, can take to pro-
9 mote intraregional trade and the rule of law in
10 the region.

11 (c) FORM OF REPORT.—Any report or other matter
12 that is required to be submitted to Congress (including
13 a committee of Congress) under this section may contain
14 a classified annex.

15 **SEC. 7120. CASE-ZABLOCKI ACT REQUIREMENTS.**

16 (a) AVAILABILITY OF TREATIES AND INTER-
17 NATIONAL AGREEMENTS.—Section 112a of title 1, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

20 “(d) The Secretary of State shall make publicly avail-
21 able through the Internet website of the Department of
22 State each treaty or international agreement proposed to
23 be published in the compilation entitled ‘United States
24 Treaties and Other International Agreements’ not later

1 than 180 days after the date on which the treaty or agree-
2 ment enters into force.”.

3 (b) TRANSMISSION TO CONGRESS.—Section 112b(a)
4 of title 1, United States Code, is amended by striking
5 “Committee on Foreign Affairs” and inserting “Com-
6 mittee on International Relations”.

7 (c) REPORT.—Section 112b of title 1, United States
8 Code, is amended—

9 (1) by redesignating subsections (d) and (e) as
10 subsections (e) and (f), respectively; and

11 (2) by inserting after subsection (c) the fol-
12 lowing:

13 “(d)(1) The Secretary of State shall annually submit
14 to Congress a report that contains an index of all inter-
15 national agreements, listed by country, date, title, and
16 summary of each such agreement (including a description
17 of the duration of activities under the agreement and the
18 agreement itself), that the United States—

19 “(A) has signed, proclaimed, or with reference
20 to which any other final formality has been executed,
21 or that has been extended or otherwise modified,
22 during the preceding calendar year; and

23 “(B) has not been published, or is not proposed
24 to be published, in the compilation entitled ‘United

1 States Treaties and Other International Agree-
2 ments’.

3 “(2) The report described in paragraph (1) may be
4 submitted in classified form.”.

5 (d) DETERMINATION OF INTERNATIONAL AGREE-
6 MENT.—Subsection (e) of section 112b of title 1, United
7 States Code, as redesignated, is amended—

8 (1) by striking “(e) The Secretary of State”
9 and inserting the following:

10 “(e)(1) Subject to paragraph (2), the Secretary of
11 State”; and

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

13 “(2)(A) An arrangement shall constitute an inter-
14 national agreement within the meaning of this section
15 (other than subsection (e)) irrespective of the duration of
16 activities under the arrangement or the arrangement
17 itself.

18 “(B) Arrangements that constitute an international
19 agreement within the meaning of this section (other than
20 subsection (e)) include the following:

21 “(i) A bilateral or multilateral counterterrorism
22 agreement.

23 “(ii) A bilateral agreement with a country that
24 is subject to a determination under section
25 6(j)(1)(A) of the Export Administration Act of 1979

1 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of
2 the Foreign Assistance Act of 1961 (22 U.S.C.
3 2371(a)), or section 40(d) of the Arms Export Con-
4 trol Act (22 U.S.C. 2780(d)).”.

5 (e) ENFORCEMENT OF REQUIREMENTS.—Section
6 139(b) of the Foreign Relations Authorization Act, Fiscal
7 Years 1988 and 1989 is amended to read as follows:

8 “(b) EFFECTIVE DATE.—Subsection (a) shall take
9 effect 60 days after the date of enactment of the 911 Com-
10 mission Implementation Act of 2004 and shall apply dur-
11 ing fiscal years 2005, 2006, and 2007.”.

12 **SEC. 7121. EFFECTIVE DATE.**

13 Notwithstanding any other provision of this Act, this
14 subtitle shall take effect on the date of enactment of this
15 Act.

16 **Subtitle B—Terrorist Travel and**
17 **Effective Screening**

18 **SEC. 7201. COUNTERTERRORIST TRAVEL INTELLIGENCE.**

19 (a) FINDINGS.—Consistent with the report of the Na-
20 tional Commission on Terrorist Attacks Upon the United
21 States, Congress makes the following findings:

22 (1) Travel documents are as important to ter-
23 rorists as weapons since terrorists must travel clan-
24 destinely to meet, train, plan, case targets, and gain
25 access to attack sites.

1 (2) International travel is dangerous for terror-
2 ists because they must surface to pass through regu-
3 lated channels, present themselves to border security
4 officials, or attempt to circumvent inspection points.

5 (3) Terrorists use evasive, but detectable, meth-
6 ods to travel, such as altered and counterfeit pass-
7 ports and visas, specific travel methods and routes,
8 liaisons with corrupt government officials, human
9 smuggling networks, supportive travel agencies, and
10 immigration and identity fraud.

11 (4) Before September 11, 2001, no Federal
12 agency systematically analyzed terrorist travel strat-
13 egies. If an agency had done so, the agency could
14 have discovered the ways in which the terrorist pred-
15 ecessors to al Qaeda had been systematically, but
16 detectably, exploiting weaknesses in our border secu-
17 rity since the early 1990s.

18 (5) Many of the hijackers were potentially vul-
19 nerable to interception by border authorities. Ana-
20 lyzing their characteristic travel documents and trav-
21 el patterns could have allowed authorities to inter-
22 cept some of the hijackers and a more effective use
23 of information available in government databases
24 could have identified some of the hijackers.

1 (6) The routine operations of our immigration
2 laws and the aspects of those laws not specifically
3 aimed at protecting against terrorism inevitably
4 shaped al Qaeda's planning and opportunities.

5 (7) New insights into terrorist travel gained
6 since September 11, 2001, have not been adequately
7 integrated into the front lines of border security.

8 (8) The small classified terrorist travel intel-
9 ligence collection and analysis program currently in
10 place has produced useful results and should be ex-
11 panded.

12 (b) STRATEGY.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Director of
15 the National Counterterrorism Center shall submit
16 to Congress unclassified and classified versions of a
17 strategy for combining terrorist travel intelligence,
18 operations, and law enforcement into a cohesive ef-
19 fort to intercept terrorists, find terrorist travel
20 facilitators, and constrain terrorist mobility domesti-
21 cally and internationally. The report to Congress
22 should include a description of the actions taken to
23 implement the strategy and an assessment regarding
24 vulnerabilities within the United States and foreign
25 travel systems that may be exploited by international

1 terrorists, human smugglers and traffickers, and
2 their facilitators.

3 (2) COORDINATION.—The strategy shall be de-
4 veloped in coordination with all relevant Federal
5 agencies.

6 (3) CONTENTS.—The strategy may address—

7 (A) a program for collecting, analyzing,
8 disseminating, and utilizing information and in-
9 telligence regarding terrorist travel tactics and
10 methods, and outline which Federal intelligence,
11 diplomatic, and law enforcement agencies will
12 be held accountable for implementing each ele-
13 ment of the strategy;

14 (B) the intelligence and law enforcement
15 collection, analysis, operations, and reporting
16 required to identify and disrupt terrorist travel
17 tactics, practices, patterns, and trends, and the
18 terrorist travel facilitators, document forgers,
19 human smugglers, travel agencies, and corrupt
20 border and transportation officials who assist
21 terrorists;

22 (C) the training and training materials re-
23 quired by consular, border, and immigration of-
24 ficials to effectively detect and disrupt terrorist
25 travel described under subsection (c)(3);

1 (D) the new technology and procedures re-
2 quired and actions to be taken to integrate ex-
3 isting counterterrorist travel document and mo-
4 bility intelligence into border security processes,
5 including consular, port of entry, border patrol,
6 maritime, immigration benefits, and related law
7 enforcement activities;

8 (E) the actions required to integrate cur-
9 rent terrorist mobility intelligence into military
10 force protection measures;

11 (F) the additional assistance to be given to
12 the interagency Human Smuggling and Traf-
13 ficking Center for purposes of combatting ter-
14 rorist travel, including further developing and
15 expanding enforcement and operational capa-
16 bilities that address terrorist travel;

17 (G) the actions to be taken to aid in the
18 sharing of information between the frontline
19 border agencies of the Department of Home-
20 land Security, the Department of State, and
21 classified and unclassified sources of
22 counterterrorist travel intelligence and informa-
23 tion elsewhere in the Federal Government, in-
24 cluding the Human Smuggling and Trafficking
25 Center;

1 (H) the development and implementation
2 of procedures to enable the National
3 Counterterrorism Center, or its designee, to
4 timely receive terrorist travel intelligence and
5 documentation obtained at consulates and ports
6 of entry, and by law enforcement officers and
7 military personnel;

8 (I) the use of foreign and technical assist-
9 ance to advance border security measures and
10 law enforcement operations against terrorist
11 travel facilitators;

12 (J) the feasibility of developing a program
13 to provide each consular, port of entry, and im-
14 migration benefits office with a counterterrorist
15 travel expert trained and authorized to use the
16 relevant authentication technologies and cleared
17 to access all appropriate immigration, law en-
18 forcement, and intelligence databases;

19 (K) the feasibility of digitally transmitting
20 suspect passport information to a central cadre
21 of specialists, either as an interim measure
22 until such time as experts described under sub-
23 paragraph (J) are available at consular, port of
24 entry, and immigration benefits offices, or oth-
25 erwise;

1 (L) the development of a mechanism to en-
2 sure the coordination and dissemination of ter-
3 rorist travel intelligence and operational infor-
4 mation among the Department of Homeland
5 Security, the Department of State, the National
6 Counterterrorism Center, and other appropriate
7 agencies;

8 (M) granting consular officers and immi-
9 gration adjudicators, as appropriate, the secu-
10 rity clearances necessary to access law enforce-
11 ment sensitive and intelligence databases; and

12 (N) how to integrate travel document
13 screening for terrorism indicators into border
14 screening, and how to integrate the intelligence
15 community into a robust travel document
16 screening process to intercept terrorists.

17 (c) FRONTLINE COUNTERTERRORIST TRAVEL TECH-
18 NOLOGY AND TRAINING.—

19 (1) TECHNOLOGY ACQUISITION AND DISSEMI-
20 NATION PLAN.—Not later than 180 days after the
21 date of enactment of this Act, the Secretary of
22 Homeland Security, in conjunction with the Sec-
23 retary of State, shall submit to Congress a plan de-
24 scribing how the Department of Homeland Security
25 and the Department of State can acquire and de-

1 ploy, to the maximum extent feasible, to all con-
2 sulates, ports of entry, and immigration benefits of-
3 fices, technologies that facilitate document authen-
4 tication and the detection of potential terrorist indi-
5 cators on travel documents. To the extent possible,
6 technologies acquired and deployed under this plan
7 shall be compatible with systems used by the De-
8 partment of Homeland Security to detect fraudulent
9 documents and identify genuine documents.

10 (2) CONTENTS OF PLAN.—The plan submitted
11 under paragraph (1) shall—

12 (A) outline the timetable needed to acquire
13 and deploy the authentication technologies;

14 (B) identify the resources required to—

15 (i) fully disseminate these tech-
16 nologies; and

17 (ii) train personnel on use of these
18 technologies; and

19 (C) address the feasibility of using these
20 technologies to screen every passport or other
21 documentation described in section 7209(b)
22 submitted for identification purposes to a
23 United States consular, border, or immigration
24 official.

25 (d) TRAINING PROGRAM.—

1 (1) REVIEW, EVALUATION, AND REVISION OF
2 EXISTING TRAINING PROGRAMS.—The Secretary of
3 Homeland Security shall—

4 (A) review and evaluate the training re-
5 garding travel and identity documents, and
6 techniques, patterns, and trends associated with
7 terrorist travel that is provided to personnel of
8 the Department of Homeland Security;

9 (B) in coordination with the Secretary of
10 State, review and evaluate the training de-
11 scribed in subparagraph (A) that is provided to
12 relevant personnel of the Department of State;
13 and

14 (C) in coordination with the Secretary of
15 State, develop and implement an initial training
16 and periodic retraining program—

17 (i) to teach border, immigration, and
18 consular officials (who inspect or review
19 travel or identity documents as part of
20 their official duties) how to effectively de-
21 tect, intercept, and disrupt terrorist travel;
22 and

23 (ii) to ensure that the officials de-
24 scribed in clause (i) regularly receive the
25 most current information on such matters

1 and are periodically retrained on the mat-
2 ters described in paragraph (2).

3 (2) REQUIRED TOPICS OF REVISED PRO-
4 GRAMS.—The training program developed under
5 paragraph (1)(C) shall include training in—

6 (A) methods for identifying fraudulent and
7 genuine travel documents;

8 (B) methods for detecting terrorist indica-
9 tors on travel documents and other relevant
10 identity documents;

11 (C) recognition of travel patterns, tactics,
12 and behaviors exhibited by terrorists;

13 (D) effective utilization of information con-
14 tained in databases and data systems available
15 to the Department of Homeland Security; and

16 (E) other topics determined to be appro-
17 priate by the Secretary of Homeland Security,
18 in consultation with the Secretary of State or
19 the Director of National Intelligence.

20 (3) IMPLEMENTATION.—

21 (A) DEPARTMENT OF HOMELAND SECU-
22 RITY.—

23 (i) IN GENERAL.—The Secretary of
24 Homeland Security shall provide all border
25 and immigration officials who inspect or

1 review travel or identity documents as part
2 of their official duties with the training de-
3 scribed in paragraph (1)(C).

4 (ii) REPORT TO CONGRESS.—Not later
5 than 12 months after the date of enact-
6 ment of this Act, and annually thereafter
7 for a period of 3 years, the Secretary of
8 Homeland Security shall submit a report
9 to Congress that—

10 (I) describes the number of bor-
11 der and immigration officials who in-
12 spect or review identity documents as
13 part of their official duties, and the
14 proportion of whom have received the
15 revised training program described in
16 paragraph (1)(C)(i);

17 (II) explains the reasons, if any,
18 for not completing the requisite train-
19 ing described in paragraph (1)(C)(i);

20 (III) provides a timetable for
21 completion of the training described in
22 paragraph (1)(C)(i) for those who
23 have not received such training; and

24 (IV) describes the status of peri-
25 odic retraining of appropriate per-

1 sonnel described in paragraph
2 (1)(C)(ii).

3 (B) DEPARTMENT OF STATE.—

4 (i) IN GENERAL.—The Secretary of
5 State shall provide all consular officers
6 who inspect or review travel or identity
7 documents as part of their official duties
8 with the training described in paragraph
9 (1)(C).

10 (ii) REPORT TO CONGRESS.—Not later
11 than 12 months after the date of enact-
12 ment of this Act, and annually thereafter
13 for a period of 3 years, the Secretary of
14 State shall submit a report to Congress
15 that—

16 (I) describes the number of con-
17 sular officers who inspect or review
18 travel or identity documents as part of
19 their official duties, and the propor-
20 tion of whom have received the revised
21 training program described in para-
22 graph (1)(C)(i);

23 (II) explains the reasons, if any,
24 for not completing the requisite train-
25 ing described in paragraph (1)(C)(i);

1 (III) provides a timetable for
2 completion of the training described in
3 paragraph (1)(C)(i) for those who
4 have not received such training; and

5 (IV) describes the status of peri-
6 odic retraining of appropriate per-
7 sonnel described in paragraph
8 (1)(C)(ii).

9 (4) ASSISTANCE TO OTHERS.—The Secretary of
10 Homeland Security may assist States, Indian tribes,
11 local governments, and private organizations to es-
12 tablish training programs related to terrorist travel
13 intelligence.

14 (5) AUTHORIZATION OF APPROPRIATIONS.—
15 There are authorized to be appropriated such sums
16 as may be necessary for each of the fiscal years
17 2005 through 2009 to carry out the provisions of
18 this subsection.

19 (e) ENHANCING CLASSIFIED COUNTERTERRORIST
20 TRAVEL EFFORTS.—

21 (1) IN GENERAL.—The Director of National In-
22 telligence shall significantly increase resources and
23 personnel to the small classified program that col-
24 lects and analyzes intelligence on terrorist travel.

1 (3) ensure cooperation among all relevant poli-
2 icy, law enforcement, diplomatic, and intelligence
3 agencies of the Federal Government to improve ef-
4 fectiveness and to convert all information available
5 to the Federal Government relating to clandestine
6 terrorist travel and facilitation, migrant smuggling,
7 and trafficking of persons into tactical, operational,
8 and strategic intelligence that can be used to combat
9 such illegal activities; and

10 (4) prepare and submit to Congress, on an an-
11 nual basis, a strategic assessment regarding
12 vulnerabilities in the United States and foreign trav-
13 el system that may be exploited by international ter-
14 rorists, human smugglers and traffickers, and their
15 facilitators.

16 (d) REPORT.—Not later than 180 days after the date
17 of enactment of this Act, the President shall transmit to
18 Congress a report regarding the implementation of this
19 section, including a description of the staffing and re-
20 source needs of the Center.

21 (e) RELATIONSHIP TO THE NCTC.—As part of its
22 mission to combat terrorist travel, the Center shall work
23 to support the efforts of the National Counterterrorism
24 Center.

1 **SEC. 7203. RESPONSIBILITIES AND FUNCTIONS OF CON-**
2 **SULAR OFFICERS.**

3 (a) INCREASED NUMBER OF CONSULAR OFFICERS.—
4 The Secretary of State, in each of fiscal years 2006
5 through 2009, may increase by 150 the number of posi-
6 tions for consular officers above the number of such posi-
7 tions for which funds were allotted for the preceding fiscal
8 year.

9 (b) LIMITATION ON USE OF FOREIGN NATIONALS
10 FOR VISA SCREENING.—

11 (1) IMMIGRANT VISAS.—Section 222(b) of the
12 Immigration and Nationality Act (8 U.S.C. 1202(b))
13 is amended by adding at the end the following: “All
14 immigrant visa applications shall be reviewed and
15 adjudicated by a consular officer.”.

16 (2) NONIMMIGRANT VISAS.—Section 222(d) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1202(d)) is amended by adding at the end the fol-
19 lowing: “All nonimmigrant visa applications shall be
20 reviewed and adjudicated by a consular officer.”.

21 (c) TRAINING FOR CONSULAR OFFICERS IN DETEC-
22 TION OF FRAUDULENT DOCUMENTS.—Section 305(a) of
23 the Enhanced Border Security and Visa Entry Reform Act
24 of 2002 (8 U.S.C. 1734(a)) is amended by adding at the
25 end the following: “In accordance with section 7201(d) of
26 the 9/11 Commission Implementation Act of 2004, and

1 as part of the consular training provided to such officers
2 by the Secretary of State, such officers shall also receive
3 training in detecting fraudulent documents and general
4 document forensics and shall be required as part of such
5 training to work with immigration officers conducting in-
6 spections of applicants for admission into the United
7 States at ports of entry.”.

8 (d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

9 (1) SURVEY REGARDING DOCUMENT FRAUD.—

10 The Secretary of State, in coordination with the Sec-
11 retary of Homeland Security, shall conduct a survey
12 of each diplomatic and consular post at which visas
13 are issued to assess the extent to which fraudulent
14 documents are presented by visa applicants to con-
15 sular officers at such posts.

16 (2) REQUIREMENT FOR SPECIALIST.—

17 (A) IN GENERAL.—Not later than July 31,
18 2005, the Secretary of State, in coordination
19 with the Secretary of Homeland Security, shall
20 identify the diplomatic and consular posts at
21 which visas are issued that experience the
22 greatest frequency of presentation of fraudulent
23 documents by visa applicants. The Secretary of
24 State shall assign or designate at each such
25 post at least 1 full-time anti-fraud specialist

1 employed by the Department of State to assist
2 the consular officers at each such post in the
3 detection of such fraud.

4 (B) EXCEPTIONS.—The Secretary of State
5 is not required to assign or designate a spe-
6 cialist under subparagraph (A) at a diplomatic
7 or consular post if an employee of the Depart-
8 ment of Homeland Security, who has sufficient
9 training and experience in the detection of
10 fraudulent documents, is assigned on a full-time
11 basis to such post under section 428 of the
12 Homeland Security Act of 2002 (6 U.S.C. 236).

13 **SEC. 7204. INTERNATIONAL AGREEMENTS TO TRACK AND**
14 **CURTAIN TERRORIST TRAVEL THROUGH THE**
15 **USE OF FRAUDULENTLY OBTAINED DOCU-**
16 **MENTS.**

17 (a) FINDINGS.—Congress makes the following find-
18 ings:

19 (1) International terrorists travel across inter-
20 national borders to raise funds, recruit members,
21 train for operations, escape capture, communicate,
22 and plan and carry out attacks.

23 (2) The international terrorists who planned
24 and carried out the attack on the World Trade Cen-
25 ter on February 26, 1993, the attack on the embas-

1 sies of the United States in Kenya and Tanzania on
2 August 7, 1998, the attack on the USS Cole on Oc-
3 tober 12, 2000, and the attack on the World Trade
4 Center and the Pentagon on September 11, 2001,
5 traveled across international borders to plan and
6 carry out these attacks.

7 (3) The international terrorists who planned
8 other attacks on the United States, including the
9 plot to bomb New York City landmarks in 1993, the
10 plot to bomb the New York City subway in 1997,
11 and the millennium plot to bomb Los Angeles Inter-
12 national Airport on December 31, 1999, traveled
13 across international borders to plan and carry out
14 these attacks.

15 (4) Many of the international terrorists who
16 planned and carried out large-scale attacks against
17 foreign targets, including the attack in Bali, Indo-
18 nesia, on October 11, 2002, and the attack in Ma-
19 drid, Spain, on March 11, 2004, traveled across
20 international borders to plan and carry out these at-
21 tacks.

22 (5) Throughout the 1990s, international terror-
23 ists, including those involved in the attack on the
24 World Trade Center on February 26, 1993, the plot
25 to bomb New York City landmarks in 1993, and the

1 millennium plot to bomb Los Angeles International
2 Airport on December 31, 1999, traveled on fraudu-
3 lent passports and often had more than 1 passport.

4 (6) Two of the September 11, 2001, hijackers
5 were carrying passports that had been manipulated
6 in a fraudulent manner.

7 (7) The National Commission on Terrorist At-
8 tacks Upon the United States, (commonly referred
9 to as the 9/11 Commission), stated that “Targeting
10 travel is at least as powerful a weapon against ter-
11 rorists as targeting their money.”.

12 (b) INTERNATIONAL AGREEMENTS TO TRACK AND
13 CURTAIL TERRORIST TRAVEL.—

14 (1) INTERNATIONAL AGREEMENT ON LOST,
15 STOLEN, OR FALSIFIED DOCUMENTS.—The Presi-
16 dent should lead efforts to track and curtail the
17 travel of terrorists by supporting the drafting, adop-
18 tion, and implementation of international agree-
19 ments, and relevant United Nations Security Council
20 resolutions to track and stop international travel by
21 terrorists and other criminals through the use of
22 lost, stolen, or falsified documents to augment
23 United Nations and other international anti-ter-
24 rorism efforts.

1 (2) CONTENTS OF INTERNATIONAL AGREE-
2 MENT.—The President should seek, as appropriate,
3 the adoption or full implementation of effective
4 international measures to—

5 (A) share information on lost, stolen, and
6 fraudulent passports and other travel docu-
7 ments for the purposes of preventing the unde-
8 tected travel of persons using such passports
9 and other travel documents that were obtained
10 improperly;

11 (B) establish and implement a real-time
12 verification system of passports and other travel
13 documents with issuing authorities;

14 (C) share with officials at ports of entry in
15 any such country information relating to lost,
16 stolen, and fraudulent passports and other trav-
17 el documents;

18 (D) encourage countries—

19 (i) to criminalize—

20 (I) the falsification or counter-
21 feiting of travel documents or breeder
22 documents for any purpose;

23 (II) the use or attempted use of
24 false documents to obtain a visa or
25 cross a border for any purpose;

- 1 (III) the possession of tools or
- 2 implements used to falsify or counter-
- 3 feit such documents;
- 4 (IV) the trafficking in false or
- 5 stolen travel documents and breeder
- 6 documents for any purpose;
- 7 (V) the facilitation of travel by a
- 8 terrorist; and
- 9 (VI) attempts to commit, includ-
- 10 ing conspiracies to commit, the crimes
- 11 specified in subclauses (I) through
- 12 (V);
- 13 (ii) to impose significant penalties to
- 14 appropriately punish violations and effec-
- 15 tively deter the crimes specified in clause
- 16 (i); and
- 17 (iii) to limit the issuance of citizenship
- 18 papers, passports, identification docu-
- 19 ments, and similar documents to persons—
- 20 (I) whose identity is proven to
- 21 the issuing authority;
- 22 (II) who have a bona fide entitle-
- 23 ment to or need for such documents;
- 24 and

1 (III) who are not issued such
2 documents principally on account of a
3 disproportional payment made by
4 them or on their behalf to the issuing
5 authority;

6 (E) provide technical assistance to coun-
7 tries to help them fully implement such meas-
8 ures; and

9 (F) permit immigration and border
10 officials—

11 (i) to confiscate a lost, stolen, or fal-
12 sified passport at ports of entry;

13 (ii) to permit the traveler to return to
14 the sending country without being in pos-
15 session of the lost, stolen, or falsified pass-
16 port; and

17 (iii) to detain and investigate such
18 traveler upon the return of the traveler to
19 the sending country.

20 (3) INTERNATIONAL CIVIL AVIATION ORGANIZA-
21 TION.—The United States shall lead efforts to track
22 and curtail the travel of terrorists by supporting ef-
23 forts at the International Civil Aviation Organization
24 to continue to strengthen the security features of
25 passports and other travel documents.

1 (c) REPORT.—

2 (1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this Act, and at least annu-
4 ally thereafter, the President shall submit to the ap-
5 propriate congressional committees a report on
6 progress toward achieving the goals described in
7 subsection (b).

8 (2) TERMINATION.—Paragraph (1) shall cease
9 to be effective when the President certifies to the
10 Committee on International Relations of the House
11 of Representatives and the Committee on Foreign
12 Relations of the Senate that the goals described in
13 subsection (b) have been fully achieved.

14 **SEC. 7205. INTERNATIONAL STANDARDS FOR TRANS-**
15 **LITERATION OF NAMES INTO THE ROMAN AL-**
16 **PHABET FOR INTERNATIONAL TRAVEL DOCU-**
17 **MENTS AND NAME-BASED WATCHLIST SYS-**
18 **TEMS.**

19 (a) FINDINGS.—Congress makes the following find-
20 ings:

21 (1) The current lack of a single convention for
22 translating Arabic names enabled some of the 19 hi-
23 jackers of aircraft used in the terrorist attacks
24 against the United States that occurred on Sep-
25 tember 11, 2001, to vary the spelling of their names

1 to defeat name-based terrorist watchlist systems and
2 to make more difficult any potential efforts to locate
3 them.

4 (2) Although the development and utilization of
5 terrorist watchlist systems using biometric identi-
6 fiers will be helpful, the full development and utiliza-
7 tion of such systems will take several years, and
8 name-based terrorist watchlist systems will always
9 be useful.

10 (b) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that the President should seek to enter into an inter-
12 national agreement to modernize and improve standards
13 for the transliteration of names into the Roman alphabet
14 in order to ensure 1 common spelling for such names for
15 international travel documents and name-based watchlist
16 systems.

17 **SEC. 7206. IMMIGRATION SECURITY INITIATIVE.**

18 (a) IN GENERAL.—Section 235A(b) of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1225a(b)) is
20 amended—

21 (1) in the subsection heading, by inserting
22 “AND IMMIGRATION SECURITY INITIATIVE” after
23 “PROGRAM”;

24 (2) by striking “Attorney General” and insert-
25 ing “Secretary of Homeland Security”; and

1 (3) by adding at the end the following: “Begin-
2 ning not later than December 31, 2006, the number
3 of airports selected for an assignment under this
4 subsection shall be at least 50.”.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the Secretary of
7 Homeland Security to carry out the amendments made by
8 subsection (a)—

9 (1) \$25,000,000 for fiscal year 2005;

10 (2) \$40,000,000 for fiscal year 2006; and

11 (3) \$40,000,000 for fiscal year 2007.

12 **SEC. 7207. CERTIFICATION REGARDING TECHNOLOGY FOR**
13 **VISA WAIVER PARTICIPANTS.**

14 Not later than October 26, 2006, the Secretary of
15 State shall certify to Congress which of the countries des-
16 ignated to participate in the visa waiver program estab-
17 lished under section 217 of the Immigration and Nation-
18 ality Act (8 U.S.C. 1187) are developing a program to
19 issue to individuals seeking to enter that country pursuant
20 to a visa issued by that country, a machine readable visa
21 document that is tamper-resistant and incorporates bio-
22 metric identification information that is verifiable at its
23 port of entry.

1 **SEC. 7208. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

2 (a) FINDING.—Consistent with the report of the Na-
3 tional Commission on Terrorist Attacks Upon the United
4 States, Congress finds that completing a biometric entry
5 and exit data system as expeditiously as possible is an es-
6 sential investment in efforts to protect the United States
7 by preventing the entry of terrorists.

8 (b) DEFINITION.—In this section, the term “entry
9 and exit data system” means the entry and exit system
10 required by applicable sections of—

11 (1) the Illegal Immigration Reform and Immi-
12 grant Responsibility Act of 1996 (Public Law 104–
13 208);

14 (2) the Immigration and Naturalization Service
15 Data Management Improvement Act of 2000 (Public
16 Law 106–205);

17 (3) the Visa Waiver Permanent Program Act
18 (Public Law 106–396);

19 (4) the Enhanced Border Security and Visa
20 Entry Reform Act of 2002 (Public Law 107–173);
21 and

22 (5) the Uniting and Strengthening America by
23 Providing Appropriate Tools Required to Intercept
24 and Obstruct Terrorism (USA PATRIOT ACT) Act
25 of 2001 (Public Law 107–56).

26 (c) PLAN AND REPORT.—

1 (1) DEVELOPMENT OF PLAN.—The Secretary
2 of Homeland Security shall develop a plan to accel-
3 erate the full implementation of an automated bio-
4 metric entry and exit data system.

5 (2) REPORT.—Not later than 180 days after
6 the date of enactment of this Act, the Secretary
7 shall submit a report to Congress on the plan devel-
8 oped under paragraph (1), which shall contain—

9 (A) a description of the current
10 functionality of the entry and exit data system,
11 including—

12 (i) a listing of ports of entry and
13 other Department of Homeland Security
14 and Department of State locations with bi-
15 ometric entry data systems in use and
16 whether such screening systems are located
17 at primary or secondary inspection areas;

18 (ii) a listing of ports of entry and
19 other Department of Homeland Security
20 and Department of State locations with bi-
21 ometric exit data systems in use;

22 (iii) a listing of databases and data
23 systems with which the entry and exit data
24 system are interoperable;

25 (iv) a description of—

1 (I) identified deficiencies con-
2 cerning the accuracy or integrity of
3 the information contained in the entry
4 and exit data system;

5 (II) identified deficiencies con-
6 cerning technology associated with
7 processing individuals through the
8 system; and

9 (III) programs or policies
10 planned or implemented to correct
11 problems identified in subclause (I) or
12 (II); and

13 (v) an assessment of the effectiveness
14 of the entry and exit data system in ful-
15 filling its intended purposes, including pre-
16 venting terrorists from entering the United
17 States;

18 (B) a description of factors relevant to the
19 accelerated implementation of the biometric
20 entry and exit data system, including—

21 (i) the earliest date on which the Sec-
22 retary estimates that full implementation
23 of the biometric entry and exit data system
24 can be completed;

1 (ii) the actions the Secretary will take
2 to accelerate the full implementation of the
3 biometric entry and exit data system at all
4 ports of entry through which all aliens
5 must pass that are legally required to do
6 so; and

7 (iii) the resources and authorities re-
8 quired to enable the Secretary to meet the
9 implementation date described in clause
10 (i);

11 (C) a description of any improvements
12 needed in the information technology employed
13 for the biometric entry and exit data system;

14 (D) a description of plans for improved or
15 added interoperability with any other databases
16 or data systems; and

17 (E) a description of the manner in which
18 the Department of Homeland Security's US-
19 VISIT program—

20 (i) meets the goals of a comprehensive
21 entry and exit screening system, including
22 both entry and exit biometric; and

23 (ii) fulfills the statutory obligations
24 under subsection (b).

1 (d) COLLECTION OF BIOMETRIC EXIT DATA.—The
2 entry and exit data system shall include a requirement for
3 the collection of biometric exit data for all categories of
4 individuals who are required to provide biometric entry
5 data, regardless of the port of entry where such categories
6 of individuals entered the United States.

7 (e) INTEGRATION AND INTEROPERABILITY.—

8 (1) INTEGRATION OF DATA SYSTEM.—Not later
9 than 2 years after the date of enactment of this Act,
10 the Secretary shall fully integrate all databases and
11 data systems that process or contain information on
12 aliens, which are maintained by—

13 (A) the Department of Homeland Security,
14 at—

15 (i) the United States Immigration and
16 Customs Enforcement;

17 (ii) the United States Customs and
18 Border Protection; and

19 (iii) the United States Citizenship and
20 Immigration Services;

21 (B) the Department of Justice, at the Ex-
22 ecutive Office for Immigration Review; and

23 (C) the Department of State, at the Bu-
24 reau of Consular Affairs.

1 (2) INTEROPERABLE COMPONENT.—The fully
2 integrated data system under paragraph (1) shall be
3 an interoperable component of the entry and exit
4 data system.

5 (3) INTEROPERABLE DATA SYSTEM.—Not later
6 than 2 years after the date of enactment of this Act,
7 the Secretary shall fully implement an interoperable
8 electronic data system, as required by section 202 of
9 the Enhanced Border Security and Visa Entry Re-
10 form Act (8 U.S.C. 1722) to provide current and
11 immediate access to information in the databases of
12 Federal law enforcement agencies and the intel-
13 ligence community that is relevant to determine—

14 (A) whether to issue a visa; or

15 (B) the admissibility or deportability of an
16 alien.

17 (f) MAINTAINING ACCURACY AND INTEGRITY OF
18 ENTRY AND EXIT DATA SYSTEM.—

19 (1) POLICIES AND PROCEDURES.—

20 (A) ESTABLISHMENT.—The Secretary of
21 Homeland Security shall establish rules, guide-
22 lines, policies, and operating and auditing pro-
23 cedures for collecting, removing, and updating
24 data maintained in, and adding information to,

1 the entry and exit data system that ensure the
2 accuracy and integrity of the data.

3 (B) TRAINING.—The Secretary shall de-
4 velop training on the rules, guidelines, policies,
5 and procedures established under subparagraph
6 (A), and on immigration law and procedure. All
7 personnel authorized to access information
8 maintained in the databases and data system
9 shall receive such training.

10 (2) DATA COLLECTED FROM FOREIGN NATION-
11 ALS.—The Secretary of Homeland Security, the Sec-
12 retary of State, and the Attorney General, after con-
13 sultation with directors of the relevant intelligence
14 agencies, shall standardize the information and data
15 collected from foreign nationals, and the procedures
16 utilized to collect such data, to ensure that the infor-
17 mation is consistent and valuable to officials access-
18 ing that data across multiple agencies.

19 (3) DATA MAINTENANCE PROCEDURES.—Heads
20 of agencies that have databases or data systems
21 linked to the entry and exit data system shall estab-
22 lish rules, guidelines, policies, and operating and au-
23 diting procedures for collecting, removing, and up-
24 dating data maintained in, and adding information
25 to, such databases or data systems that ensure the

1 accuracy and integrity of the data and for limiting
2 access to the information in the databases or data
3 systems to authorized personnel.

4 (4) REQUIREMENTS.—The rules, guidelines,
5 policies, and procedures established under this sub-
6 section shall—

7 (A) incorporate a simple and timely meth-
8 od for—

9 (i) correcting errors in a timely and
10 effective manner;

11 (ii) determining which government of-
12 ficer provided data so that the accuracy of
13 the data can be ascertained; and

14 (iii) clarifying information known to
15 cause false hits or misidentification errors;

16 (B) include procedures for individuals to—

17 (i) seek corrections of data contained
18 in the databases or data systems; and

19 (ii) appeal decisions concerning data
20 contained in the databases or data sys-
21 tems;

22 (C) strictly limit the agency personnel au-
23 thorized to enter data into the system;

24 (D) identify classes of information to be
25 designated as temporary or permanent entries,

1 with corresponding expiration dates for tem-
2 porary entries; and

3 (E) identify classes of prejudicial informa-
4 tion requiring additional authority of super-
5 visory personnel before entry.

6 (5) CENTRALIZING AND STREAMLINING COR-
7 RECTION PROCESS.—

8 (A) IN GENERAL.—The President, or agen-
9 cy director designated by the President, shall
10 establish a clearinghouse bureau in the Depart-
11 ment of Homeland Security, to centralize and
12 streamline the process through which members
13 of the public can seek corrections to erroneous
14 or inaccurate information contained in agency
15 databases, which is related to immigration sta-
16 tus, or which otherwise impedes lawful admis-
17 sion to the United States.

18 (B) TIME SCHEDULES.—The process de-
19 scribed in subparagraph (A) shall include spe-
20 cific time schedules for reviewing data correc-
21 tion requests, rendering decisions on such re-
22 quests, and implementing appropriate corrective
23 action in a timely manner.

24 (g) INTEGRATED BIOMETRIC ENTRY-EXIT SCREEN-
25 ING SYSTEM.—The biometric entry and exit data system

1 shall facilitate efficient immigration benefits processing
2 by—

3 (1) ensuring that the system's tracking capa-
4 bilities encompass data related to all immigration
5 benefits processing, including—

6 (A) visa applications with the Department
7 of State;

8 (B) immigration related filings with the
9 Department of Labor;

10 (C) cases pending before the Executive Of-
11 fice for Immigration Review; and

12 (D) matters pending or under investigation
13 before the Department of Homeland Security;

14 (2) utilizing a biometric based identity number
15 tied to an applicant's biometric algorithm established
16 under the entry and exit data system to track all im-
17 migration related matters concerning the applicant;

18 (3) providing that—

19 (A) all information about an applicant's
20 immigration related history, including entry and
21 exit history, can be queried through electronic
22 means; and

23 (B) database access and usage guidelines
24 include stringent safeguards to prevent misuse
25 of data;

1 (4) providing real-time updates to the informa-
2 tion described in paragraph (3)(A), including perti-
3 nent data from all agencies referred to in paragraph
4 (1); and

5 (5) providing continuing education in
6 counterterrorism techniques, tools, and methods for
7 all Federal personnel employed in the evaluation of
8 immigration documents and immigration-related pol-
9 icy.

10 (h) ENTRY-EXIT SYSTEM GOALS.—The Department
11 of Homeland Security shall operate the biometric entry
12 and exit system so that it—

13 (1) serves as a vital counterterrorism tool;

14 (2) screens travelers efficiently and in a wel-
15 coming manner;

16 (3) provides inspectors and related personnel
17 with adequate real-time information;

18 (4) ensures flexibility of training and security
19 protocols to most effectively comply with security
20 mandates;

21 (5) integrates relevant databases and plans for
22 database modifications to address volume increase
23 and database usage; and

24 (6) improves database search capacities by uti-
25 lizing language algorithms to detect alternate names.

1 (i) DEDICATED SPECIALISTS AND FRONT LINE PER-
2 SONNEL TRAINING.—In implementing the provisions of
3 subsections (g) and (h), the Department of Homeland Se-
4 curity and the Department of State shall—

5 (1) develop cross-training programs that focus
6 on the scope and procedures of the entry and exit
7 data system;

8 (2) provide extensive community outreach and
9 education on the entry and exit data system's proce-
10 dures;

11 (3) provide clear and consistent eligibility
12 guidelines for applicants in low-risk traveler pro-
13 grams; and

14 (4) establish ongoing training modules on immi-
15 gration law to improve adjudications at our ports of
16 entry, consulates, and embassies.

17 (j) COMPLIANCE STATUS REPORTS.—Not later than
18 1 year after the date of enactment of this Act, the Sec-
19 retary of Homeland Security, the Secretary of State, the
20 Attorney General, and the head of any other department
21 or agency subject to the requirements of this section, shall
22 issue individual status reports and a joint status report
23 detailing the compliance of the department or agency with
24 each requirement under this section.

1 (k) EXPEDITING REGISTERED TRAVELERS ACROSS
2 INTERNATIONAL BORDERS.—

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

7 (A) Expediting the travel of previously
8 screened and known travelers across the bor-
9 ders of the United States should be a high pri-
10 ority.

11 (B) The process of expediting known trav-
12 elers across the borders of the United States
13 can permit inspectors to better focus on identi-
14 fying terrorists attempting to enter the United
15 States.

16 (2) DEFINITION.—In this subsection, the term
17 “registered traveler program” means any program
18 designed to expedite the travel of previously screened
19 and known travelers across the borders of the
20 United States.

21 (3) REGISTERED TRAVEL PROGRAM.—

22 (A) IN GENERAL.—As soon as is prac-
23 ticable, the Secretary shall develop and imple-
24 ment a registered traveler program to expedite

1 the processing of registered travelers who enter
2 and exit the United States.

3 (B) PARTICIPATION.—The registered trav-
4 eler program shall include as many participants
5 as practicable by—

6 (i) minimizing the cost of enrollment;

7 (ii) making program enrollment con-
8 venient and easily accessible; and

9 (iii) providing applicants with clear
10 and consistent eligibility guidelines.

11 (C) INTEGRATION.—The registered trav-
12 eler program shall be integrated into the auto-
13 mated biometric entry and exit data system de-
14 scribed in this section.

15 (D) REVIEW AND EVALUATION.—In devel-
16 oping the registered traveler program, the Sec-
17 retary shall—

18 (i) review existing programs or pilot
19 projects designed to expedite the travel of
20 registered travelers across the borders of
21 the United States;

22 (ii) evaluate the effectiveness of the
23 programs described in clause (i), the costs
24 associated with such programs, and the
25 costs to travelers to join such programs;

1 (iii) increase research and develop-
2 ment efforts to accelerate the development
3 and implementation of a single registered
4 traveler program; and

5 (iv) review the feasibility of allowing
6 participants to enroll in the registered
7 traveler program at consular offices.

8 (4) REPORT.—Not later than 1 year after the
9 date of enactment of this Act, the Secretary shall
10 submit to Congress a report describing the Depart-
11 ment's progress on the development and implemen-
12 tation of the registered traveler program.

13 (l) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary, for
15 each of the fiscal years 2005 through 2009, such sums
16 as may be necessary to carry out the provisions of this
17 section.

18 **SEC. 7209. TRAVEL DOCUMENTS.**

19 (a) FINDINGS.—Consistent with the report of the Na-
20 tional Commission on Terrorist Attacks Upon the United
21 States, Congress makes the following findings:

22 (1) Existing procedures allow many individuals
23 to enter the United States by showing minimal iden-
24 tification or without showing any identification.

1 (2) The planning for the terrorist attacks of
2 September 11, 2001, demonstrates that terrorists
3 study and exploit United States vulnerabilities.

4 (3) Additional safeguards are needed to ensure
5 that terrorists cannot enter the United States.

6 (b) PASSPORTS.—

7 (1) DEVELOPMENT OF PLAN.—The Secretary
8 of Homeland Security, in consultation with the Sec-
9 retary of State, shall develop and implement a plan
10 as expeditiously as possible to require a passport or
11 other document, or combination of documents,
12 deemed by the Secretary of Homeland Security to be
13 sufficient to denote identity and citizenship, for all
14 travel into the United States by United States citi-
15 zens and by categories of individuals for whom docu-
16 mentation requirements have previously been waived
17 under section 212(d)(4)(B) of the Immigration and
18 Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan
19 shall be implemented not later than January 1,
20 2008, and shall seek to expedite the travel of fre-
21 quent travelers, including those who reside in border
22 communities, and in doing so, shall make readily
23 available a registered traveler program (as described
24 in section 7208(k)).

1 (2) REQUIREMENT TO PRODUCE DOCUMENTA-
2 TION.—The plan developed under paragraph (1)
3 shall require all United States citizens, and cat-
4 egories of individuals for whom documentation re-
5 quirements have previously been waived under sec-
6 tion 212(d)(4)(B) of such Act, to carry and produce
7 the documentation described in paragraph (1) when
8 traveling from foreign countries into the United
9 States.

10 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
11 After the complete implementation of the plan described
12 in subsection (b)—

13 (1) neither the Secretary of State nor the Sec-
14 retary of Homeland Security may exercise discretion
15 under section 212(d)(4)(B) of such Act to waive
16 documentary requirements for travel into the United
17 States; and

18 (2) the President may not exercise discretion
19 under section 215(b) of such Act (8 U.S.C. 1185(b))
20 to waive documentary requirements for United
21 States citizens departing from or entering, or at-
22 tempting to depart from or enter, the United States
23 except—

24 (A) where the Secretary of Homeland Se-
25 curity determines that the alternative docu-

1 mentation that is the basis for the waiver of the
2 documentary requirement is sufficient to denote
3 identity and citizenship;

4 (B) in the case of an unforeseen emer-
5 gency in individual cases; or

6 (C) in the case of humanitarian or national
7 interest reasons in individual cases.

8 (d) TRANSIT WITHOUT VISA PROGRAM.—The Sec-
9 retary of State shall not use any authorities granted under
10 section 212(d)(4)(C) of such Act until the Secretary, in
11 conjunction with the Secretary of Homeland Security,
12 completely implements a security plan to fully ensure se-
13 cure transit passage areas to prevent aliens proceeding in
14 immediate and continuous transit through the United
15 States from illegally entering the United States.

16 **SEC. 7210. EXCHANGE OF TERRORIST INFORMATION AND**
17 **INCREASED PREINSPECTION AT FOREIGN**
18 **AIRPORTS.**

19 (a) FINDINGS.—Consistent with the report of the Na-
20 tional Commission on Terrorist Attacks Upon the United
21 States, Congress makes the following findings:

22 (1) The exchange of terrorist information with
23 other countries, consistent with privacy require-
24 ments, along with listings of lost and stolen pass-
25 ports, will have immediate security benefits.

1 (2) The further away from the borders of the
2 United States that screening occurs, the more secu-
3 rity benefits the United States will gain.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) the Federal Government should exchange
7 terrorist information with trusted allies;

8 (2) the Federal Government should move to-
9 ward real-time verification of passports with issuing
10 authorities;

11 (3) where practicable, the Federal Government
12 should conduct screening before a passenger departs
13 on a flight destined for the United States;

14 (4) the Federal Government should work with
15 other countries to ensure effective inspection regimes
16 at all airports;

17 (5) the Federal Government should work with
18 other countries to improve passport standards and
19 provide foreign assistance to countries that need
20 help making the transition to the global standard for
21 identification; and

22 (6) the Department of Homeland Security, in
23 coordination with the Department of State and other
24 Federal agencies, should implement the initiatives
25 called for in this subsection.

1 (c) REPORT REGARDING THE EXCHANGE OF TER-
2 RORIST INFORMATION.—

3 (1) IN GENERAL.—Not later than 180 days
4 after the date of enactment of this Act, the Sec-
5 retary of State and the Secretary of Homeland Secu-
6 rity, working with other Federal agencies, shall sub-
7 mit to the appropriate committees of Congress a re-
8 port on Federal efforts to collaborate with allies of
9 the United States in the exchange of terrorist infor-
10 mation.

11 (2) CONTENTS.—The report shall outline—

12 (A) strategies for increasing such collabo-
13 ration and cooperation;

14 (B) progress made in screening passengers
15 before their departure to the United States; and

16 (C) efforts to work with other countries to
17 accomplish the goals described under this sec-
18 tion.

19 (d) PREINSPECTION AT FOREIGN AIRPORTS.—

20 (1) IN GENERAL.—Section 235A(a)(4) of the
21 Immigration and Nationality Act (8 U.S.C.
22 1225a(a)(4)) is amended to read as follows:

23 “(4) Subject to paragraph (5), not later than
24 January 1, 2008, the Secretary of Homeland Secu-
25 rity, in consultation with the Secretary of State,

1 shall establish preinspection stations in at least 25
2 additional foreign airports, which the Secretary of
3 Homeland Security, in consultation with the Sec-
4 retary of State, determines, based on the data com-
5 piled under paragraph (3) and such other informa-
6 tion as may be available, would most effectively fa-
7 cilitate the travel of admissible aliens and reduce the
8 number of inadmissible aliens, especially aliens who
9 are potential terrorists, who arrive from abroad by
10 air at points of entry within the United States. Such
11 preinspection stations shall be in addition to those
12 established before September 30, 1996, or pursuant
13 to paragraph (1).”.

14 (2) REPORT.—Not later than June 30, 2006,
15 the Secretary of Homeland Security and the Sec-
16 retary of State shall submit a report on the progress
17 being made in implementing the amendment made
18 by paragraph (1) to—

19 (A) the Committee on the Judiciary of the
20 Senate;

21 (B) the Committee on the Judiciary of the
22 House of Representatives;

23 (C) the Committee on Foreign Relations of
24 the Senate;

1 (D) the Committee on International Rela-
2 tions of the House of Representatives;

3 (E) the Committee on Homeland Security
4 and Governmental Affairs of the Senate; and

5 (F) the Select Committee on Homeland
6 Security of the House of Representatives (or
7 any successor committee).

8 **SEC. 7211. MINIMUM STANDARDS FOR BIRTH CERTIFI-**
9 **CATES.**

10 (a) DEFINITION.—In this section, the term “birth
11 certificate” means a certificate of birth—

12 (1) for an individual (regardless of where
13 born)—

14 (A) who is a citizen or national of the
15 United States at birth; and

16 (B) whose birth is registered in the United
17 States; and

18 (2) that—

19 (A) is issued by a Federal, State, or local
20 government agency or authorized custodian of
21 record and produced from birth records main-
22 tained by such agency or custodian of record; or

23 (B) is an authenticated copy, issued by a
24 Federal, State, or local government agency or
25 authorized custodian of record, of an original

1 certificate of birth issued by such agency or
2 custodian of record.

3 (b) STANDARDS FOR ACCEPTANCE BY FEDERAL
4 AGENCIES.—

5 (1) IN GENERAL.—Beginning 2 years after the
6 promulgation of minimum standards under para-
7 graph (3), no Federal agency may accept a birth
8 certificate for any official purpose unless the certifi-
9 cate conforms to such standards.

10 (2) STATE CERTIFICATION.—

11 (A) IN GENERAL.—Each State shall certify
12 to the Secretary of Health and Human Services
13 that the State is in compliance with the require-
14 ments of this section.

15 (B) FREQUENCY.—Certifications under
16 subparagraph (A) shall be made at such inter-
17 vals and in such a manner as the Secretary of
18 Health and Human Services, with the concur-
19 rence of the Secretary of Homeland Security
20 and the Commissioner of Social Security, may
21 prescribe by regulation.

22 (C) COMPLIANCE.—Each State shall en-
23 sure that units of local government and other
24 authorized custodians of records in the State
25 comply with this section.

1 (D) AUDITS.—The Secretary of Health
2 and Human Services may conduct periodic au-
3 dits of each State’s compliance with the require-
4 ments of this section.

5 (3) MINIMUM STANDARDS.—Not later than 1
6 year after the date of enactment of this Act, the
7 Secretary of Health and Human Services shall by
8 regulation establish minimum standards for birth
9 certificates for use by Federal agencies for official
10 purposes that—

11 (A) at a minimum, shall require certifi-
12 cation of the birth certificate by the State or
13 local government custodian of record that
14 issued the certificate, and shall require the use
15 of safety paper or an alternative, equally secure
16 medium, the seal of the issuing custodian of
17 record, and other features designed to prevent
18 tampering, counterfeiting, or otherwise dupli-
19 cating the birth certificate for fraudulent pur-
20 poses;

21 (B) shall establish requirements for proof
22 and verification of identity as a condition of
23 issuance of a birth certificate, with additional
24 security measures for the issuance of a birth
25 certificate for a person who is not the applicant;

1 (C) shall establish standards for the proc-
2 essing of birth certificate applications to pre-
3 vent fraud;

4 (D) may not require a single design to
5 which birth certificates issued by all States
6 must conform; and

7 (E) shall accommodate the differences be-
8 tween the States in the manner and form in
9 which birth records are stored and birth certifi-
10 cates are produced from such records.

11 (4) CONSULTATION WITH GOVERNMENT AGEN-
12 CIES.—In promulgating the standards required
13 under paragraph (3), the Secretary of Health and
14 Human Services shall consult with—

15 (A) the Secretary of Homeland Security;

16 (B) the Commissioner of Social Security;

17 (C) State vital statistics offices; and

18 (D) other appropriate Federal agencies.

19 (5) EXTENSION OF EFFECTIVE DATE.—The
20 Secretary of Health and Human Services may ex-
21 tend the date specified under paragraph (1) for up
22 to 2 years for birth certificates issued by a State if
23 the Secretary determines that the State made rea-
24 sonable efforts to comply with the date under para-
25 graph (1) but was unable to do so.

1 (c) GRANTS TO STATES.—

2 (1) ASSISTANCE IN MEETING FEDERAL STAND-
3 ARDS.—

4 (A) IN GENERAL.—Beginning on the date
5 a final regulation is promulgated under sub-
6 section (b)(3), the Secretary of Health and
7 Human Services shall award grants to States to
8 assist them in conforming to the minimum
9 standards for birth certificates set forth in the
10 regulation.

11 (B) ALLOCATION OF GRANTS.—The Sec-
12 retary shall award grants to States under this
13 paragraph based on the proportion that the es-
14 timated average annual number of birth certifi-
15 cates issued by a State applying for a grant
16 bears to the estimated average annual number
17 of birth certificates issued by all States.

18 (C) MINIMUM ALLOCATION.—Notwith-
19 standing subparagraph (B), each State shall re-
20 ceive not less than 0.5 percent of the grant
21 funds made available under this paragraph.

22 (2) ASSISTANCE IN MATCHING BIRTH AND
23 DEATH RECORDS.—

24 (A) IN GENERAL.—The Secretary of
25 Health and Human Services, in coordination

1 with the Commissioner of Social Security and
2 other appropriate Federal agencies, shall award
3 grants to States, under criteria established by
4 the Secretary, to assist States in—

5 (i) computerizing their birth and
6 death records;

7 (ii) developing the capability to match
8 birth and death records within each State
9 and among the States; and

10 (iii) noting the fact of death on the
11 birth certificates of deceased persons.

12 (B) ALLOCATION OF GRANTS.—The Sec-
13 retary shall award grants to qualifying States
14 under this paragraph based on the proportion
15 that the estimated annual average number of
16 birth and death records created by a State ap-
17 plying for a grant bears to the estimated annual
18 average number of birth and death records
19 originated by all States.

20 (C) MINIMUM ALLOCATION.—Notwith-
21 standing subparagraph (B), each State shall re-
22 ceive not less than 0.5 percent of the grant
23 funds made available under this paragraph.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary for

1 each of the fiscal years 2005 through 2009 such sums as
2 may be necessary to carry out this section.

3 (e) TECHNICAL AND CONFORMING AMENDMENT.—
4 Section 656 of the Illegal Immigration Reform and Immi-
5 grant Responsibility Act of 1996 (5 U.S.C. 301 note) is
6 repealed.

7 **SEC. 7212. DRIVER'S LICENSES AND PERSONAL IDENTI-**
8 **FICATION CARDS.**

9 (a) DEFINITIONS.—In this section:

10 (1) DRIVER'S LICENSE.—The term 'driver's li-
11 cense' means a motor vehicle operator's license as
12 defined in section 30301(5) of title 49, United
13 States Code.

14 (2) PERSONAL IDENTIFICATION CARD.—The
15 term 'personal identification card' means an identi-
16 fication document (as defined in section 1028(d)(3)
17 of title 18, United States Code) issued by a State.

18 (b) STANDARDS FOR ACCEPTANCE BY FEDERAL
19 AGENCIES.—

20 (1) IN GENERAL.—

21 (A) LIMITATION ON ACCEPTANCE.—No
22 Federal agency may accept, for any official pur-
23 pose, a driver's license or personal identification
24 card newly issued by a State more than 2 years
25 after the promulgation of the minimum stand-

1 ards under paragraph (2) unless the driver's li-
2 cense or personal identification card conforms
3 to such minimum standards.

4 (B) DATE FOR CONFORMANCE.—The Sec-
5 retary of Transportation, in consultation with
6 the Secretary of Homeland Security, shall es-
7 tablish a date after which no driver's license or
8 personal identification card shall be accepted by
9 a Federal agency for any official purpose unless
10 such driver's license or personal identification
11 card conforms to the minimum standards estab-
12 lished under paragraph (2). The date shall be
13 as early as the Secretary determines it is prac-
14 ticable for the States to comply with such date
15 with reasonable efforts.

16 (C) STATE CERTIFICATION.—

17 (i) IN GENERAL.—Each State shall
18 certify to the Secretary of Transportation
19 that the State is in compliance with the re-
20 quirements of this section.

21 (ii) FREQUENCY.—Certifications
22 under clause (i) shall be made at such in-
23 tervals and in such a manner as the Sec-
24 retary of Transportation, with the concur-

1 rence of the Secretary of Homeland Secu-
2 rity, may prescribe by regulation.

3 (iii) AUDITS.—The Secretary of
4 Transportation may conduct periodic au-
5 dits of each State’s compliance with the re-
6 quirements of this section.

7 (2) MINIMUM STANDARDS.—Not later than 18
8 months after the date of enactment of this Act, the
9 Secretary of Transportation, in consultation with the
10 Secretary of Homeland Security, shall by regulation,
11 establish minimum standards for driver’s licenses or
12 personal identification cards issued by a State for
13 use by Federal agencies for identification purposes
14 that shall include—

15 (A) standards for documentation required
16 as proof of identity of an applicant for a driv-
17 er’s license or personal identification card;

18 (B) standards for the verifiability of docu-
19 ments used to obtain a driver’s license or per-
20 sonal identification card;

21 (C) standards for the processing of appli-
22 cations for driver’s licenses and personal identi-
23 fication cards to prevent fraud;

1 (D) standards for information to be in-
2 cluded on each driver's license or personal iden-
3 tification card, including—

- 4 (i) the person's full legal name;
5 (ii) the person's date of birth;
6 (iii) the person's gender;
7 (iv) the person's driver's license or
8 personal identification card number;
9 (v) a digital photograph of the person;
10 (vi) the person's address of principal
11 residence; and
12 (vii) the person's signature;

13 (E) standards for common machine-read-
14 able identity information to be included on each
15 driver's license or personal identification card,
16 including defined minimum data elements;

17 (F) security standards to ensure that driv-
18 er's licenses and personal identification cards
19 are—

20 (i) resistant to tampering, alteration,
21 or counterfeiting; and

22 (ii) capable of accommodating and en-
23 suring the security of a digital photograph
24 or other unique identifier; and

1 (G) a requirement that a State confiscate
2 a driver's license or personal identification card
3 if any component or security feature of the li-
4 cense or identification card is compromised.

5 (3) CONTENT OF REGULATIONS.—The regula-
6 tions required by paragraph (2)—

7 (A) shall facilitate communication between
8 the chief driver licensing official of a State, an
9 appropriate official of a Federal agency and
10 other relevant officials, to verify the authen-
11 ticity of documents, as appropriate, issued by
12 such Federal agency or entity and presented to
13 prove the identity of an individual;

14 (B) may not infringe on a State's power to
15 set criteria concerning what categories of indi-
16 viduals are eligible to obtain a driver's license
17 or personal identification card from that State;

18 (C) may not require a State to comply with
19 any such regulation that conflicts with or other-
20 wise interferes with the full enforcement of
21 State criteria concerning the categories of indi-
22 viduals that are eligible to obtain a driver's li-
23 cense or personal identification card from that
24 State;

1 (D) may not require a single design to
2 which driver's licenses or personal identification
3 cards issued by all States must conform; and

4 (E) shall include procedures and require-
5 ments to protect the privacy rights of individ-
6 uals who apply for and hold driver's licenses
7 and personal identification cards.

8 (4) NEGOTIATED RULEMAKING.—

9 (A) IN GENERAL.—Before publishing the
10 proposed regulations required by paragraph (2)
11 to carry out this title, the Secretary of Trans-
12 portation shall establish a negotiated rule-
13 making process pursuant to subchapter IV of
14 chapter 5 of title 5, United States Code (5
15 U.S.C. 561 et seq.).

16 (B) REPRESENTATION ON NEGOTIATED
17 RULEMAKING COMMITTEE.—Any negotiated
18 rulemaking committee established by the Sec-
19 retary of Transportation pursuant to subpara-
20 graph (A) shall include representatives from—

21 (i) among State offices that issue
22 driver's licenses or personal identification
23 cards;

24 (ii) among State elected officials;

1 (iii) the Department of Homeland Se-
2 curity; and

3 (iv) among interested parties.

4 (C) TIME REQUIREMENT.—The process de-
5 scribed in subparagraph (A) shall be conducted
6 in a timely manner to ensure that—

7 (i) any recommendation for a pro-
8 posed rule or report is provided to the Sec-
9 retary of Transportation not later than 9
10 months after the date of enactment of this
11 Act and shall include an assessment of the
12 benefits and costs of the recommendation;
13 and

14 (ii) a final rule is promulgated not
15 later than 18 months after the date of en-
16 actment of this Act.

17 (c) GRANTS TO STATES.—

18 (1) ASSISTANCE IN MEETING FEDERAL STAND-
19 ARDS.—Beginning on the date a final regulation is
20 promulgated under subsection (b)(2), the Secretary
21 of Transportation shall award grants to States to
22 assist them in conforming to the minimum stand-
23 ards for driver's licenses and personal identification
24 cards set forth in the regulation.

1 (2) ALLOCATION OF GRANTS.—The Secretary
2 of Transportation shall award grants to States
3 under this subsection based on the proportion that
4 the estimated average annual number of driver’s li-
5 censes and personal identification cards issued by a
6 State applying for a grant bears to the average an-
7 nual number of such documents issued by all States.

8 (3) MINIMUM ALLOCATION.—Notwithstanding
9 paragraph (2), each State shall receive not less than
10 0.5 percent of the grant funds made available under
11 this subsection.

12 (d) EXTENSION OF EFFECTIVE DATE.—The Sec-
13 retary of Transportation may extend the date specified
14 under subsection (b)(1)(A) for up to 2 years for driver’s
15 licenses issued by a State if the Secretary determines that
16 the State made reasonable efforts to comply with the date
17 under such subsection but was unable to do so.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary of
20 Transportation for each of the fiscal years 2005 through
21 2009, such sums as may be necessary to carry out this
22 section.

23 **SEC. 7213. SOCIAL SECURITY CARDS AND NUMBERS.**

24 (a) SECURITY ENHANCEMENTS.—The Commissioner
25 of Social Security shall—

1 (1) not later than 1 year after the date of en-
2 actment of this Act—

3 (A) restrict the issuance of multiple re-
4 placement social security cards to any indi-
5 vidual to 3 per year and 10 for the life of the
6 individual, except that the Commissioner may
7 allow for reasonable exceptions from the limits
8 under this paragraph on a case-by-case basis in
9 compelling circumstances;

10 (B) establish minimum standards for the
11 verification of documents or records submitted
12 by an individual to establish eligibility for an
13 original or replacement social security card,
14 other than for purposes of enumeration at
15 birth; and

16 (C) require independent verification of any
17 birth record submitted by an individual to es-
18 tablish eligibility for a social security account
19 number, other than for purposes of enumera-
20 tion at birth, except that the Commissioner may
21 allow for reasonable exceptions from the re-
22 quirement for independent verification under
23 this subparagraph on a case by case basis in
24 compelling circumstances; and

1 (2) notwithstanding section 205(r) of the Social
2 Security Act (42 U.S.C. 405(r)) and any agreement
3 entered into thereunder, not later than 18 months
4 after the date of enactment of this Act with respect
5 to death indicators and not later than 36 months
6 after the date of enactment of this Act with respect
7 to fraud indicators, add death and fraud indicators
8 to the social security number verification systems for
9 employers, State agencies issuing driver's licenses
10 and identity cards, and other verification routines
11 that the Commissioner determines to be appropriate.

12 (b) INTERAGENCY SECURITY TASK FORCE.—The
13 Commissioner of Social Security, in consultation with the
14 Secretary of Homeland Security, shall form an inter-
15 agency task force for the purpose of further improving the
16 security of social security cards and numbers. Not later
17 than 18 months after the date of enactment of this Act,
18 the task force shall establish, and the Commissioner shall
19 provide for the implementation of, security requirements,
20 including—

21 (1) standards for safeguarding social security
22 cards from counterfeiting, tampering, alteration, and
23 theft;

24 (2) requirements for verifying documents sub-
25 mitted for the issuance of replacement cards; and

1 (3) actions to increase enforcement against the
2 fraudulent use or issuance of social security numbers
3 and cards.

4 (c) ENUMERATION AT BIRTH.—

5 (1) IMPROVEMENT OF APPLICATION PROC-
6 ESS.—As soon as practicable after the date of enact-
7 ment of this Act, the Commissioner of Social Secu-
8 rity shall undertake to make improvements to the
9 enumeration at birth program for the issuance of so-
10 cial security account numbers to newborns. Such im-
11 provements shall be designed to prevent—

12 (A) the assignment of social security ac-
13 count numbers to unnamed children;

14 (B) the issuance of more than 1 social se-
15 curity account number to the same child; and

16 (C) other opportunities for fraudulently ob-
17 taining a social security account number.

18 (2) REPORT TO CONGRESS.—Not later than 1
19 year after the date of enactment of this Act, the
20 Commissioner shall transmit to each House of Con-
21 gress a report specifying in detail the extent to
22 which the improvements required under paragraph
23 (1) have been made.

24 (d) STUDY REGARDING PROCESS FOR ENUMERATION
25 AT BIRTH.—

1 (1) IN GENERAL.—As soon as practicable after
2 the date of enactment of this Act, the Commissioner
3 of Social Security shall conduct a study to determine
4 the most efficient options for ensuring the integrity
5 of the process for enumeration at birth. This study
6 shall include an examination of available methods
7 for reconciling hospital birth records with birth reg-
8 istrations submitted to agencies of States and polit-
9 ical subdivisions thereof and with information pro-
10 vided to the Commissioner as part of the process for
11 enumeration at birth.

12 (2) REPORT.—

13 (A) IN GENERAL.—Not later than 18
14 months after the date of enactment of this Act,
15 the Commissioner shall submit a report to the
16 Committee on Ways and Means of the House of
17 Representatives and the Committee on Finance
18 of the Senate regarding the results of the study
19 conducted under paragraph (1).

20 (B) CONTENTS.—The report submitted
21 under subparagraph (A) shall contain such rec-
22 ommendations for legislative changes as the
23 Commissioner considers necessary to implement
24 needed improvements in the process for enu-
25 meration at birth.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Commissioner of
3 Social Security for each of the fiscal years 2005 through
4 2009, such sums as may be necessary to carry out this
5 section.

6 **SEC. 7214. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.**

7
8
9
10 (a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the
11 Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is
12 amended—

13 (1) by inserting “(I)” after “(vi)”; and

14 (2) by adding at the end the following new sub-
15 clause:

16 “(II) Any State or political subdivision thereof (and
17 any person acting as an agent of such an agency or instru-
18 mentality), in the administration of any driver’s license or
19 motor vehicle registration law within its jurisdiction, may
20 not display a social security account number issued by the
21 Commissioner of Social Security (or any derivative of such
22 number) on any driver’s license, motor vehicle registra-
23 tion, or personal identification card (as defined in section
24 7212(a)(2) of the 9/11 Commission Implementation Act
25 of 2004), or include, on any such license, registration, or

1 personal identification card, a magnetic strip, bar code,
2 or other means of communication which conveys such
3 number (or derivative thereof).”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a)(2) shall apply with respect to licenses, reg-
6 istrations, and identification cards issued or reissued 1
7 year after the date of enactment of this Act.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Commissioner of
10 Social Security for each of the fiscal years 2005 through
11 2009, such sums as may be necessary to carry out this
12 section.

13 **SEC. 7215. TERRORIST TRAVEL PROGRAM.**

14 The Secretary of Homeland Security, in consultation
15 with the Director of the National Counterterrorism Cen-
16 ter, and consistent with the strategy developed under sec-
17 tion 7201, shall establish a program to oversee the imple-
18 mentation of the Department’s responsibilities with re-
19 spect to terrorist travel, including the analysis, coordina-
20 tion, and dissemination of terrorist travel intelligence and
21 operational information—

22 (1) among appropriate subdivisions of the De-
23 partment of Homeland Security, including—

24 (A) the Bureau of Customs and Border
25 Protection;

1 (B) United States Immigration and Cus-
2 toms Enforcement;

3 (C) United States Citizenship and Immi-
4 gration Services;

5 (D) the Transportation Security Adminis-
6 tration; and

7 (E) any other subdivision, as determined
8 by the Secretary; and

9 (2) between the Department of Homeland Secu-
10 rity and other appropriate Federal agencies.

11 **SEC. 7216. INCREASE IN PENALTIES FOR FRAUD AND RE-**
12 **LATED ACTIVITY.**

13 Section 1028(b)(4) of title 18, United States Code,
14 is amended by striking “25 years” and inserting “30
15 years”.

16 **SEC. 7217. STUDY ON ALLEGEDLY LOST OR STOLEN PASS-**
17 **PORTS.**

18 (a) IN GENERAL.—Not later than May 31, 2005, the
19 Secretary of State, in consultation with the Secretary of
20 Homeland Security, shall submit a report, containing the
21 results of a study on the subjects described in subsection
22 (b), to—

23 (1) the Committee on the Judiciary of the Sen-
24 ate;

1 (2) the Committee on the Judiciary of the
2 House of Representatives;

3 (3) the Committee on Foreign Relations of the
4 Senate;

5 (4) the Committee on International Relations of
6 the House of Representatives;

7 (5) the Committee on Homeland Security and
8 Governmental Affairs of the Senate; and

9 (6) the Select Committee on Homeland Security
10 of the House of Representatives (or any successor
11 committee).

12 (b) CONTENTS.—The study referred to in subsection
13 (a) shall examine the feasibility, cost, potential benefits,
14 and relative importance to the objectives of tracking sus-
15 pected terrorists' travel, and apprehending suspected ter-
16 rorists, of establishing a system, in coordination with other
17 countries, through which border and visa issuance officials
18 have access in real-time to information on newly issued
19 passports to persons whose previous passports were alleg-
20 edly lost or stolen.

21 (c) INCENTIVES.—The study described in subsection
22 (b) shall make recommendations on incentives that might
23 be offered to encourage foreign nations to participate in
24 the initiatives described in subsection (b).

1 **SEC. 7218. ESTABLISHMENT OF VISA AND PASSPORT SECURITY PROGRAM IN THE DEPARTMENT OF**
2 **RITY PROGRAM IN THE DEPARTMENT OF**
3 **STATE.**

4 (a) ESTABLISHMENT.—There is established, within
5 the Bureau of Diplomatic Security of the Department of
6 State, the Visa and Passport Security Program (in this
7 section referred to as the “Program”).

8 (b) PREPARATION OF STRATEGIC PLAN.—

9 (1) IN GENERAL.—The Assistant Secretary for
10 Diplomatic Security, in coordination with the appropriate
11 officials of the Bureau of Consular Affairs,
12 the coordinator for counterterrorism, the National
13 Counterterrorism Center, and the Department of
14 Homeland Security, and consistent with the strategy
15 mandated by section 7201, shall ensure the preparation
16 of a strategic plan to target and disrupt individuals
17 and organizations, within the United States and
18 in foreign countries, that are involved in the fraudulent
19 production, distribution, use, or other similar
20 activity—

21 (A) of a United States visa or United
22 States passport;

23 (B) of documents intended to help fraudu-
24 lently procure a United States visa or United
25 States passport, or other documents intended to
26 gain unlawful entry into the United States; or

1 (C) of passports and visas issued by for-
2 eign countries intended to gain unlawful entry
3 into the United States.

4 (2) EMPHASIS.—The strategic plan shall—

5 (A) focus particular emphasis on individ-
6 uals and organizations that may have links to
7 domestic terrorist organizations or foreign ter-
8 rorist organizations (as such term is defined in
9 section 219 of the Immigration and Nationality
10 Act (8 U.S.C. 1189));

11 (B) require the development of a strategic
12 training course under the Antiterrorism Assist-
13 ance Training (ATA) program of the Depart-
14 ment of State (or any successor or related pro-
15 gram) under chapter 8 of part II of the Foreign
16 Assistance Act of 1961 (22 U.S.C. 2349aa et
17 seq.) (or other relevant provisions of law) to
18 train participants in the identification of fraud-
19 ulent documents and the forensic detection of
20 such documents which may be used to obtain
21 unlawful entry into the United States; and

22 (C) determine the benefits and costs of
23 providing technical assistance to foreign govern-
24 ments to ensure the security of passports, visas,
25 and related documents and to investigate, ar-

1 rest, and prosecute individuals who facilitate
2 travel by the creation of false passports and
3 visas, documents to obtain such passports and
4 visas, and other types of travel documents.

5 (c) PROGRAM.—

6 (1) INDIVIDUAL IN CHARGE.—

7 (A) DESIGNATION.—The Assistant Sec-
8 retary for Diplomatic Security shall designate
9 an individual to be in charge of the Program.

10 (B) QUALIFICATION.—The individual des-
11 igned under subparagraph (A) shall have ex-
12 pertise and experience in the investigation and
13 prosecution of visa and passport fraud.

14 (2) PROGRAM COMPONENTS.—The Program
15 shall include the following:

16 (A) ANALYSIS OF METHODS.—Analyze, in
17 coordination with other appropriate government
18 agencies, methods used by terrorists to travel
19 internationally, particularly the use of false or
20 altered travel documents to illegally enter for-
21 eign countries and the United States, and con-
22 sult with the Bureau of Consular Affairs and
23 the Secretary of Homeland Security on rec-
24 ommended changes to the visa issuance process
25 that could combat such methods, including the

1 introduction of new technologies into such proc-
2 ess.

3 (B) IDENTIFICATION OF INDIVIDUALS AND
4 DOCUMENTS.—Identify, in cooperation with the
5 Human Trafficking and Smuggling Center, in-
6 dividuals who facilitate travel by the creation of
7 false passports and visas, documents used to
8 obtain such passports and visas, and other
9 types of travel documents, and ensure that the
10 appropriate agency is notified for further inves-
11 tigation and prosecution or, in the case of such
12 individuals abroad for which no further inves-
13 tigation or prosecution is initiated, ensure that
14 all appropriate information is shared with for-
15 eign governments in order to facilitate inves-
16 tigation, arrest, and prosecution of such individ-
17 uals.

18 (C) IDENTIFICATION OF FOREIGN COUN-
19 TRIES NEEDING ASSISTANCE.—Identify foreign
20 countries that need technical assistance, such as
21 law reform, administrative reform, prosecutorial
22 training, or assistance to police and other inves-
23 tigative services, to ensure passport, visa, and
24 related document security and to investigate,
25 arrest, and prosecute individuals who facilitate

1 travel by the creation of false passports and
2 visas, documents used to obtain such passports
3 and visas, and other types of travel documents.

4 (D) INSPECTION OF APPLICATIONS.—Ran-
5 domly inspect visa and passport applications for
6 accuracy, efficiency, and fraud, especially at
7 high terrorist threat posts, in order to prevent
8 a recurrence of the issuance of visas to those
9 who submit incomplete, fraudulent, or otherwise
10 irregular or incomplete applications.

11 (d) REPORT.—Not later than 90 days after the date
12 on which the strategy required under section 7201 is sub-
13 mitted to Congress, the Assistant Secretary for Diplomatic
14 Security shall submit to Congress a report containing—

15 (1) a description of the strategic plan prepared
16 under subsection (b); and

17 (2) an evaluation of the feasibility of estab-
18 lishing civil service positions in field offices of the
19 Bureau of Diplomatic Security to investigate visa
20 and passport fraud, including an evaluation of
21 whether to allow diplomatic security agents to con-
22 vert to civil service officers to fill such positions.

1 **SEC. 7219. EFFECTIVE DATE.**

2 Notwithstanding any other provision of this Act, this
3 subtitle shall take effect on the date of enactment of this
4 Act.

5 **SEC. 7220. IDENTIFICATION STANDARDS.**

6 (a) PROPOSED STANDARDS.—

7 (1) IN GENERAL.—The Secretary of Homeland
8 Security—

9 (A) shall propose minimum standards for
10 identification documents required of domestic
11 commercial airline passengers for boarding an
12 aircraft; and

13 (B) may, from time to time, propose min-
14 imum standards amending or replacing stand-
15 ards previously proposed and transmitted to
16 Congress and approved under this section.

17 (2) SUBMISSION TO CONGRESS.—Not later than
18 6 months after the date of enactment of this Act,
19 the Secretary shall submit the standards under
20 paragraph (1)(A) to the Senate and the House of
21 Representatives on the same day while each House
22 is in session.

23 (3) EFFECTIVE DATE.—Any proposed stand-
24 ards submitted to Congress under this subsection
25 shall take effect when an approval resolution is

1 passed by the House and the Senate under the pro-
2 cedures described in subsection (b) and becomes law.

3 (b) CONGRESSIONAL APPROVAL PROCEDURES.—

4 (1) RULEMAKING POWER.—This subsection is
5 enacted by Congress—

6 (A) as an exercise of the rulemaking power
7 of the Senate and the House of Representa-
8 tives, respectively, and as such they are deemed
9 a part of the rules of each House, respectively,
10 but applicable only with respect to the proce-
11 dure to be followed in that House in the case
12 of such approval resolutions; and it supersedes
13 other rules only to the extent that they are in-
14 consistent therewith; and

15 (B) with full recognition of the constitu-
16 tional right of either House to change the rules
17 (so far as relating to the procedure of that
18 House) at any time, in the same manner and
19 to the same extent as in the case of any other
20 rule of that House.

21 (2) APPROVAL RESOLUTION.—For the purpose
22 of this subsection, the term “approval resolution”
23 means a joint resolution of Congress, the matter
24 after the resolving clause of which is as follows:
25 “That the Congress approves the proposed stand-

1 ards issued under section 7220 of the 9/11 Commis-
2 sion Implementation Act of 2004, transmitted by the
3 President to the Congress on _____”, the
4 blank space being filled in with the appropriate date.

5 (3) INTRODUCTION.—Not later than the first
6 day of session following the day on which proposed
7 standards are transmitted to the House of Rep-
8 resentatives and the Senate under subsection (a), an
9 approval resolution—

10 (A) shall be introduced (by request) in the
11 House by the Majority Leader of the House of
12 Representatives, for himself or herself and the
13 minority leader of the House of Representa-
14 tives, or by Members of the House of Rep-
15 resentatives designated by the Majority Leader
16 and Minority Leader of the House; and

17 (B) shall be introduced (by request) in the
18 Senate by the Majority Leader of the Senate,
19 for himself or herself and the Minority Leader
20 of the Senate, or by Members of the Senate
21 designated by the Majority Leader and Minority
22 Leader of the Senate.

23 (4) PROHIBITIONS.—

1 (A) AMENDMENTS.—No amendment to an
2 approval resolution shall be in order in either
3 the House of Representative of the Senate.

4 (B) MOTIONS TO SUSPEND.—No motion to
5 suspend the application of this paragraph shall
6 be in order in either House, nor shall it be in
7 order in either House for the Presiding Officer
8 to entertain a request to suspend the applica-
9 tion of this paragraph by unanimous consent.

10 (5) REFERRAL.—

11 (A) IN GENERAL.—An approval resolution
12 shall be referred to the committees of the
13 House of Representatives and of the Senate
14 with jurisdiction. Each committee shall make
15 its recommendations to the House of Rep-
16 resentatives or the Senate, as the case may be,
17 within 45 days after its introduction. Except as
18 provided in subparagraph (B), if a committee to
19 which an approval resolution has been referred
20 has not reported it at the close of the 45th day
21 after its introduction, such committee shall be
22 automatically discharged from further consider-
23 ation of the resolution and it shall be placed on
24 the appropriate calendar.

1 (B) FINAL PASSAGE.—A vote on final pas-
2 sage of the resolution shall be taken in each
3 House on or before the close of the 15th day
4 after the resolution is reported by the com-
5 mittee or committees of that House to which it
6 was referred, or after such committee or com-
7 mittees have been discharge from further con-
8 sideration of the resolution.

9 (C) COMPUTATION OF DAYS.—For pur-
10 poses of this paragraph, in computing a number
11 of days in either House, there shall be excluded
12 any day on which that House is not in session.

13 (6) COORDINATION WITH ACTION OF OTHER
14 HOUSE.—If prior to the passage by one House of an
15 approval resolution of that House, that House re-
16 ceives the same approval resolution from the other
17 House, then the procedure in that House shall be
18 the same as if no approval resolution has been re-
19 ceived from the other House, but the vote on final
20 passage shall be on the approval resolution of the
21 other House.

22 (7) FLOOR CONSIDERATION IN THE HOUSE OF
23 REPRESENTATIVES.—

24 (A) MOTION TO PROCEED.—A motion in
25 the House of Representatives to proceed to the

1 consideration of an approval resolution shall be
2 highly privileged and not debatable. An amend-
3 ment to the motion shall not be in order, not
4 shall it be in order to move to reconsider the
5 vote by which the motion is agreed to or dis-
6 agreed to.

7 (B) DEBATE.—Debate in the House of
8 Representatives on an implementing bill or ap-
9 proval resolution shall be limited to not more
10 than 4 hours, which shall be divided equally be-
11 tween those favoring and those opposing the
12 resolution. A motion to further limit debate
13 shall not be debatable. It shall not be in order
14 to move to recommit an approval resolution or
15 to move to reconsider the vote by which an ap-
16 proval resolution is agree to or disagreed to.

17 (C) MOTION TO POSTPONE.—Motions to
18 postpone made in the House of Representatives
19 with respect to the consideration of an approval
20 resolution and motions to proceed to the consid-
21 eration of other business shall be decided with-
22 out debate.

23 (D) APPEALS.—All appeals from the deci-
24 sions of the Chair relating to the application of
25 the Rules of the House of Representatives to

1 the procedure relating to an approval resolution
2 shall be decided without debate.

3 (E) RULES OF THE HOUSE OF REP-
4 REPRESENTATIVES.—Except to the extent specifi-
5 cally provided in subparagraphs (A) through
6 (D), consideration of an approval resolution
7 shall be governed by the Rules of the House of
8 Representatives applicable to other resolutions
9 in similar circumstances.

10 (8) FLOOR CONSIDERATION IN THE SENATE.—

11 (A) MOTION TO PROCEED.—A motion in
12 the Senate to proceed to the consideration of an
13 approval resolution shall be privileged and not
14 debatable. An amendment to the motion shall
15 not be in order, not shall it be in order to move
16 to reconsider the vote by which the motion is
17 agreed to or disagreed to.

18 (B) DEBATE ON RESOLUTION.—Debate in
19 the Senate on an approval resolution, and ap-
20 peals in connection therewith, shall be limited
21 to not more than 10 hours, which shall be
22 equally divided between, and controlled by, the
23 Majority Leader and the Minority Leader, or
24 their designees.

1 (C) DEBATE ON MOTIONS AND APPEALS.—

2 Debate in the Senate on any debatable motion
3 or appeal in connection with an approval resolu-
4 tion shall be limited to not more than 1 hour,
5 which shall be equally divided between, and con-
6 trolled by, the mover and the manager of the
7 resolution, except that in the event the manager
8 of the resolution is in favor of any such motion
9 or appeal, the time in opposition thereto, shall
10 be controlled by the Minority Leader or des-
11 ignee. Such leaders, or either of them, may,
12 from time under their control on the passage of
13 an approval resolution, allot additional time to
14 any Senator during the consideration of any de-
15 batable motion or appeal.

16 (D) LIMIT ON DEBATE.—A motion in the
17 Senate to further limit debate is not debatable.

18 A motion to recommit an approval resolution is
19 not in order.

20 (e) DEFAULT STANDARDS.—

21 (1) IN GENERAL.—If the standards proposed
22 under subsection (a)(1)(A) are not approved pursu-
23 ant to the procedures described in subsection (b),
24 then not later than 1 year after rejection by a vote
25 of either House of Congress, domestic commercial

1 airline passengers seeking to board an aircraft shall
2 present, for identification purposes—

3 (A) a valid, unexpired passport;

4 (B) domestically issued documents that the
5 Secretary of Homeland Security designates as
6 reliable for identification purposes;

7 (C) any document issued by the Attorney
8 General or the Secretary of Homeland Security
9 under the authority of 1 of the immigration
10 laws (as defined under section 101(a)(17) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1101(a)(17)); or

13 (D) a document issued by the country of
14 nationality of any alien not required to possess
15 a passport for admission to the United States
16 that the Secretary designates as reliable for
17 identifications purposes

18 (2) EXCEPTION.—The documentary require-
19 ments described in paragraph (1)—

20 (A) shall not apply to individuals below the
21 age of 17, or such other age as determined by
22 the Secretary of Homeland Security;

23 (B) may be waived by the Secretary of
24 Homeland Security in the case of an unforeseen
25 medical emergency.

1 (d) RECOMMENDATION TO CONGRESS.—Not later
2 than 1 year after the date of enactment of this Act, the
3 Secretary of Homeland Security shall recommend to
4 Congress—

5 (1) categories of Federal facilities that the Sec-
6 retary determines to be at risk for terrorist attack
7 and requiring minimum identification standards for
8 access to such facilities; and

9 (2) appropriate minimum identification stand-
10 ards to gain access to those facilities.

11 **Subtitle C—National Preparedness**

12 **SEC. 7301. THE INCIDENT COMMAND SYSTEM.**

13 (a) FINDINGS.—Consistent with the report of the Na-
14 tional Commission on Terrorist Attacks Upon the United
15 States, Congress makes the following findings:

16 (1) The attacks on September 11, 2001, dem-
17 onstrated that even the most robust emergency re-
18 sponse capabilities can be overwhelmed if an attack
19 is large enough.

20 (2) Teamwork, collaboration, and cooperation
21 at an incident site are critical to a successful re-
22 sponse to a terrorist attack.

23 (3) Key decisionmakers who are represented at
24 the incident command level help to ensure an effec-

1 tive response, the efficient use of resources, and re-
2 sponder safety.

3 (4) The incident command system also enables
4 emergency managers and first responders to man-
5 age, generate, receive, evaluate, share, and use infor-
6 mation.

7 (5) Regular joint training at all levels is essen-
8 tial to ensuring close coordination during an actual
9 incident.

10 (6) In Homeland Security Presidential Directive
11 5, the President directed the Secretary of Homeland
12 Security to develop an incident command system, to
13 be known as the National Incident Management Sys-
14 tem (NIMS), and directed all Federal agencies to
15 make the adoption of NIMS a condition for the re-
16 ceipt of Federal emergency preparedness assistance
17 by States, territories, tribes, and local governments
18 beginning in fiscal year 2005.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that—

21 (1) the United States needs to implement the
22 recommendations of the National Commission on
23 Terrorist Attacks Upon the United States by adopt-
24 ing a unified incident command system and signifi-
25 cantly enhancing communications connectivity be-

1 tween and among all levels of government agencies,
2 emergency response providers (as defined in section
3 2 of the Homeland Security Act of 2002 (6 U.S.C.
4 101), and other organizations with emergency re-
5 sponse capabilities;

6 (2) the unified incident command system should
7 enable emergency managers and first responders to
8 manage, generate, receive, evaluate, share, and use
9 information in the event of a terrorist attack or a
10 significant national disaster;

11 (3) emergency response agencies nationwide
12 should adopt the Incident Command System known
13 as NIMS;

14 (4) when multiple agencies or multiple jurisdic-
15 tions are involved, they should follow a unified com-
16 mand system based on NIMS;

17 (5) the regular use of, and training in, NIMS
18 by States and, to the extent practicable, territories,
19 tribes, and local governments, should be a condition
20 for receiving Federal preparedness assistance; and

21 (6) the Secretary of Homeland Security should
22 require, as a further condition of receiving homeland
23 security preparedness funds from the Office of State
24 and Local Government Coordination and Prepared-
25 ness, that grant applicants document measures

1 taken to fully and aggressively implement the Inci-
2 dent Command System and unified command proce-
3 dures.

4 **SEC. 7302. NATIONAL CAPITAL REGION MUTUAL AID.**

5 (a) DEFINITIONS.—In this section:

6 (1) AUTHORIZED REPRESENTATIVE OF THE
7 FEDERAL GOVERNMENT.—The term “authorized
8 representative of the Federal Government” means
9 any individual or individuals designated by the
10 President with respect to the executive branch, the
11 Chief Justice with respect to the Federal judiciary,
12 or the President of the Senate and Speaker of the
13 House of Representatives with respect to Congress,
14 or their designees, to request assistance under a mu-
15 tual aid agreement for an emergency or public serv-
16 ice event.

17 (2) CHIEF OPERATING OFFICER.—The term
18 “chief operating officer” means the official des-
19 ignated by law to declare an emergency in and for
20 the locality of that chief operating officer.

21 (3) EMERGENCY.—The term “emergency”
22 means a major disaster or emergency declared by
23 the President, or a state of emergency declared by
24 the mayor of the District of Columbia, the Governor
25 of the State of Maryland or the Commonwealth of

1 Virginia, or the declaration of a local emergency by
2 the chief operating officer of a locality, or their des-
3 ignees, that triggers mutual aid under the terms of
4 a mutual aid agreement.

5 (4) EMPLOYEE.—The term “employee” means
6 the employees of the party, including its agents or
7 authorized volunteers, who are committed in a mu-
8 tual aid agreement to prepare for or who respond to
9 an emergency or public service event.

10 (5) LOCALITY.—The term “locality” means a
11 county, city, or town within the State of Maryland
12 or the Commonwealth of Virginia and within the
13 National Capital Region.

14 (6) MUTUAL AID AGREEMENT.—The term “mu-
15 tual aid agreement” means an agreement, author-
16 ized under subsection (b), for the provision of police,
17 fire, rescue and other public safety and health or
18 medical services to any party to the agreement dur-
19 ing a public service event, an emergency, or pre-
20 planned training event.

21 (7) NATIONAL CAPITAL REGION OR REGION.—
22 The term “National Capital Region” or “Region”
23 means the area defined under section 2674(f)(2) of
24 title 10, United States Code, and those counties with

1 a border abutting that area and any municipalities
2 therein.

3 (8) PARTY.—The term “party” means the
4 State of Maryland, the Commonwealth of Virginia,
5 the District of Columbia, and any of the localities
6 duly executing a Mutual Aid Agreement under this
7 section.

8 (9) PUBLIC SERVICE EVENT.—The term “pub-
9 lic service event”—

10 (A) means any undeclared emergency, inci-
11 dent or situation in preparation for or response
12 to which the mayor of the District of Columbia,
13 an authorized representative of the Federal
14 Government, the Governor of the State of
15 Maryland, the Governor of the Commonwealth
16 of Virginia, or the chief operating officer of a
17 locality in the National Capital Region, or their
18 designees, requests or provides assistance under
19 a Mutual Aid Agreement within the National
20 Capital Region; and

21 (B) includes Presidential inaugurations,
22 public gatherings, demonstrations and protests,
23 and law enforcement, fire, rescue, emergency
24 health and medical services, transportation,
25 communications, public works and engineering,

1 mass care, and other support that require
2 human resources, equipment, facilities or serv-
3 ices supplemental to or greater than the re-
4 questing jurisdiction can provide.

5 (10) STATE.—The term “State” means the
6 State of Maryland, the Commonwealth of Virginia,
7 and the District of Columbia.

8 (11) TRAINING.—The term “training” means
9 emergency and public service event-related exercises,
10 testing, or other activities using equipment and per-
11 sonnel to simulate performance of any aspect of the
12 giving or receiving of aid by National Capital Region
13 jurisdictions during emergencies or public service
14 events, such actions occurring outside actual emer-
15 gency or public service event periods.

16 (b) MUTUAL AID AUTHORIZED.—

17 (1) IN GENERAL.—The mayor of the District of
18 Columbia, any authorized representative of the Fed-
19 eral Government, the Governor of the State of Mary-
20 land, the Governor of the Commonwealth of Vir-
21 ginia, or the chief operating officer of a locality, or
22 their designees, acting within his or her jurisdic-
23 tional purview, may, in accordance with State law,
24 enter into, request or provide assistance under mu-
25 tual aid agreements with localities, the Washington

1 Metropolitan Area Transit Authority, the Metropoli-
2 tan Washington Airports Authority, and any other
3 governmental agency or authority for—

4 (A) law enforcement, fire, rescue, emer-
5 gency health and medical services, transpor-
6 tation, communications, public works and engi-
7 neering, mass care, and resource support in an
8 emergency or public service event;

9 (B) preparing for, mitigating, managing,
10 responding to or recovering from any emer-
11 gency or public service event; and

12 (C) training for any of the activities de-
13 scribed under subparagraphs (A) and (B).

14 (2) FACILITATING LOCALITIES.—The State of
15 Maryland and the Commonwealth of Virginia are en-
16 couraged to facilitate the ability of localities to enter
17 into interstate mutual aid agreements in the Na-
18 tional Capital Region under this section.

19 (3) APPLICATION AND EFFECT.—This section—

20 (A) does not apply to law enforcement se-
21 curity operations at special events of national
22 significance under section 3056(e) of title 18,
23 United States Code, or other law enforcement
24 functions of the United States Secret Service;

1 (B) does not diminish any authorities, ex-
2 press or implied, of Federal agencies to enter
3 into mutual aid agreements in furtherance of
4 their Federal missions; and

5 (C) does not—

6 (i) preclude any party from entering
7 into supplementary Mutual Aid Agree-
8 ments with fewer than all the parties, or
9 with another party; or

10 (ii) affect any other agreement in ef-
11 fect before the date of enactment of this
12 Act among the States and localities, in-
13 cluding the Emergency Management As-
14 sistance Compact.

15 (4) RIGHTS DESCRIBED.—Other than as de-
16 scribed in this section, the rights and responsibilities
17 of the parties to a mutual aid agreement entered
18 into under this section shall be as described in the
19 mutual aid agreement.

20 (c) DISTRICT OF COLUMBIA.—

21 (1) IN GENERAL.—The District of Columbia
22 may purchase liability and indemnification insurance
23 or become self insured against claims arising under
24 a mutual aid agreement authorized under this sec-
25 tion.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out paragraph (1).

4 (d) LIABILITY AND ACTIONS AT LAW.—

5 (1) IN GENERAL.—Any responding party or its
6 officers or employees rendering aid or failing to
7 render aid to the District of Columbia, the Federal
8 Government, the State of Maryland, the Common-
9 wealth of Virginia, or a locality, under a mutual aid
10 agreement authorized under this section, and any
11 party or its officers or employees engaged in training
12 activities with another party under such a mutual
13 aid agreement, shall be liable on account of any act
14 or omission of its officers or employees while so en-
15 gaged or on account of the maintenance or use of
16 any related equipment, facilities, or supplies, but
17 only to the extent permitted under the laws and pro-
18 cedures of the State of the party rendering aid.

19 (2) ACTIONS.—Any action brought against a
20 party or its officers or employees on account of an
21 act or omission in the rendering of aid to the Dis-
22 trict of Columbia, the Federal Government, the
23 State of Maryland, the Commonwealth of Virginia,
24 or a locality, or failure to render such aid or on ac-
25 count of the maintenance or use of any related

1 equipment, facilities, or supplies may be brought
2 only under the laws and procedures of the State of
3 the party rendering aid and only in the Federal or
4 State courts located therein. Actions against the
5 United States under this section may be brought
6 only in Federal courts.

7 (3) IMMUNITIES.—This section shall not abro-
8 gate any other immunities from liability that any
9 party has under any other Federal or State law.

10 (e) WORKERS COMPENSATION.—

11 (1) COMPENSATION.—Each party shall provide
12 for the payment of compensation and death benefits
13 to injured members of the emergency forces of that
14 party and representatives of deceased members of
15 such forces if such members sustain injuries or are
16 killed while rendering aid to the District of Colum-
17 bia, the Federal Government, the State of Maryland,
18 the Commonwealth of Virginia, or a locality, under
19 a mutual aid agreement, or engaged in training ac-
20 tivities under a mutual aid agreement, in the same
21 manner and on the same terms as if the injury or
22 death were sustained within their own jurisdiction.

23 (2) OTHER STATE LAW.—No party shall be lia-
24 ble under the law of any State other than its own
25 for providing for the payment of compensation and

1 death benefits to injured members of the emergency
2 forces of that party and representatives of deceased
3 members of such forces if such members sustain in-
4 juries or are killed while rendering aid to the Dis-
5 trict of Columbia, the Federal Government, the
6 State of Maryland, the Commonwealth of Virginia,
7 or a locality, under a mutual aid agreement or en-
8 gaged in training activities under a mutual aid
9 agreement.

10 (f) LICENSES AND PERMITS.—If any person holds a
11 license, certificate, or other permit issued by any respond-
12 ing party evidencing the meeting of qualifications for pro-
13 fessional, mechanical, or other skills and assistance is re-
14 quested by a receiving jurisdiction, such person will be
15 deemed licensed, certified, or permitted by the receiving
16 jurisdiction to render aid involving such skill to meet a
17 public service event, emergency or training for any such
18 events.

19 **SEC. 7303. ENHANCEMENT OF PUBLIC SAFETY COMMU-**
20 **NICATIONS INTEROPERABILITY.**

21 (a) COORDINATION OF PUBLIC SAFETY INTEROPER-
22 ABLE COMMUNICATIONS PROGRAMS.—

23 (1) PROGRAM.—The Secretary of Homeland Se-
24 curity, in consultation with the Secretary of Com-
25 merce and the Chairman of the Federal Communica-

1 tions Commission, shall establish a program to en-
2 hance public safety interoperable communications at
3 all levels of government. Such program shall—

4 (A) establish a comprehensive national ap-
5 proach to achieving public safety interoperable
6 communications;

7 (B) coordinate with other Federal agencies
8 in carrying out subparagraph (A);

9 (C) develop, in consultation with other ap-
10 appropriate Federal agencies and State and local
11 authorities, appropriate minimum capabilities
12 for communications interoperability for Federal,
13 State, and local public safety agencies;

14 (D) accelerate, in consultation with other
15 Federal agencies, including the National Insti-
16 tute of Standards and Technology, the private
17 sector, and nationally recognized standards or-
18 ganizations as appropriate, the development of
19 national voluntary consensus standards for pub-
20 lic safety interoperable communications,
21 recognizing—

22 (i) the value, life cycle, and technical
23 capabilities of existing communications in-
24 frastructure;

1 (ii) the need for cross-border inter-
2 operability between States and nations;

3 (iii) the unique needs of small, rural
4 communities; and

5 (iv) the interoperability needs for
6 daily operations and catastrophic events;

7 (E) encourage the development and imple-
8 mentation of flexible and open architectures in-
9 corporating, where possible, technologies that
10 currently are commercially available, with ap-
11 propriate levels of security, for short-term and
12 long-term solutions to public safety communica-
13 tions interoperability;

14 (F) assist other Federal agencies in identi-
15 fying priorities for research, development, and
16 testing and evaluation with regard to public
17 safety interoperable communications;

18 (G) identify priorities within the Depart-
19 ment of Homeland Security for research, devel-
20 opment, and testing and evaluation with regard
21 to public safety interoperable communications;

22 (H) establish coordinated guidance for
23 Federal grant programs for public safety inter-
24 operable communications;

1 (I) provide technical assistance to State
2 and local public safety agencies regarding plan-
3 ning, acquisition strategies, interoperability ar-
4 chitectures, training, and other functions nec-
5 essary to achieve public safety communications
6 interoperability;

7 (J) develop and disseminate best practices
8 to improve public safety communications inter-
9 operability; and

10 (K) develop appropriate performance meas-
11 ures and milestones to systematically measure
12 the Nation's progress toward achieving public
13 safety communications interoperability, includ-
14 ing the development of national voluntary con-
15 sensus standards.

16 (2) OFFICE FOR INTEROPERABILITY AND COM-
17 PATIBILITY.—

18 (A) ESTABLISHMENT OF OFFICE.—The
19 Secretary may establish an Office for Interoper-
20 ability and Compatibility within the Directorate
21 of Science and Technology to carry out this
22 subsection.

23 (B) FUNCTIONS.—If the Secretary estab-
24 lishes such office, the Secretary shall, through
25 such office—

1 (i) carry out Department of Home-
2 land Security responsibilities and authori-
3 ties relating to the SAFECOM Program;
4 and

5 (ii) carry out section 510 of the
6 Homeland Security Act of 2002, as added
7 by subsection (d).

8 (3) AUTHORIZATION OF APPROPRIATIONS.—

9 There are authorized to be appropriated to the Sec-
10 retary to carry out this subsection—

11 (A) \$22,105,000 for fiscal year 2005;

12 (B) \$22,768,000 for fiscal year 2006;

13 (C) \$23,451,000 for fiscal year 2007;

14 (D) \$24,155,000 for fiscal year 2008; and

15 (E) \$24,879,000 for fiscal year 2009.

16 (b) REPORT.—Not later than 120 days after the date
17 of enactment of this Act, the Secretary shall report to the
18 Congress on Department of Homeland Security plans for
19 accelerating the development of national voluntary con-
20 sensus standards for public safety interoperable commu-
21 nications, a schedule of milestones for such development,
22 and achievements of such development.

23 (c) INTERNATIONAL INTEROPERABILITY.—Not later
24 than 18 months after the date of enactment of this Act,

1 the President shall establish a mechanism for coordinating
2 cross-border interoperability issues between—

3 (1) the United States and Canada; and

4 (2) the United States and Mexico.

5 (d) HIGH RISK AREA COMMUNICATIONS CAPABILI-
6 TIES.—Title V of the Homeland Security Act of 2002 (6
7 U.S.C. 311 et seq.) is amended by adding at the end the
8 following:

9 **“SEC. 510. URBAN AND OTHER HIGH RISK AREA COMMU-
10 NICATIONS CAPABILITIES.**

11 “(a) IN GENERAL.—The Secretary, in consultation
12 with the Federal Communications Commission and the
13 Secretary of Defense, and with appropriate governors,
14 mayors, and other State and local government officials,
15 shall provide technical guidance, training, and other as-
16 sistance, as appropriate, to support the rapid establish-
17 ment of consistent, secure, and effective interoperable
18 communications capabilities in the event of an emergency
19 in urban and other areas determined by the Secretary to
20 be at consistently high levels of risk from terrorist attack.

21 “(b) MINIMUM CAPABILITIES.—The interoperable
22 communications capabilities established under subsection
23 (a) shall ensure the ability of all levels of government
24 agencies, emergency response providers (as defined in sec-
25 tion 2 of the Homeland Security Act of 2002 (6 U.S.C.

1 101)), and other organizations with emergency response
2 capabilities—

3 “(1) to communicate with each other in the
4 event of an emergency; and

5 “(2) to have appropriate and timely access to
6 the Information Sharing Environment described in
7 section 1016 of the National Security Intelligence
8 Reform Act of 2004.”.

9 (e) MULTIYEAR INTEROPERABILITY GRANTS.—

10 (1) MULTIYEAR COMMITMENTS.—In awarding
11 grants to any State, region, local government, or In-
12 dian tribe for the purposes of enhancing interoper-
13 able communications capabilities for emergency re-
14 sponse providers, the Secretary may commit to obli-
15 gate Federal assistance beyond the current fiscal
16 year, subject to the limitations and restrictions in
17 this subsection.

18 (2) RESTRICTIONS.—

19 (A) TIME LIMIT.—No multiyear interoper-
20 ability commitment may exceed 3 years in dura-
21 tion.

22 (B) AMOUNT OF COMMITTED FUNDS.—
23 The total amount of assistance the Secretary
24 has committed to obligate for any future fiscal

1 year under paragraph (1) may not exceed
2 \$150,000,000.

3 (3) LETTERS OF INTENT.—

4 (A) ISSUANCE.—Pursuant to paragraph
5 (1), the Secretary may issue a letter of intent
6 to an applicant committing to obligate from fu-
7 ture budget authority an amount, not more
8 than the Federal Government's share of the
9 project's cost, for an interoperability commu-
10 nications project (including interest costs and
11 costs of formulating the project).

12 (B) SCHEDULE.—A letter of intent under
13 this paragraph shall establish a schedule under
14 which the Secretary will reimburse the appli-
15 cant for the Federal Government's share of the
16 project's costs, as amounts become available, if
17 the applicant, after the Secretary issues the let-
18 ter, carries out the project before receiving
19 amounts under a grant issued by the Secretary.

20 (C) NOTICE TO SECRETARY.—An applicant
21 that is issued a letter of intent under this sub-
22 section shall notify the Secretary of the appli-
23 cant's intent to carry out a project pursuant to
24 the letter before the project begins.

1 (D) NOTICE TO CONGRESS.—The Sec-
2 retary shall transmit a written notification to
3 the Congress no later than 3 days before the
4 issuance of a letter of intent under this section.

5 (E) LIMITATIONS.—A letter of intent
6 issued under this section is not an obligation of
7 the Government under section 1501 of title 31,
8 United States Code, and is not deemed to be an
9 administrative commitment for financing. An
10 obligation or administrative commitment may
11 be made only as amounts are provided in au-
12 thorization and appropriations laws.

13 (F) STATUTORY CONSTRUCTION.—Nothing
14 in this subsection shall be construed—

15 (i) to prohibit the obligation of
16 amounts pursuant to a letter of intent
17 under this subsection in the same fiscal
18 year as the letter of intent is issued; or

19 (ii) to apply to, or replace, Federal as-
20 sistance intended for interoperable commu-
21 nications that is not provided pursuant to
22 a commitment under this subsection.

23 (f) INTEROPERABLE COMMUNICATIONS PLANS.—
24 Any applicant requesting funding assistance from the Sec-
25 retary for interoperable communications for emergency re-

1 sponse providers shall submit an Interoperable Commu-
2 nications Plan to the Secretary for approval. Such a plan
3 shall—

4 (1) describe the current state of communica-
5 tions interoperability in the applicable jurisdictions
6 among Federal, State, and local emergency response
7 providers and other relevant private resources;

8 (2) describe the available and planned use of
9 public safety frequency spectrum and resources for
10 interoperable communications within such jurisdic-
11 tions;

12 (3) describe how the planned use of spectrum
13 and resources for interoperable communications is
14 compatible with surrounding capabilities and inter-
15 operable communications plans of Federal, State,
16 and local governmental entities, military installa-
17 tions, foreign governments, critical infrastructure,
18 and other relevant entities;

19 (4) include a 5-year plan for the dedication of
20 Federal, State, and local government and private re-
21 sources to achieve a consistent, secure, and effective
22 interoperable communications system, including
23 planning, system design and engineering, testing and
24 technology development, procurement and installa-
25 tion, training, and operations and maintenance; and

1 (5) describe how such 5-year plan meets or ex-
2 ceeds any applicable standards and grant require-
3 ments established by the Secretary.

4 (g) DEFINITIONS.—In this section:

5 (1) INTEROPERABLE COMMUNICATIONS.—The
6 term “interoperable communications” means the
7 ability of emergency response providers and relevant
8 Federal, State, and local government agencies to
9 communicate with each other as necessary, through
10 a dedicated public safety network utilizing informa-
11 tion technology systems and radio communications
12 systems, and to exchange voice, data, or video with
13 one another on demand, in real time, as necessary.

14 (2) EMERGENCY RESPONSE PROVIDERS.—The
15 term “emergency response providers” has the mean-
16 ing that term has under section 2 of the Homeland
17 Security Act of 2002 (6 U.S.C. 101).

18 (h) CLARIFICATION OF RESPONSIBILITY FOR INTER-
19 OPERABLE COMMUNICATIONS.—

20 (1) UNDER SECRETARY FOR EMERGENCY PRE-
21 PAREDNESS AND RESPONSE.—Section 502(7) of the
22 Homeland Security Act of 2002 (6 U.S.C. 312(7))
23 is amended—

1 (A) by striking “developing comprehensive
2 programs for developing interoperative commu-
3 nications technology, and”; and

4 (B) by striking “such” and inserting
5 “interoperable communications”.

6 (2) OFFICE FOR DOMESTIC PREPAREDNESS.—
7 Section 430(c) of such Act (6 U.S.C. 238(c)) is
8 amended—

9 (A) in paragraph (7) by striking “and”
10 after the semicolon;

11 (B) in paragraph (8) by striking the period
12 and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(9) helping to ensure the acquisition of inter-
15 operable communication technology by State and
16 local governments and emergency response pro-
17 viders.”.

18 (i) SENSE OF CONGRESS REGARDING INTEROPER-
19 ABLE COMMUNICATIONS.—

20 (1) FINDING.—The Congress finds that—

21 (A) many first responders working in the
22 same jurisdiction or in different jurisdictions
23 cannot effectively and efficiently communicate
24 with one another; and

1 (B) their inability to do so threatens the
2 public's safety and may result in unnecessary
3 loss of lives and property.

4 (2) SENSE OF CONGRESS.—It is the sense of
5 Congress that interoperable emergency communica-
6 tions systems and radios should continue to be de-
7 ployed as soon as practicable for use by the first re-
8 sponder community, and that upgraded and new dig-
9 ital communications systems and new digital radios
10 must meet prevailing national, voluntary consensus
11 standards for interoperability.

12 **SEC. 7304. REGIONAL MODEL STRATEGIC PLAN PILOT**
13 **PROJECTS.**

14 (a) PILOT PROJECTS.—Consistent with sections 302
15 and 430 of the Homeland Security Act of 2002 (6 U.S.C.
16 182, 238), not later than 90 days after the date of enact-
17 ment of this Act, the Secretary of Homeland Security shall
18 establish not fewer than 2 pilot projects in high threat
19 urban areas or regions that are likely to implement a na-
20 tional model strategic plan.

21 (b) PURPOSES.—The purposes of the pilot projects
22 required by this section shall be to develop a regional stra-
23 tegic plan to foster interagency communication in the area
24 in which it is established and coordinate the gathering of
25 all Federal, State, and local first responders in that area,

1 consistent with the national strategic plan developed by
2 the Department of Homeland Security.

3 (c) SELECTION CRITERIA.—In selecting urban areas
4 for the location of pilot projects under this section, the
5 Secretary shall consider—

6 (1) the level of risk to the area, as determined
7 by the Department of Homeland Security;

8 (2) the number of Federal, State, and local law
9 enforcement agencies located in the area;

10 (3) the number of potential victims from a large
11 scale terrorist attack in the area; and

12 (4) such other criteria reflecting a community's
13 risk and vulnerability as the Secretary determines is
14 appropriate.

15 (d) INTERAGENCY ASSISTANCE.—The Secretary of
16 Homeland Security shall consult with the Secretary of De-
17 fense as necessary for the development of the pilot projects
18 required by this section, including examining relevant
19 standards, equipment, and protocols in order to improve
20 interagency communication among first responders.

21 (e) REPORTS TO CONGRESS.—The Secretary of
22 Homeland Security shall submit to Congress—

23 (1) an interim report regarding the progress of
24 the interagency communications pilot projects re-

1 quired by this section 6 months after the date of en-
2 actment of this Act; and

3 (2) a final report 18 months after that date of
4 enactment.

5 (f) FUNDING.—There are authorized to be made
6 available to the Secretary of Homeland Security, such
7 sums as may be necessary to carry out this section.

8 **SEC. 7305. PRIVATE SECTOR PREPAREDNESS.**

9 (a) FINDINGS.—Consistent with the report of the Na-
10 tional Commission on Terrorist Attacks Upon the United
11 States, Congress makes the following findings:

12 (1) Private sector organizations own 85 percent
13 of the Nation's critical infrastructure and employ
14 the vast majority of the Nation's workers.

15 (2) Preparedness in the private sector and pub-
16 lic sector for rescue, restart and recovery of oper-
17 ations should include, as appropriate—

18 (A) a plan for evacuation;

19 (B) adequate communications capabilities;

20 and

21 (C) a plan for continuity of operations.

22 (3) The American National Standards Institute
23 recommends a voluntary national preparedness
24 standard for the private sector based on the existing
25 American National Standard on Disaster/Emergency

1 Management and Business Continuity Programs
2 (NFPA 1600), with appropriate modifications. This
3 standard establishes a common set of criteria and
4 terminology for preparedness, disaster management,
5 emergency management, and business continuity
6 programs.

7 (4) The mandate of the Department of Home-
8 land Security extends to working with the private
9 sector, as well as government entities.

10 (b) SENSE OF CONGRESS ON PRIVATE SECTOR PRE-
11 PAREDNESS.—It is the sense of Congress that the Sec-
12 retary of Homeland Security should promote, where ap-
13 propriate, the adoption of voluntary national preparedness
14 standards such as the private sector preparedness stand-
15 ard developed by the American National Standards Insti-
16 tute and based on the National Fire Protection Associa-
17 tion 1600 Standard on Disaster/Emergency Management
18 and Business Continuity Programs.

19 **SEC. 7306. CRITICAL INFRASTRUCTURE AND READINESS**
20 **ASSESSMENTS.**

21 (a) FINDINGS.—Congress makes the following find-
22 ings:

23 (1) Under section 201 of the Homeland Secu-
24 rity Act of 2002 (6 U.S.C 121), the Department of
25 Homeland Security, through the Under Secretary

1 for Information Analysis and Infrastructure Protec-
2 tion, has the responsibility—

3 (A) to carry out comprehensive assess-
4 ments of the vulnerabilities of the key resources
5 and critical infrastructure of the United States,
6 including the performance of risk assessments
7 to determine the risks posed by particular types
8 of terrorist attacks within the United States;

9 (B) to identify priorities for protective and
10 supportive measures; and

11 (C) to develop a comprehensive national
12 plan for securing the key resources and critical
13 infrastructure of the United States.

14 (2) Under Homeland Security Presidential Di-
15 rective 7, issued on December 17, 2003, the Sec-
16 retary of Homeland Security was given 1 year to de-
17 velop a comprehensive plan to identify, prioritize,
18 and coordinate the protection of critical infrastruc-
19 ture and key resources.

20 (3) The report of the National Commission on
21 Terrorist Attacks Upon the United States rec-
22 ommended that the Secretary of Homeland Security
23 should—

24 (A) identify those elements of the United
25 States' transportation, energy, communications,

1 financial, and other institutions that need to be
2 protected;

3 (B) develop plans to protect that infra-
4 structure; and

5 (C) exercise mechanisms to enhance pre-
6 paredness.

7 (b) REPORTS ON RISK ASSESSMENT AND READI-
8 NESS.—Not later than 180 days after the date of enact-
9 ment of this Act, and in conjunction with the reporting
10 requirements of Public Law 108–330, the Secretary of
11 Homeland Security shall submit a report to Congress on—

12 (1) the Department of Homeland Security’s
13 progress in completing vulnerability and risk assess-
14 ments of the Nation’s critical infrastructure;

15 (2) the adequacy of the Government’s plans to
16 protect such infrastructure; and

17 (3) the readiness of the Government to respond
18 to threats against the United States.

19 **SEC. 7307. NORTHERN COMMAND AND DEFENSE OF THE**
20 **UNITED STATES HOMELAND.**

21 It is the sense of Congress that the Secretary of De-
22 fense should regularly assess the adequacy of the plans
23 and strategies of the United States Northern Command
24 with a view to ensuring that the United States Northern
25 Command is prepared to respond effectively to all military

1 and paramilitary threats within the United States, should
2 it be called upon to do so by the President.

3 **SEC. 7308. EFFECTIVE DATE.**

4 Notwithstanding any other provision of this Act, this
5 subtitle shall take effect on the date of enactment of this
6 Act.

7 **Subtitle D—Homeland Security**

8 **SEC. 7401. SENSE OF CONGRESS ON FIRST RESPONDER**
9 **FUNDING.**

10 It is the sense of Congress that Congress must pass
11 legislation in the first session of the 109th Congress to
12 reform the system for distributing grants to enhance State
13 and local government prevention of, preparedness for, and
14 response to acts of terrorism.

15 **SEC. 7402. COORDINATION OF INDUSTRY EFFORTS.**

16 Section 102(f) of the Homeland Security Act of 2002
17 (Public Law 107–296; 6 U.S.C. 112(f)) is amended—

18 (1) in paragraph (6), by striking “and” at the
19 end;

20 (2) in paragraph (7), by striking the period at
21 the end and inserting a semicolon; and

22 (3) by adding at the end the following:

23 “(8) coordinating industry efforts, with respect
24 to functions of the Department of Homeland Secu-
25 rity, to identify private sector resources and capabili-

1 ties that could be effective in supplementing Federal,
2 State, and local government agency efforts to pre-
3 vent or respond to a terrorist attack;

4 “(9) coordinating with the Directorate of Bor-
5 der and Transportation Security and the Assistant
6 Secretary for Trade Development of the Department
7 of Commerce on issues related to the travel and
8 tourism industries; and

9 “(10) consulting with the Office of State and
10 Local Government Coordination and Preparedness
11 on all matters of concern to the private sector, in-
12 cluding the tourism industry.”.

13 **SEC. 7403. STUDY REGARDING NATIONWIDE EMERGENCY**
14 **NOTIFICATION SYSTEM.**

15 (a) **STUDY.**—The Secretary of Homeland Security, in
16 coordination with the Chairman of the Federal Commu-
17 nications Commission, and in consultation with the heads
18 of other appropriate Federal agencies and representatives
19 of providers and participants in the telecommunications
20 industry, shall conduct a study to determine whether it
21 is cost-effective, efficient, and feasible to establish and im-
22 plement an emergency telephonic alert notification system
23 that will—

1 Security may issue public warnings regarding threats to
2 homeland security using a warning system that is similar
3 to the AMBER Alert communications network.

4 (b) REPORT.—Not later than 9 months after the date
5 of enactment of this Act, the Secretary of Homeland Secu-
6 rity shall submit to Congress a report regarding the find-
7 ings, conclusions, and recommendations of the pilot study.

8 (c) PROHIBITION ON USE OF HIGHWAY TRUST
9 FUND.—No funds derived from the Highway Trust Fund
10 may be transferred to, made available to, or obligated by
11 the Secretary of Homeland Security to carry out this sec-
12 tion

13 **SEC. 7405. REQUIRED COORDINATION.**

14 The Secretary of Homeland Security shall ensure
15 that there is effective and ongoing coordination of Federal
16 efforts to prevent, prepare for, and respond to acts of ter-
17 rorism and other major disasters and emergencies among
18 the divisions of the Department of Homeland Security, in-
19 cluding the Directorate of Emergency Preparedness and
20 Response and the Office for State and Local Government
21 Coordination and Preparedness.

22 **SEC. 7406. EMERGENCY PREPAREDNESS COMPACTS.**

23 Section 611(h) of the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act (42 U.S.C. 5196(h))
25 is amended—

1 (1) by redesignating paragraphs (1), (2), and
2 (3) as paragraphs (2), (3), and (4), respectively;

3 (2) by indenting paragraph (2) (as so redesign-
4 nated); and

5 (3) by striking the subsection designation and
6 heading and inserting the following:

7 “(h) EMERGENCY PREPAREDNESS COMPACTS.—(1)
8 The Director shall establish a program supporting the de-
9 velopment of emergency preparedness compacts for acts
10 of terrorism, disasters, and emergencies throughout the
11 Nation, by—

12 “(A) identifying and cataloging existing emer-
13 gency preparedness compacts for acts of terrorism,
14 disasters, and emergencies at the State and local lev-
15 els of government;

16 “(B) disseminating to State and local govern-
17 ments examples of best practices in the development
18 of emergency preparedness compacts and models of
19 existing emergency preparedness compacts, including
20 agreements involving interstate jurisdictions; and

21 “(C) completing an inventory of Federal re-
22 sponse capabilities for acts of terrorism, disasters,
23 and emergencies, making such inventory available to
24 appropriate Federal, State, and local government of-

1 officials, and ensuring that such inventory is as cur-
2 rent and accurate as practicable.”.

3 **SEC. 7407. RESPONSIBILITIES OF COUNTERNARCOTICS OF-**
4 **FICE.**

5 (a) AMENDMENT.—Section 878 of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 458) is amended to read
7 as follows:

8 **“SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCE-**
9 **MENT.**

10 “(a) OFFICE.—There is established in the Depart-
11 ment an Office of Counternarcotics Enforcement, which
12 shall be headed by a Director appointed by the President,
13 by and with the advice and consent of the Senate.

14 “(b) ASSIGNMENT OF PERSONNEL.—

15 “(1) IN GENERAL.—The Secretary shall assign
16 permanent staff to the Office, consistent with effec-
17 tive management of Department resources.

18 “(2) LIAISONS.—The Secretary shall designate
19 senior employees from each appropriate subdivision
20 of the Department that has significant counter-
21 narcotics responsibilities to act as a liaison between
22 that subdivision and the Office of Counternarcotics
23 Enforcement.

24 “(c) LIMITATION ON CONCURRENT EMPLOYMENT.—
25 Except as provided in subsection (d), the Director of the

1 Office of Counternarcotics Enforcement shall not be em-
2 ployed by, assigned to, or serve as the head of, any other
3 branch of the Federal Government, any State or local gov-
4 ernment, or any subdivision of the Department other than
5 the Office of Counternarcotics Enforcement.

6 “(d) ELIGIBILITY TO SERVE AS THE UNITED
7 STATES INTERDICTION COORDINATOR.—The Director of
8 the Office of Counternarcotics Enforcement may be ap-
9 pointed as the United States Interdiction Coordinator by
10 the Director of the Office of National Drug Control Policy,
11 and shall be the only person at the Department eligible
12 to be so appointed.

13 “(e) RESPONSIBILITIES.—The Secretary shall direct
14 the Director of the Office of Counternarcotics
15 Enforcement—

16 “(1) to coordinate policy and operations within
17 the Department, between the Department and other
18 Federal departments and agencies, and between the
19 Department and State and local agencies with re-
20 spect to stopping the entry of illegal drugs into the
21 United States;

22 “(2) to ensure the adequacy of resources within
23 the Department for stopping the entry of illegal
24 drugs into the United States;

1 “(3) to recommend the appropriate financial
2 and personnel resources necessary to help the De-
3 partment better fulfill its responsibility to stop the
4 entry of illegal drugs into the United States;

5 “(4) within the Joint Terrorism Task Force
6 construct to track and sever connections between il-
7 legal drug trafficking and terrorism; and

8 “(5) to be a representative of the Department
9 on all task forces, committees, or other entities
10 whose purpose is to coordinate the counternarcotics
11 enforcement activities of the Department and other
12 Federal, State or local agencies.

13 “(f) SAVINGS CLAUSE.—Nothing in this section shall
14 be construed to authorize direct control of the operations
15 conducted by the Directorate of Border and Transpor-
16 tation Security, the Coast Guard, or joint terrorism task
17 forces.

18 “(g) REPORTS TO CONGRESS.—

19 “(1) ANNUAL BUDGET REVIEW.—The Director
20 of the Office of Counternarcotics Enforcement shall,
21 not later than 30 days after the submission by the
22 President to Congress of any request for expendi-
23 tures for the Department, submit to the Committees
24 on Appropriations and the authorizing committees of
25 jurisdiction of the House of Representatives and the

1 Senate a review and evaluation of such request. The
2 review and evaluation shall—

3 “(A) identify any request or subpart of any
4 request that affects or may affect the counter-
5 narcotics activities of the Department or any of
6 its subdivisions, or that affects the ability of the
7 Department or any subdivision of the Depart-
8 ment to meet its responsibility to stop the entry
9 of illegal drugs into the United States;

10 “(B) describe with particularity how such
11 requested funds would be or could be expended
12 in furtherance of counternarcotics activities;
13 and

14 “(C) compare such requests with requests
15 for expenditures and amounts appropriated by
16 Congress in the previous fiscal year.

17 “(2) EVALUATION OF COUNTERNARCOTICS AC-
18 TIVITIES.—The Director of the Office of Counter-
19 narcotics Enforcement shall, not later than Feb-
20 ruary 1 of each year, submit to the Committees on
21 Appropriations and the authorizing committees of
22 jurisdiction of the House of Representatives and the
23 Senate a review and evaluation of the counter-
24 narcotics activities of the Department for the pre-
25 vious fiscal year. The review and evaluation shall—

1 “(A) describe the counternarcotics activi-
2 ties of the Department and each subdivision of
3 the Department (whether individually or in co-
4 operation with other subdivisions of the Depart-
5 ment, or in cooperation with other branches of
6 the Federal Government or with State or local
7 agencies), including the methods, procedures,
8 and systems (including computer systems) for
9 collecting, analyzing, sharing, and dissemi-
10 nating information concerning narcotics activity
11 within the Department and between the De-
12 partment and other Federal, State, and local
13 agencies;

14 “(B) describe the results of those activi-
15 ties, using quantifiable data whenever possible;

16 “(C) state whether those activities were
17 sufficient to meet the responsibility of the De-
18 partment to stop the entry of illegal drugs into
19 the United States, including a description of the
20 performance measures of effectiveness that were
21 used in making that determination; and

22 “(D) recommend, where appropriate,
23 changes to those activities to improve the per-
24 formance of the Department in meeting its re-

1 sponsibility to stop the entry of illegal drugs
2 into the United States.

3 “(3) CLASSIFIED OR LAW ENFORCEMENT SEN-
4 SITIVE INFORMATION.—Any content of a review and
5 evaluation described in the reports required in this
6 subsection that involves information classified under
7 criteria established by an Executive order, or whose
8 public disclosure, as determined by the Secretary,
9 would be detrimental to the law enforcement or na-
10 tional security activities of the Department or any
11 other Federal, State, or local agency, shall be pre-
12 sented to Congress separately from the rest of the
13 review and evaluation.”.

14 (b) CONFORMING AMENDMENTS.—Section 103(a) of
15 the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is
16 amended—

17 (1) by redesignating paragraphs (8) and (9) as
18 paragraphs (9) and (10), respectively; and

19 (2) by inserting after paragraph (7) the fol-
20 lowing:

21 “(8) A Director of the Office of Counter-
22 narcotics Enforcement.”.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—Of the
24 amounts appropriated for the Department of Homeland
25 Security for Departmental management and operations

1 for fiscal year 2005, there is authorized up to \$6,000,000
2 to carry out section 878 of the Department of Homeland
3 Security Act of 2002.

4 **SEC. 7408. USE OF COUNTERNARCOTICS ENFORCEMENT**
5 **ACTIVITIES IN CERTAIN EMPLOYEE PER-**
6 **FORMANCE APPRAISALS.**

7 (a) IN GENERAL.—Subtitle E of title VIII of the
8 Homeland Security Act of 2002 (6 U.S.C. 411 et seq.)
9 is amended by adding at the end the following:

10 **“SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT**
11 **ACTIVITIES IN CERTAIN EMPLOYEE PER-**
12 **FORMANCE APPRAISALS.**

13 “(a) IN GENERAL.—Each subdivision of the Depart-
14 ment that is a National Drug Control Program Agency
15 shall include as one of the criteria in its performance ap-
16 praisal system, for each employee directly or indirectly in-
17 volved in the enforcement of Federal, State, or local nar-
18 cotics laws, the performance of that employee with respect
19 to the enforcement of Federal, State, or local narcotics
20 laws, relying to the greatest extent practicable on objective
21 performance measures, including—

22 “(1) the contribution of that employee to sei-
23 zures of narcotics and arrests of violators of Fed-
24 eral, State, or local narcotics laws; and

1 “(2) the degree to which that employee cooper-
2 ated with or contributed to the efforts of other em-
3 ployees, either within the Department or other Fed-
4 eral, State, or local agencies, in counternarcotics en-
5 forcement.

6 “(b) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘National Drug Control Program
8 Agency’ means—

9 “(A) a National Drug Control Program
10 Agency, as defined in section 702(7) of the Of-
11 fice of National Drug Control Policy Reauthor-
12 ization Act of 1998 (as last in effect); and

13 “(B) any subdivision of the Department
14 that has a significant counternarcotics responsi-
15 bility, as determined by—

16 “(i) the counternarcotics officer, ap-
17 pointed under section 878; or

18 “(ii) if applicable, the counter-
19 narcotics officer’s successor in function (as
20 determined by the Secretary); and

21 “(2) the term ‘performance appraisal system’
22 means a system under which periodic appraisals of
23 job performance of employees are made, whether
24 under chapter 43 of title 5, United States Code, or
25 otherwise.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for the Homeland Security Act of 2002 is amended by
3 inserting after the item relating to section 842 the fol-
4 lowing:

“Sec. 843. Use of counternarcotics enforcement activities in certain employee performance appraisals.”.

5 **Subtitle E—Public Safety Spectrum**

6 **SEC. 7501. DIGITAL TELEVISION CONVERSION DEADLINE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Congress granted television broadcasters ad-
9 ditional 6 megahertz blocks of spectrum to transmit
10 digital broadcasts simultaneously with the analog
11 broadcasts they submit on their original 6 megahertz
12 blocks of spectrum.

13 (2) Section 309(j)(14) of the Communications
14 Act of 1934 (47 U.S.C. 309(j)(14)) requires each
15 television broadcaster to cease analog transmissions
16 and return 6 megahertz of spectrum not later
17 than—

18 (A) December 31, 2006; or

19 (B) the date on which more than 85 per-
20 cent of the television households in the market
21 of such broadcaster can view digital broadcast
22 television channels using a digital television, a
23 digital-to-analog converter box, cable service, or
24 satellite service.

1 (3) Twenty-four megahertz of spectrum occu-
2 pied by television broadcasters has been earmarked
3 for use by first responders as soon as the television
4 broadcasters return the spectrum broadcasters being
5 used to provide analog transmissions. This spectrum
6 would be ideal to provide first responders with inter-
7 operable communications channels.

8 (4) Large parts of the vacated spectrum could
9 be auctioned for advanced commercial services, such
10 as wireless broadband.

11 (5) The 85 percent penetration test described in
12 paragraph (2)(B) could delay the termination of
13 analog television broadcasts and the return of spec-
14 trum well beyond 2007, hindering the use of that
15 spectrum for these important public safety and ad-
16 vanced commercial uses.

17 (6) While proposals to require broadcasters to
18 return, on a date certain, the spectrum earmarked
19 for future public safety use may improve the ability
20 of public safety entities to begin planning for use of
21 this spectrum, such proposals have certain defi-
22 ciencies. The proposals would require the dislocation
23 of up to 75 broadcast stations, which also serve a
24 critical public safety function by broadcasting weath-
25 er, traffic, disaster, and other safety alerts. Such

1 disparate treatment of broadcasters would be unfair
2 to the broadcasters and their respective viewers. Re-
3 quiring the return of all analog broadcast spectrum
4 by a date certain would have the benefit of address-
5 ing the digital television transition in a comprehen-
6 sive fashion that treats all broadcasters and viewers
7 equally, while freeing spectrum for advanced com-
8 mercial services.

9 (7) The Federal Communications Commission
10 should consider all regulatory means available to ex-
11 pedite the return of the analog spectrum.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that—

14 (1) Congress must act to pass legislation in the
15 first session of the 109th Congress that establishes
16 a comprehensive approach to the timely return of
17 analog broadcast spectrum as early as December 31,
18 2006; and

19 (2) any delay in the adoption of the legislation
20 described in paragraph (1) will delay the ability of
21 public safety entities to begin planning to use this
22 needed spectrum.

1 **SEC. 7502. STUDIES ON TELECOMMUNICATIONS CAPABILI-**
2 **TIES AND REQUIREMENTS.**

3 (a) ALLOCATIONS OF SPECTRUM FOR EMERGENCY
4 RESPONSE PROVIDERS.—The Federal Communications
5 Commission shall, in consultation with the Secretary of
6 Homeland Security and the National Telecommunications
7 and Information Administration, conduct a study to assess
8 short-term and long-term needs for allocations of addi-
9 tional portions of the electromagnetic spectrum for Fed-
10 eral, State, and local emergency response providers, in-
11 cluding whether or not an additional allocation of spec-
12 trum in the 700 megahertz band should be granted by
13 Congress to such emergency response providers.

14 (b) STRATEGIES TO MEET PUBLIC SAFETY TELE-
15 COMMUNICATIONS REQUIREMENTS.—The Secretary of
16 Homeland Security shall, in consultation with the Federal
17 Communications Commission and the National Tele-
18 communications and Information Administration, conduct
19 a study to assess strategies that may be used to meet pub-
20 lic safety telecommunications needs, including—

21 (1) the need and efficacy of deploying nation-
22 wide interoperable communications networks (includ-
23 ing the potential technical and operational standards
24 and protocols for nationwide interoperable
25 broadband mobile communications networks that
26 may be used by Federal, State, regional, and local

1 governmental and nongovernmental public safety,
2 homeland security, and other emergency response
3 personnel);

4 (2) the capacity of public safety entities to uti-
5 lize wireless broadband applications; and

6 (3) the communications capabilities of all emer-
7 gency response providers, including hospitals and
8 health care workers, and current efforts to promote
9 communications coordination and training among
10 emergency response providers.

11 (c) STUDY REQUIREMENTS.—In conducting the stud-
12 ies required by subsections (a) and (b), the Secretary of
13 Homeland Security and the Federal Communications
14 Commission shall—

15 (1) seek input from Federal, State, local, and
16 regional emergency response providers regarding the
17 operation and administration of a potential nation-
18 wide interoperable broadband mobile communica-
19 tions network; and

20 (2) consider the use of commercial wireless
21 technologies to the greatest extent practicable.

22 (d) REPORTS.—(1) Not later than one year after the
23 date of enactment of this Act, the Federal Communica-
24 tions Commission (in the case of the study required by
25 subsection (a)) and the Secretary of Homeland Security

1 (in the case of the study required by subsection (b)) shall
2 submit to the appropriate committees of Congress a report
3 on such study, including the findings of such study.

4 (2) In this subsection, the term “appropriate commit-
5 tees of Congress” means—

6 (A) the Committee on Commerce, Science, and
7 Transportation and the Committee on Homeland Se-
8 curity and Governmental Affairs of the Senate; and

9 (B) the Committee on Energy and Commerce
10 and the Select Committee on Homeland Security of
11 the House of Representatives.

12 **Subtitle F—Presidential Transition**

13 **SEC. 7601. PRESIDENTIAL TRANSITION.**

14 (a) SERVICES PROVIDED PRESIDENT-ELECT.—Sec-
15 tion 3 of the Presidential Transition Act of 1963 (3
16 U.S.C. 102 note) is amended—

17 (1) by adding after subsection (a)(8)(A)(iv) the
18 following:

19 “(v) Activities under this paragraph
20 shall include the preparation of a detailed
21 classified, compartmented summary by the
22 relevant outgoing executive branch officials
23 of specific operational threats to national
24 security; major military or covert oper-
25 ations; and pending decisions on possible

1 uses of military force. This summary shall
2 be provided to the President-elect as soon
3 as possible after the date of the general
4 elections held to determine the electors of
5 President and Vice President under section
6 1 or 2 of title 3, United States Code.”;

7 (2) by redesignating subsection (f) as sub-
8 section (g); and

9 (3) by adding after subsection (e) the following:

10 “(f)(1) The President-elect should submit to the Fed-
11 eral Bureau of Investigation or other appropriate agency
12 and then, upon taking effect and designation, to the agen-
13 cy designated by the President under section 115(b) of
14 the National Intelligence Reform Act of 2004, the names
15 of candidates for high level national security positions
16 through the level of undersecretary of cabinet departments
17 as soon as possible after the date of the general elections
18 held to determine the electors of President and Vice Presi-
19 dent under section 1 or 2 of title 3, United States Code.

20 “(2) The responsible agency or agencies shall under-
21 take and complete as expeditiously as possible the back-
22 ground investigations necessary to provide appropriate se-
23 curity clearances to the individuals who are candidates de-
24 scribed under paragraph (1) before the date of the inau-

1 guration of the President-elect as President and the inau-
2 guration of the Vice-President-elect as Vice President.”.

3 (b) SENSE OF THE SENATE REGARDING EXPEDITED
4 CONSIDERATION OF NATIONAL SECURITY NOMINEES.—

5 It is the sense of the Senate that—

6 (1) the President-elect should submit the nomi-
7 nations of candidates for high-level national security
8 positions, through the level of undersecretary of cab-
9 inet departments, to the Senate by the date of the
10 inauguration of the President-elect as President; and

11 (2) for all such national security nominees re-
12 ceived by the date of inauguration, the Senate com-
13 mittees to which these nominations are referred
14 should, to the fullest extent possible, complete their
15 consideration of these nominations, and, if such
16 nominations are reported by the committees, the full
17 Senate should vote to confirm or reject these nomi-
18 nations, within 30 days of their submission.

19 (c) SECURITY CLEARANCES FOR TRANSITION TEAM
20 MEMBERS.—

21 (1) DEFINITION.—In this section, the term
22 “major party” shall have the meaning given under
23 section 9002(6) of the Internal Revenue Code of
24 1986.

1 (2) IN GENERAL.—Each major party candidate
2 for President may submit, before the date of the
3 general election, requests for security clearances for
4 prospective transition team members who will have
5 a need for access to classified information to carry
6 out their responsibilities as members of the Presi-
7 dent-elect’s transition team.

8 (3) COMPLETION DATE.—Necessary back-
9 ground investigations and eligibility determinations
10 to permit appropriate prospective transition team
11 members to have access to classified information
12 shall be completed, to the fullest extent practicable,
13 by the day after the date of the general election.

14 (d) EFFECTIVE DATE.—Notwithstanding section
15 351, this section and the amendments made by this sec-
16 tion shall take effect on the date of enactment of this Act.

17 **Subtitle G—Improving Inter-**
18 **national Standards and Co-**
19 **operation to Fight Terrorist Fi-**
20 **nancing**

21 **SEC. 7701. IMPROVING INTERNATIONAL STANDARDS AND**
22 **COOPERATION TO FIGHT TERRORIST FI-**
23 **NANCING.**

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

1 (1) The global war on terrorism and cutting off
2 terrorist financing is a policy priority for the United
3 States and its partners, working bilaterally and mul-
4 tilaterally through the United Nations, the United
5 Nations Security Council and its committees, such
6 as the 1267 and 1373 Committees, the Financial
7 Action Task Force (FATF), and various inter-
8 national financial institutions, including the Inter-
9 national Monetary Fund (IMF), the International
10 Bank for Reconstruction and Development (IBRD),
11 and the regional multilateral development banks,
12 and other multilateral fora.

13 (2) The international financial community has
14 become engaged in the global fight against terrorist
15 financing. The Financial Action Task Force has fo-
16 cused on the new threat posed by terrorist financing
17 to the international financial system, resulting in the
18 establishment of the FATF's Eight Special Rec-
19 ommendations on Terrorist Financing as the inter-
20 national standard on combating terrorist financing.
21 The Group of Seven and the Group of Twenty Fi-
22 nance Ministers are developing action plans to curb
23 the financing of terror. In addition, other economic
24 and regional fora, such as the Asia-Pacific Economic
25 Cooperation (APEC) Forum, and the Western

1 Hemisphere Financial Ministers, have been used to
2 marshal political will and actions in support of com-
3 bating the financing of terrorism (CFT) standards.

4 (3) FATF's Forty Recommendations on Money
5 Laundering and the Eight Special Recommendations
6 on Terrorist Financing are the recognized global
7 standards for fighting money laundering and ter-
8 rorist financing. The FATF has engaged in an as-
9 sessment process for jurisdictions based on their
10 compliance with these standards.

11 (4) In March 2004, the IMF and IBRD Boards
12 agreed to make permanent a pilot program of col-
13 laboration with the FATF to assess global compli-
14 ance with the FATF Forty Recommendations on
15 Money Laundering and the Eight Special Rec-
16 ommendations on Terrorist Financing. As a result,
17 anti-money laundering (AML) and combating the fi-
18 nancing of terrorism (CFT) assessments are now a
19 regular part of their Financial Sector Assessment
20 Program (FSAP) and Offshore Financial Center as-
21 sessments, which provide for a comprehensive anal-
22 ysis of the strength of a jurisdiction's financial sys-
23 tem. These reviews assess potential systemic
24 vulnerabilities, consider sectoral development needs
25 and priorities, and review the state of implementa-

1 tion of and compliance with key financial codes and
2 regulatory standards, among them the AML and
3 CFT standards.

4 (5) To date, 70 FSAPs have been conducted,
5 with over 24 of those incorporating AML and CFT
6 assessments. The international financial institutions
7 (IFIs), the FATF, and the FATF-style regional
8 bodies together are expected to assess AML and
9 CFT regimes in up to 40 countries or jurisdictions
10 per year. This will help countries and jurisdictions
11 identify deficiencies in their AML and CFT regimes
12 and help focus technical assistance efforts.

13 (6) Technical assistance programs from the
14 United States and other nations, coordinated with
15 the Department of State and other departments and
16 agencies, are playing an important role in helping
17 countries and jurisdictions address shortcomings in
18 their AML and CFT regimes and bringing their re-
19 gimes into conformity with international standards.
20 Training is coordinated within the United States
21 Government, which leverages multilateral organiza-
22 tions and bodies and international financial institu-
23 tions to internationalize the conveyance of technical
24 assistance.

1 (7) In fulfilling its duties in advancing incorpo-
2 ration of AML and CFT standards into the IFIs as
3 part of the IFIs' work on protecting the integrity of
4 the international monetary system, the Department
5 of the Treasury, under the guidance of the Secretary
6 of the Treasury, has effectively brought together all
7 of the key United States Government agencies. In
8 particular, United States Government agencies con-
9 tinue to work together to foster broad support for
10 this important undertaking in various multilateral
11 fora, and United States Government agencies recog-
12 nize the need for close coordination and communica-
13 tion within our own Government.

14 (b) SENSE OF CONGRESS REGARDING SUCCESS IN
15 MULTILATERAL ORGANIZATIONS.—It is the sense of Con-
16 gress that the Secretary of the Treasury should continue
17 to promote the dissemination of international AML and
18 CFT standards, and to press for full implementation of
19 the FATF 40 + 8 Recommendations by all countries in
20 order to curb financial risks and hinder terrorist financing
21 around the globe. The efforts of the Secretary in this re-
22 gard should include, where necessary or appropriate, mul-
23 tilateral action against countries whose counter-money
24 laundering regimes and efforts against the financing of
25 terrorism fall below recognized international standards.

1 **SEC. 7702. DEFINITIONS.**

2 In this subtitle—

3 (1) the term “international financial institu-
4 tions” has the same meaning as in section
5 1701(c)(2) of the International Financial Institu-
6 tions Act;

7 (2) the term “Financial Action Task Force”
8 means the international policy-making and standard-
9 setting body dedicated to combating money laun-
10 dering and terrorist financing that was created by
11 the Group of Seven in 1989; and

12 (3) the terms “Interagency Paper on Sound
13 Practices to Strengthen the Resilience of the U.S.
14 Financial System” and “Interagency Paper” mean
15 the interagency paper prepared by the Board of
16 Governors of the Federal Reserve System, the
17 Comptroller of the Currency, and the Securities and
18 Exchange Commission that was announced in the
19 Federal Register on April 8, 2003.

20 **SEC. 7703. EXPANDED REPORTING AND TESTIMONY RE-**
21 **QUIREMENTS FOR THE SECRETARY OF THE**
22 **TREASURY.**

23 (a) **REPORTING REQUIREMENTS.**—Section 1503(a)
24 of the International Financial Institutions Act (22 U.S.C.
25 2620–2(a)) is amended by adding at the end the following:

1 “(15) Work with the International Monetary
2 Fund to—

3 “(A) foster strong global anti-money laun-
4 dering (AML) and combat the financing of ter-
5 rorism (CFT) regimes;

6 “(B) ensure that country performance
7 under the Financial Action Task Force anti-
8 money laundering and counterterrorist financ-
9 ing standards is effectively and comprehensively
10 monitored;

11 “(C) ensure note is taken of AML and
12 CFT issues in Article IV reports, International
13 Monetary Fund programs, and other regular re-
14 views of country progress;

15 “(D) ensure that effective AML and CFT
16 regimes are considered to be indispensable ele-
17 ments of sound financial systems; and

18 “(E) emphasize the importance of sound
19 AML and CFT regimes to global growth and
20 development.”.

21 (b) TESTIMONY.—Section 1705(b) of the Inter-
22 national Financial Institutions Act (22 U.S.C. 262r-4(b))
23 is amended—

24 (1) in paragraph (2), by striking “and” at the
25 end;

1 (2) in paragraph (3), by striking the period at
2 the end and inserting “; and”; and

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

4 “(4) the status of implementation of inter-
5 national anti-money laundering and counterterrorist
6 financing standards by the International Monetary
7 Fund, the multilateral development banks, and other
8 multilateral financial policymaking bodies.”.

9 **SEC. 7704. COORDINATION OF UNITED STATES GOVERN-**
10 **MENT EFFORTS.**

11 The Secretary of the Treasury, or the designee of the
12 Secretary, as the lead United States Government official
13 to the Financial Action Task Force (FATF), shall con-
14 tinue to convene the interagency United States Govern-
15 ment FATF working group. This group, which includes
16 representatives from all relevant Federal agencies, shall
17 meet at least once a year to advise the Secretary on poli-
18 cies to be pursued by the United States regarding the de-
19 velopment of common international AML and CFT stand-
20 ards, to assess the adequacy and implementation of such
21 standards, and to recommend to the Secretary improved
22 or new standards, as necessary.

1 **Subtitle H—Emergency Financial**
2 **Preparedness**

3 **SEC. 7801. DELEGATION AUTHORITY OF THE SECRETARY**
4 **OF THE TREASURY.**

5 Section 306(d) of title 31, United States Code, is
6 amended by inserting “or employee” after “another offi-
7 cer”.

8 **SEC. 7802. TREASURY SUPPORT FOR FINANCIAL SERVICES**
9 **INDUSTRY PREPAREDNESS AND RESPONSE**
10 **AND CONSUMER EDUCATION.**

11 (a) FINDINGS.—Congress finds that the Secretary of
12 the Treasury—

13 (1) has successfully communicated and coordi-
14 nated with the private-sector financial services in-
15 dustry about financial infrastructure preparedness
16 and response issues;

17 (2) has successfully reached out to State and
18 local governments and regional public-private part-
19 nerships, such as ChicagoFIRST, that protect em-
20 ployees and critical infrastructure by enhancing com-
21 munication and coordinating plans for disaster pre-
22 paredness and business continuity; and

23 (3) has set an example for the Department of
24 Homeland Security and other Federal agency part-
25 ners, whose active participation is vital to the overall

1 success of the activities described in paragraphs (1)
2 and (2).

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the Secretary of the Treasury, in consultation
5 with the Secretary of Homeland Security, other Federal
6 agency partners, and private-sector financial organization
7 partners, should—

8 (1) furnish sufficient personnel and techno-
9 logical and financial resources to educate consumers
10 and employees of the financial services industry
11 about domestic counterterrorist financing activities,
12 particularly about—

13 (A) how the public and private sector orga-
14 nizations involved in such activities can combat
15 terrorism while protecting and preserving the
16 lives and civil liberties of consumers and em-
17 ployees of the financial services industry; and

18 (B) how the consumers and employees of
19 the financial services industry can assist the
20 public and private sector organizations involved
21 in such activities; and

22 (2) submit annual reports to Congress on ef-
23 forts to accomplish subparagraphs (A) and (B) of
24 paragraph (1).

1 (c) REPORT ON PUBLIC-PRIVATE PARTNERSHIPS.—
2 Before the end of the 6-month period beginning on the
3 date of enactment of this Act, the Secretary of the Treas-
4 ury shall submit a report to the Committee on Financial
5 Services of the House of Representatives and the Com-
6 mittee on Banking, Housing, and Urban Affairs of the
7 Senate containing—

8 (1) information on the efforts that the Depart-
9 ment of the Treasury has made to encourage the
10 formation of public-private partnerships to protect
11 critical financial infrastructure and the type of sup-
12 port that the Department has provided to such part-
13 nerships; and

14 (2) recommendations for administrative or leg-
15 islative action regarding such partnerships, as the
16 Secretary may determine to be appropriate.

17 **SEC. 7803. EMERGENCY SECURITIES RESPONSE ACT OF**
18 **2004.**

19 (a) SHORT TITLE.—This section may be cited as the
20 “Emergency Securities Response Act of 2004”.

21 (b) EXTENSION OF EMERGENCY ORDER AUTHORITY
22 OF THE SECURITIES AND EXCHANGE COMMISSION.—

23 (1) EXTENSION OF AUTHORITY.—Section
24 12(k)(2) of the Securities Exchange Act of 1934 (15
25 U.S.C. 78l(k)(2)) is amended to read as follows:

1 “(2) EMERGENCY ORDERS.—

2 “(A) IN GENERAL.—The Commission, in
3 an emergency, may by order summarily take
4 such action to alter, supplement, suspend, or
5 impose requirements or restrictions with respect
6 to any matter or action subject to regulation by
7 the Commission or a self-regulatory organiza-
8 tion under the securities laws, as the Commis-
9 sion determines is necessary in the public inter-
10 est and for the protection of investors—

11 “(i) to maintain or restore fair and
12 orderly securities markets (other than mar-
13 kets in exempted securities);

14 “(ii) to ensure prompt, accurate, and
15 safe clearance and settlement of trans-
16 actions in securities (other than exempted
17 securities); or

18 “(iii) to reduce, eliminate, or prevent
19 the substantial disruption by the emer-
20 gency of—

21 “(I) securities markets (other
22 than markets in exempted securities),
23 investment companies, or any other
24 significant portion or segment of such
25 markets; or

1 “(II) the transmission or proc-
2 essing of securities transactions (other
3 than transactions in exempted securi-
4 ties).

5 “(B) EFFECTIVE PERIOD.—An order of
6 the Commission under this paragraph shall con-
7 tinue in effect for the period specified by the
8 Commission, and may be extended. Except as
9 provided in subparagraph (C), an order of the
10 Commission under this paragraph may not con-
11 tinue in effect for more than 10 business days,
12 including extensions.

13 “(C) EXTENSION.—An order of the Com-
14 mission under this paragraph may be extended
15 to continue in effect for more than 10 business
16 days if, at the time of the extension, the Com-
17 mission finds that the emergency still exists and
18 determines that the continuation of the order
19 beyond 10 business days is necessary in the
20 public interest and for the protection of inves-
21 tors to attain an objective described in clause
22 (i), (ii), or (iii) of subparagraph (A). In no
23 event shall an order of the Commission under
24 this paragraph continue in effect for more than
25 30 calendar days.

1 “(D) SECURITY FUTURES.—If the actions
2 described in subparagraph (A) involve a secu-
3 rity futures product, the Commission shall con-
4 sult with and consider the views of the Com-
5 modity Futures Trading Commission.

6 “(E) EXEMPTION.—In exercising its au-
7 thority under this paragraph, the Commission
8 shall not be required to comply with the provi-
9 sions of—

10 “(i) section 19(c); or

11 “(ii) section 553 of title 5, United
12 States Code.”.

13 (c) CONSULTATION; DEFINITION OF EMERGENCY.—
14 Section 12(k)(6) of the Securities Exchange Act of 1934
15 (15 U.S.C. 78l(k)(6)) is amended to read as follows:

16 “(6) CONSULTATION.—Prior to taking any ac-
17 tion described in paragraph (1)(B), the Commission
18 shall consult with and consider the views of the Sec-
19 retary of the Treasury, the Board of Governors of
20 the Federal Reserve System, and the Commodity
21 Futures Trading Commission, unless such consulta-
22 tion is impracticable in light of the emergency.

23 “(7) DEFINITIONS.—For purposes of this
24 subsection—

25 “(A) the term ‘emergency’ means—

1 “(i) a major market disturbance char-
2 acterized by or constituting—

3 “(I) sudden and excessive fluc-
4 tuations of securities prices generally,
5 or a substantial threat thereof, that
6 threaten fair and orderly markets; or

7 “(II) a substantial disruption of
8 the safe or efficient operation of the
9 national system for clearance and set-
10 tlement of transactions in securities,
11 or a substantial threat thereof; or

12 “(ii) a major disturbance that sub-
13 stantially disrupts, or threatens to substan-
14 tially disrupt—

15 “(I) the functioning of securities
16 markets, investment companies, or
17 any other significant portion or seg-
18 ment of the securities markets; or

19 “(II) the transmission or proc-
20 essing of securities transactions; and

21 “(B) notwithstanding section 3(a)(47), the
22 term ‘securities laws’ does not include the Pub-
23 lic Utility Holding Company Act of 1935.”.

24 (d) PARALLEL AUTHORITY OF THE SECRETARY OF
25 THE TREASURY WITH RESPECT TO GOVERNMENT SECU-

1 RITIES.—Section 15C of the Securities Exchange Act of
2 1934 (15 U.S.C. 78o–5) is amended by adding at the end
3 the following:

4 “(h) EMERGENCY AUTHORITY.—The Secretary may,
5 by order, take any action with respect to a matter or ac-
6 tion subject to regulation by the Secretary under this sec-
7 tion, or the rules of the Secretary under this section, in-
8 volving a government security or a market therein (or sig-
9 nificant portion or segment of that market), that the Com-
10 mission may take under section 12(k)(2) with respect to
11 transactions in securities (other than exempted securities)
12 or a market therein (or significant portion or segment of
13 that market).”.

14 (e) JOINT REPORT ON IMPLEMENTATION OF FINAN-
15 CIAL SYSTEM RESILIENCE RECOMMENDATIONS.—

16 (1) REPORT REQUIRED.—Not later than April
17 30, 2006, the Board of Governors of the Federal Re-
18 serve System, the Comptroller of the Currency, and
19 the Securities and Exchange Commission shall pre-
20 pare and submit to the Committee on Financial
21 Services of the House of Representatives and the
22 Committee on Banking, Housing, and Urban Affairs
23 of the Senate a joint report on the efforts of the pri-
24 vate sector to implement the Interagency Paper on

1 Sound Practices to Strengthen the Resilience of the
2 U.S. Financial System.

3 (2) CONTENTS OF REPORT.—The report re-
4 quired by paragraph (1) shall—

5 (A) examine the efforts to date of private
6 sector financial services firms covered by the
7 Interagency Paper to implement enhanced busi-
8 ness continuity plans;

9 (B) examine the extent to which the imple-
10 mentation of such business continuity plans has
11 been done in a geographically dispersed man-
12 ner, including an analysis of the extent to which
13 such firms have located their main and backup
14 facilities in separate electrical networks, in dif-
15 ferent watersheds, in independent transpor-
16 tation systems, and using separate tele-
17 communications centers, and the cost and tech-
18 nological implications of further dispersal;

19 (C) examine the need to cover a larger
20 range of private sector financial services firms
21 that play significant roles in critical financial
22 markets than those covered by the Interagency
23 Paper; and

24 (D) recommend legislative and regulatory
25 changes that will—

1 (i) expedite the effective implementa-
2 tion of the Interagency Paper by all cov-
3 ered financial services entities; and

4 (ii) optimize the effective implementa-
5 tion of business continuity planning by the
6 financial services industry.

7 (3) CONFIDENTIALITY.—Any information pro-
8 vided to the Board of Governors of the Federal Re-
9 serve System, the Comptroller of the Currency, or
10 the Securities and Exchange Commission for the
11 purposes of the preparation and submission of the
12 report required by paragraph (1) shall be treated as
13 privileged and confidential. For purposes of section
14 552 of title 5, United States Code, this subsection
15 shall be considered a statute described in subsection
16 (b)(3)(B) of that section 552.

17 (4) DEFINITION.—As used in this subsection,
18 the terms “Interagency Paper on Sound Practices to
19 Strengthen the Resilience of the U.S. Financial Sys-
20 tem” and “Interagency Paper” mean the inter-
21 agency paper prepared by the Board of Governors of
22 the Federal Reserve System, the Comptroller of the
23 Currency, and the Securities and Exchange Commis-
24 sion that was announced in the Federal Register on
25 April 8, 2003.

1 **SEC. 7804. PRIVATE SECTOR PREPAREDNESS.**

2 It is the sense of Congress that the insurance indus-
3 try and credit-rating agencies, where relevant, should care-
4 fully consider a company's compliance with standards for
5 private sector disaster and emergency preparedness in as-
6 sessing insurability and creditworthiness, to ensure that
7 private sector investment in disaster and emergency pre-
8 paredness is appropriately encouraged.

9 **TITLE VIII—OTHER MATTERS**
10 **Subtitle A—Intelligence Matters**

11 **SEC. 8101. INTELLIGENCE COMMUNITY USE OF NATIONAL**
12 **INFRASTRUCTURE SIMULATION AND ANAL-**
13 **YSIS CENTER.**

14 (a) IN GENERAL.—The Director of National Intel-
15 ligence shall establish a formal relationship, including in-
16 formation sharing, between the elements of the intelligence
17 community and the National Infrastructure Simulation
18 and Analysis Center.

19 (b) PURPOSE.—The purpose of the relationship
20 under subsection (a) shall be to permit the intelligence
21 community to take full advantage of the capabilities of the
22 National Infrastructure Simulation and Analysis Center,
23 particularly vulnerability and consequence analysis, for
24 real time response to reported threats and long term plan-
25 ning for projected threats.

1 **Subtitle B—Department of**
2 **Homeland Security Matters**

3 **SEC. 8201. HOMELAND SECURITY GEOSPATIAL INFORMA-**
4 **TION.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Geospatial technologies and geospatial data
8 improve government capabilities to detect, plan for,
9 prepare for, and respond to disasters in order to
10 save lives and protect property.

11 (2) Geospatial data improves the ability of in-
12 formation technology applications and systems to en-
13 hance public security in a cost-effective manner.

14 (3) Geospatial information preparedness in the
15 United States, and specifically in the Department of
16 Homeland Security, is insufficient because of—

17 (A) inadequate geospatial data compat-
18 ibility;

19 (B) insufficient geospatial data sharing;

20 and

21 (C) technology interoperability barriers.

22 (b) HOMELAND SECURITY GEOSPATIAL INFORMA-
23 TION.—Section 703 of the Homeland Security Act of 2002
24 (6 U.S.C. 343) is amended—

1 (1) by inserting “(a) IN GENERAL.—” before
2 “The Chief Information”; and

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

4 “(b) GEOSPATIAL INFORMATION FUNCTIONS.—

5 “(1) DEFINITIONS.—As used in this subsection:

6 “(A) GEOSPATIAL INFORMATION.—The
7 term ‘geospatial information’ means graphical
8 or digital data depicting natural or manmade
9 physical features, phenomena, or boundaries of
10 the earth and any information related thereto,
11 including surveys, maps, charts, remote sensing
12 data, and images.

13 “(B) GEOSPATIAL TECHNOLOGY.—The
14 term ‘geospatial technology’ means any tech-
15 nology utilized by analysts, specialists, sur-
16 veyors, photogrammetrists, hydrographers, ge-
17 odesists, cartographers, architects, or engineers
18 for the collection, storage, retrieval, or dissemi-
19 nation of geospatial information, including—

20 “(i) global satellite surveillance sys-
21 tems;

22 “(ii) global position systems;

23 “(iii) geographic information systems;

24 “(iv) mapping equipment;

25 “(v) geocoding technology; and

1 “(vi) remote sensing devices.

2 “(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

3 “(A) ESTABLISHMENT.—The Office of
4 Geospatial Management is established within
5 the Office of the Chief Information Officer.

6 “(B) GEOSPATIAL INFORMATION OFFI-
7 CER.—

8 “(i) APPOINTMENT.—The Office of
9 Geospatial Management shall be adminis-
10 tered by the Geospatial Information Offi-
11 cer, who shall be appointed by the Sec-
12 retary and serve under the direction of the
13 Chief Information Officer.

14 “(ii) FUNCTIONS.—The Geospatial In-
15 formation Officer shall assist the Chief In-
16 formation Officer in carrying out all func-
17 tions under this section and in coordi-
18 nating the geospatial information needs of
19 the Department.

20 “(C) COORDINATION OF GEOSPATIAL IN-
21 FORMATION.—The Chief Information Officer
22 shall establish and carry out a program to pro-
23 vide for the efficient use of geospatial informa-
24 tion, which shall include—

1 “(i) providing such geospatial infor-
2 mation as may be necessary to implement
3 the critical infrastructure protection pro-
4 grams;

5 “(ii) providing leadership and coordi-
6 nation in meeting the geospatial informa-
7 tion requirements of those responsible for
8 planning, prevention, mitigation, assess-
9 ment and response to emergencies, critical
10 infrastructure protection, and other func-
11 tions of the Department; and

12 “(iii) coordinating with users of
13 geospatial information within the Depart-
14 ment to assure interoperability and prevent
15 unnecessary duplication.

16 “(D) RESPONSIBILITIES.—In carrying out
17 this subsection, the responsibilities of the Chief
18 Information Officer shall include—

19 “(i) coordinating the geospatial infor-
20 mation needs and activities of the Depart-
21 ment;

22 “(ii) implementing standards, as
23 adopted by the Director of the Office of
24 Management and Budget under the proc-
25 esses established under section 216 of the

1 E-Government Act of 2002 (44 U.S.C.
2 3501 note), to facilitate the interoper-
3 ability of geospatial information pertaining
4 to homeland security among all users of
5 such information within—

6 “(I) the Department;

7 “(II) State and local government;

8 and

9 “(III) the private sector;

10 “(iii) coordinating with the Federal
11 Geographic Data Committee and carrying
12 out the responsibilities of the Department
13 pursuant to Office of Management and
14 Budget Circular A-16 and Executive
15 Order 12906; and

16 “(iv) making recommendations to the
17 Secretary and the Executive Director of
18 the Office for State and Local Government
19 Coordination and Preparedness on award-
20 ing grants to—

21 “(I) fund the creation of
22 geospatial data; and

23 “(II) execute information sharing
24 agreements regarding geospatial data

1 with State, local, and tribal govern-
2 ments.

3 “(3) AUTHORIZATION OF APPROPRIATIONS.—
4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this subsection for
6 each fiscal year.”.

7 **Subtitle C—HOMELAND SECU-**
8 **RITY CIVIL RIGHTS AND CIVIL**
9 **LIBERTIES PROTECTION**

10 **SEC. 8301. SHORT TITLE.**

11 This subtitle may be cited as the “Homeland Security
12 Civil Rights and Civil Liberties Protection Act of 2004”.

13 **SEC. 8302. MISSION OF DEPARTMENT OF HOMELAND SECU-**
14 **RITY.**

15 Section 101(b)(1) of the Homeland Security Act of
16 2002 (6 U.S.C. 111(b)(1)) is amended—

17 (1) in subparagraph (F), by striking “and”
18 after the semicolon;

19 (2) by redesignating subparagraph (G) as sub-
20 paragraph (H); and

21 (3) by inserting after subparagraph (F) the fol-
22 lowing:

23 “(G) ensure that the civil rights and civil
24 liberties of persons are not diminished by ef-

1 and civil liberties is appropriately incorporated into
2 Department programs and activities;

3 “(4) oversee compliance with constitutional,
4 statutory, regulatory, policy, and other requirements
5 relating to the civil rights and civil liberties of indi-
6 viduals affected by the programs and activities of
7 the Department;

8 “(5) coordinate with the Privacy Officer to en-
9 sure that—

10 “(A) programs, policies, and procedures in-
11 volving civil rights, civil liberties, and privacy
12 considerations are addressed in an integrated
13 and comprehensive manner; and

14 “(B) Congress receives appropriate reports
15 regarding such programs, policies, and proce-
16 dures; and

17 “(6) investigate complaints and information in-
18 dicating possible abuses of civil rights or civil lib-
19 erties, unless the Inspector General of the Depart-
20 ment determines that any such complaint or infor-
21 mation should be investigated by the Inspector Gen-
22 eral.”.

1 **SEC. 8304. PROTECTION OF CIVIL RIGHTS AND CIVIL LIB-**
2 **ERTIES BY OFFICE OF INSPECTOR GENERAL.**

3 Section 8I of the Inspector General Act of 1978 (5
4 U.S.C. App.) is amended by adding at the end the fol-
5 lowing:

6 “(f)(1) The Inspector General of the Department of
7 Homeland Security shall designate a senior official within
8 the Office of Inspector General, who shall be a career
9 member of the civil service at the equivalent to the GS-
10 15 level or a career member of the Senior Executive Serv-
11 ice, to perform the functions described in paragraph (2).

12 “(2) The senior official designated under paragraph
13 (1) shall—

14 “(A) coordinate the activities of the Office of
15 Inspector General with respect to investigations of
16 abuses of civil rights or civil liberties;

17 “(B) receive and review complaints and infor-
18 mation from any source alleging abuses of civil
19 rights and civil liberties by employees or officials of
20 the Department and employees or officials of inde-
21 pendent contractors or grantees of the Department;

22 “(C) initiate investigations of alleged abuses of
23 civil rights or civil liberties by employees or officials
24 of the Department and employees or officials of
25 independent contractors or grantees of the Depart-
26 ment;

1 “(D) ensure that personnel within the Office of
2 Inspector General receive sufficient training to con-
3 duct effective civil rights and civil liberties investiga-
4 tions;

5 “(E) consult with the Officer for Civil Rights
6 and Civil Liberties regarding—

7 “(i) alleged abuses of civil rights or civil
8 liberties; and

9 “(ii) any policy recommendations regarding
10 civil rights and civil liberties that may be found-
11 ed upon an investigation by the Office of In-
12 specter General;

13 “(F) provide the Officer for Civil Rights and
14 Civil Liberties with information regarding the out-
15 come of investigations of alleged abuses of civil
16 rights and civil liberties;

17 “(G) refer civil rights and civil liberties matters
18 that the Inspector General decides not to investigate
19 to the Officer for Civil Rights and Civil Liberties;

20 “(H) ensure that the Office of the Inspector
21 General publicizes and provides convenient public ac-
22 cess to information regarding—

23 “(i) the procedure to file complaints or
24 comments concerning civil rights and civil lib-
25 erties matters; and

1 “(ii) the status of corrective actions taken
2 by the Department in response to Office of the
3 Inspector General reports; and

4 “(I) inform the Officer for Civil Rights and
5 Civil Liberties of any weaknesses, problems, and de-
6 ficiencies within the Department relating to civil
7 rights or civil liberties.”.

8 **SEC. 8305. PRIVACY OFFICER.**

9 Section 222 of the Homeland Security Act of 2002
10 (6 U.S.C. 142) is amended—

11 (1) in the matter preceding paragraph (1), by
12 inserting “, who shall report directly to the Sec-
13 retary,” after “in the Department”;

14 (2) in paragraph (4), by striking “and” at the
15 end;

16 (3) by redesignating paragraph (5) as para-
17 graph (6); and

18 (4) by inserting after paragraph (4) the fol-
19 lowing:

20 “(5) coordinating with the Officer for Civil
21 Rights and Civil Liberties to ensure that—

22 “(A) programs, policies, and procedures in-
23 volving civil rights, civil liberties, and privacy
24 considerations are addressed in an integrated
25 and comprehensive manner; and

1 “(B) Congress receives appropriate reports
2 on such programs, policies, and procedures;
3 and”.

4 **SEC. 8306. PROTECTIONS FOR HUMAN RESEARCH SUB-**
5 **JECTS OF THE DEPARTMENT OF HOMELAND**
6 **SECURITY.**

7 The Secretary of Homeland Security shall ensure
8 that the Department of Homeland Security complies with
9 the protections for human research subjects, as described
10 in part 46 of title 45, Code of Federal Regulations, or
11 in equivalent regulations as promulgated by such Sec-
12 retary, with respect to research that is conducted or sup-
13 ported by the Department.

14 **Subtitle D—Other Matters**

15 **SEC. 8401. AMENDMENTS TO CLINGER-COHEN ACT PROVI-**
16 **SIONS TO ENHANCE AGENCY PLANNING FOR**
17 **INFORMATION SECURITY NEEDS.**

18 Chapter 113 of title 40, United States Code, is
19 amended—

20 (1) in section 11302(b), by inserting “security,”
21 after “use,”;

22 (2) in section 11302(c), by inserting “, includ-
23 ing information security risks,” after “risks” both
24 places it appears;

1 (3) in section 11312(b)(1), by striking “infor-
2 mation technology investments” and inserting “in-
3 vestments in information technology (including infor-
4 mation security needs)”;

5 (4) in section 11315(b)(2), by inserting “, se-
6 cure,” after “sound”.

7 **SEC. 8402. ENTERPRISE ARCHITECTURE.**

8 (a) ENTERPRISE ARCHITECTURE DEFINED.—In this
9 section, the term “enterprise architecture” means a de-
10 tailed outline or blueprint of the information technology
11 of the Federal Bureau of Investigation that will satisfy
12 the ongoing mission and goals of the Federal Bureau of
13 Investigation and that sets forth specific and identifiable
14 benchmarks.

15 (b) ENTERPRISE ARCHITECTURE.—The Federal Bu-
16 reau of Investigation shall—

17 (1) continually maintain and update an enter-
18 prise architecture; and

19 (2) maintain a state of the art and up to date
20 information technology infrastructure that is in com-
21 pliance with the enterprise architecture of the Fed-
22 eral Bureau of Investigation.

23 (c) REPORT.—Subject to subsection (d), the Director
24 of the Federal Bureau of Investigation shall, on an annual
25 basis, submit to the Committees on the Judiciary of the

1 Senate and House of Representatives a report on whether
2 the major information technology investments of the Fed-
3 eral Bureau of Investigation are in compliance with the
4 enterprise architecture of the Federal Bureau of Investiga-
5 tion and identify any inability or expectation of inability
6 to meet the terms set forth in the enterprise architecture.

7 (d) FAILURE TO MEET TERMS.—If the Director of
8 the Federal Bureau of Investigation identifies any inabil-
9 ity or expectation of inability to meet the terms set forth
10 in the enterprise architecture in a report under subsection
11 (c), the report under subsection (c) shall—

12 (1) be twice a year until the inability is cor-
13 rected;

14 (2) include a statement as to whether the in-
15 ability or expectation of inability to meet the terms
16 set forth in the enterprise architecture is substan-
17 tially related to resources; and

18 (3) if the inability or expectation of inability is
19 substantially related to resources, include a request
20 for additional funding that would resolve the prob-
21 lem or a request to reprogram funds that would re-
22 solve the problem.

23 (e) ENTERPRISE ARCHITECTURE, AGENCY PLANS
24 AND REPORTS.—This section shall be carried out in com-

1 pliance with the requirements set forth in section 1016
2 (e) and (h).

3 **SEC. 8403. FINANCIAL DISCLOSURE AND RECORDS.**

4 (a) STUDY.—Not later than 90 days after the date
5 of enactment of this Act, the Office of Government Ethics
6 shall submit to Congress a report—

7 (1) evaluating the financial disclosure process
8 for employees of the executive branch of Govern-
9 ment; and

10 (2) making recommendations for improving that
11 process.

12 (b) TRANSMITTAL OF RECORD RELATING TO PRESI-
13 DENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL
14 CANDIDATES.—

15 (1) DEFINITION.—In this section, the term
16 “major party” has the meaning given that term
17 under section 9002(6) of the Internal Revenue Code
18 of 1986.

19 (2) TRANSMITTAL.—

20 (A) IN GENERAL.—Not later than 15 days
21 after the date on which a major party nomi-
22 nates a candidate for President, the Office of
23 Personnel Management shall transmit an elec-
24 tronic record to that candidate on Presidentially
25 appointed positions.

1 (B) OTHER CANDIDATES.—After making
2 transmittals under subparagraph (A), the Of-
3 fice of Personnel Management may transmit an
4 electronic record on Presidentially appointed po-
5 sitions to any other candidate for President.

6 (3) CONTENT.—The record transmitted under
7 this subsection shall provide—

8 (A) all positions which are appointed by
9 the President, including the title and descrip-
10 tion of the duties of each position;

11 (B) the name of each person holding a po-
12 sition described under subparagraph (A);

13 (C) any vacancy in the positions described
14 under subparagraph (A), and the period of time
15 any such position has been vacant;

16 (D) the date on which an appointment
17 made after the applicable Presidential election
18 for any position described under subparagraph
19 (A) is necessary to ensure effective operation of
20 the Government; and

21 (E) any other information that the Office
22 of Personnel Management determines is useful
23 in making appointments.

24 (c) REDUCTION OF POSITIONS REQUIRING APPOINT-
25 MENT WITH SENATE CONFIRMATION.—

1 (1) DEFINITION.—In this subsection, the term
2 “agency” means an Executive agency as defined
3 under section 105 of title 5, United States Code.

4 (2) REDUCTION PLAN.—

5 (A) IN GENERAL.—Not later than 180
6 days after the date of enactment of this Act,
7 the head of each agency shall submit a Presi-
8 dential appointment reduction plan to—

9 (i) the President;

10 (ii) the Committee on Homeland Se-
11 curity and Governmental Affairs of the
12 Senate; and

13 (iii) the Committee on Government
14 Reform of the House of Representatives.

15 (B) CONTENT.—The plan under this para-
16 graph shall provide for the reduction of—

17 (i) the number of positions within that
18 agency that require an appointment by the
19 President, by and with the advice and con-
20 sent of the Senate; and

21 (ii) the number of levels of such posi-
22 tions within that agency.

23 (d) OFFICE OF GOVERNMENT ETHICS REVIEW OF
24 CONFLICT OF INTEREST LAW.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, the Director of
3 the Office of Government Ethics, in consultation
4 with the Attorney General of the United States,
5 shall conduct a comprehensive review of conflict of
6 interest laws relating to executive branch employ-
7 ment and submit a report to—

8 (A) the President;

9 (B) the Committees on Homeland Security
10 and Governmental Affairs and the Judiciary of
11 the Senate;

12 (C) the Committees on Government Re-
13 form and the Judiciary of the House of Rep-
14 resentatives.

15 (2) CONTENTS.—The report under this sub-
16 section shall examine sections 203, 205, 207, and
17 208 of title 18, United States Code.

18 **SEC. 8404. EXTENSION OF REQUIREMENT FOR AIR CAR-**
19 **RIERS TO HONOR TICKETS FOR SUSPENDED**
20 **AIR PASSENGER SERVICE.**

21 Section 145(c) of the Aviation and Transportation
22 Security Act (49 U.S.C. 40101 note) is amended by strik-
23 ing “more than” and all that follows and inserting “after
24 November 19, 2005.”.