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PUBLIC LAW 108–458—DEC. 17, 2004

INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

Public Law 108–458
108th Congress

An Act

Dec. 17, 2004
[S. 2845]

To reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intelligence Reform and Terrorism Prevention Act of 2004.
50 USC 401 note.

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TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

National Security Intelligence Reform Act of 2004.

SEC. 1001. SHORT TITLE.

50 USC 401 note.

This title may be cited as the "National Security Intelligence Reform Act of 2004".

Subtitle A—Establishment of Director of National Intelligence

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

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

"DIRECTOR OF NATIONAL INTELLIGENCE

President. Congress. 50 USC 403.

"SEC. 102. (a) DIRECTOR OF NATIONAL INTELLIGENCE.—(1) There is a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. Any individual nominated for appointment as Director of National Intelligence shall have extensive national security expertise.

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

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

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

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

"(3) consistent with section 1018 of the National Security Intelligence Reform Act of 2004, oversee and direct the implementation of the National Intelligence Program.

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

"RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

50 USC 403–1.

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

"(A) to the President;

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

"(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

"(D) to the Senate and House of Representatives and the committees thereof; and

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

"(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

"(b) ACCESS TO INTELLIGENCE.—Unless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.

"(c) BUDGET AUTHORITIES.—(1) With respect to budget requests and appropriations for the National Intelligence Program, the Director of National Intelligence shall—

"(A) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the intelligence community, and to the

heads of such agencies and organizations, guidance for developing the National Intelligence Program budget pertaining to such agencies and organizations;

"(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

"(C) present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

"(2) In addition to the information provided under paragraph (1)(B), the heads of agencies and organizations within the intelligence community shall provide the Director of National Intelligence such other information as the Director shall request for the purpose of determining the annual consolidated National Intelligence Program budget under that paragraph.

"(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities.

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

"(4) The Director of National Intelligence shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

"(5)(A) The Director of National Intelligence shall be responsible for managing appropriations for the National Intelligence Program by directing the allotment or allocation of such appropriations through the heads of the departments containing agencies or organizations within the intelligence community and the Director of the Central Intelligence Agency, with prior notice (including the provision of appropriate supporting information) to the head of the department containing an agency or organization receiving any such allocation or allotment or the Director of the Central Intelligence Agency.

"(B) Notwithstanding any other provision of law, pursuant to relevant appropriations Acts for the National Intelligence Program, the Director of the Office of Management and Budget shall exercise the authority of the Director of the Office of Management and Budget to apportion funds, at the exclusive direction of the Director of National Intelligence, for allocation to the elements of the intelligence community through the relevant host executive departments and the Central Intelligence Agency. Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.

"(C) The Director of National Intelligence shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations.

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

Reports. Deadlines.

"(7)(A) The Director of National Intelligence shall provide a semi-annual report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

"(B) The Director of National Intelligence shall report to the President and the Congress not later than 15 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

"(d) ROLE OF DIRECTOR OF NATIONAL INTELLIGENCE IN TRANSFER AND REPROGRAMMING OF FUNDS.—(1)(A) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the Director of National Intelligence, except in accordance with procedures prescribed by the Director of National Intelligence.

"(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

"(2) Subject to the succeeding provisions of this subsection, the Director of National Intelligence may transfer or reprogram funds appropriated for a program within the National Intelligence Program to another such program.

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

"(A) with the approval of the Director of the Office of Management and Budget; and

"(B) after consultation with the heads of departments containing agencies or organizations within the intelligence community to the extent such agencies or organizations are affected, and, in the case of the Central Intelligence Agency, after consultation with the Director of the Central Intelligence Agency.

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

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

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

"(ii) the transfer or reprogramming supports an emergent need, improves program effectiveness, or increases efficiency;

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

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

"(I) that is less than $150,000,000, and

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

"(v) the transfer or reprogramming does not terminate an acquisition program.

"(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department or agency involved to the deputy of such officer.

"(6) Funds transferred or reprogrammed under this subsection shall remain available for the same period as the appropriations account to which transferred or reprogrammed.

"(7) Any transfer or reprogramming of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer or reprogramming for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer or reprogramming and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer or reprogramming of funds made pursuant to this subsection in any case in which the transfer or reprogramming would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

Reports.

Notification.

"(e) TRANSFER OF PERSONNEL.—(1)(A) In addition to any other authorities available under law for such purposes, in the first twelve months after establishment of a new national intelligence center, the Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in consultation with the congressional committees of jurisdiction referred to in subparagraph (B), may transfer not more than 100 personnel authorized for elements of the intelligence community to such center.

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

Notice.

"(i) the congressional intelligence committees;

"(ii) the Committees on Appropriations of the Senate and the House of Representatives;

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

"(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

"(C) The Director shall include in any notice under subparagraph (B) an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

"(2)(A) The Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in accordance with procedures to be developed by the Director of National Intelligence and the heads of the departments and agencies

concerned, may transfer personnel authorized for an element of the intelligence community to another such element for a period of not more than 2 years.

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

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

"(ii) the transfer supports an emergent need, improves program effectiveness, or increases efficiency.

Notice.

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

"(i) the congressional intelligence committees;

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

"(iii) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

"(D) The Director shall include in any notice under subparagraph (C) an explanation of the nature of the transfer and how it satisfies the requirements of this paragraph.

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

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

"(B) both the Office of the Director of National Intelligence and any analytic centers determined to be necessary should be fully and properly supported with appropriate levels of personnel resources and that the President's yearly budget requests adequately support those needs; and

"(C) the President should utilize all legal and administrative discretion to ensure that the Director of National Intelligence and all other elements of the intelligence community have the necessary resources and procedures to respond promptly and effectively to emerging and unforeseen national security challenges.

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

"(i) establish objectives, priorities, and guidance for the intelligence community to ensure timely and effective collection, processing, analysis, and dissemination (including access by users to collected data consistent with applicable law and, as appropriate, the guidelines referred to in subsection (b) and analytic products generated by or within the intelligence community) of national intelligence;

"(ii) determine requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the intelligence community, including—

"(I) approving requirements (including those requirements responding to needs provided by consumers) for collection and analysis; and

"(II) resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community; and

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

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

"(i) insofar as the President so directs;

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

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

"(2) The Director of National Intelligence shall oversee the National Counterterrorism Center and may establish such other national intelligence centers as the Director determines necessary.

"(3)(A) The Director of National Intelligence shall prescribe, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that— Policies.

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

"(ii) set standards for education, training, and career development of personnel of the intelligence community;

"(iii) encourage and facilitate the recruitment and retention by the intelligence community of highly qualified individuals for the effective conduct of intelligence activities;

"(iv) ensure that the personnel of the intelligence community are sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds;

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

"(vi) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters.

"(B) Policies prescribed under subparagraph (A) shall not be inconsistent with the personnel policies otherwise applicable to members of the uniformed services.

"(4) The Director of National Intelligence shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program.

"(5) The Director of National Intelligence shall ensure the elimination of waste and unnecessary duplication within the intelligence community.

Requirements.

"(6) The Director of National Intelligence shall establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for national intelligence purposes, except that the Director shall have no authority to direct or undertake electronic surveillance or physical search operations pursuant to that Act unless authorized by statute or Executive order.

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

"(8) Nothing in this title shall be construed as affecting the role of the Department of Justice or the Attorney General under the Foreign Intelligence Surveillance Act of 1978.

Procedures.

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

"(A) establish uniform security standards and procedures;

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

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

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

"(E) develop an enterprise architecture for the intelligence community and ensure that elements of the intelligence community comply with such architecture; and

"(F) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program.

President.

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

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

Deadline.
Reports.

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

"(h) ANALYSIS.—To ensure the most accurate analysis of intelligence is derived from all sources to support national security needs, the Director of National Intelligence shall—

Procedures.

"(1) implement policies and procedures—

"(A) to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community;

"(B) to ensure that analysis is based upon all sources available; and

"(C) to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

"(2) ensure that resource allocation for intelligence analysis is appropriately proportional to resource allocation for intelligence collection systems and operations in order to maximize analysis of all collected data;

"(3) ensure that differences in analytic judgment are fully considered and brought to the attention of policymakers; and

"(4) ensure that sufficient relationships are established between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

"(i) PROTECTION OF INTELLIGENCE SOURCES AND METHODS.— Guidelines.
(1) The Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.

"(2) Consistent with paragraph (1), in order to maximize the dissemination of intelligence, the Director of National Intelligence shall establish and implement guidelines for the intelligence community for the following purposes:

"(A) Classification of information under applicable law, Executive orders, or other Presidential directives.

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

"(C) Preparation of intelligence products in such a way that source information is removed to allow for dissemination at the lowest level of classification possible or in unclassified form to the extent practicable.

"(3) The Director may only delegate a duty or authority given the Director under this subsection to the Principal Deputy Director of National Intelligence.

"(j) UNIFORM PROCEDURES FOR SENSITIVE COMPARTMENTED INFORMATION.—The Director of National Intelligence, subject to the direction of the President, shall—

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

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

"(3) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by those agencies; and

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

"(k) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the President and in a manner consistent with section

207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director of National Intelligence shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

Regulations.

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

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

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

"(iii) on the staff of the National Counterterrorism Center; and

"(iv) in other positions in support of the intelligence community management functions of the Director.

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

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

"(B) The Director may prescribe regulations to carry out this section.

"(3)(A) The Director of National Intelligence shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.

"(B) The mechanisms prescribed under subparagraph (A) may include the following:

"(i) The establishment of special occupational categories involving service, over the course of a career, in more than one element of the intelligence community.

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

"(iii) The establishment of requirements for education, training, service, and evaluation for service involving more than one element of the intelligence community.

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

"(4)(A) Except as provided in subparagraph (B) and subparagraph (D), this subsection shall not apply with respect to personnel of the elements of the intelligence community who are members of the uniformed services.

"(B) Mechanisms that establish requirements for education and training pursuant to paragraph (3)(B)(iii) may apply with respect to members of the uniformed services who are assigned to an element of the intelligence community funded through the National Intelligence Program, but such mechanisms shall not be inconsistent with personnel policies and education and training requirements otherwise applicable to members of the uniformed services.

"(C) The personnel policies and programs developed and implemented under this subsection with respect to law enforcement officers (as that term is defined in section 5541(3) of title 5, United States Code) shall not affect the ability of law enforcement entities to conduct operations or, through the applicable chain of command, to control the activities of such law enforcement officers.

"(D) Assignment to the Office of the Director of National Intelligence of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer management policies prescribed by chapter 38 of title 10, United States Code, and other provisions of that title.

"(m) ADDITIONAL AUTHORITY WITH RESPECT TO PERSONNEL.—(1) In addition to the authorities under subsection (f)(3), the Director of National Intelligence may exercise with respect to the personnel of the Office of the Director of National Intelligence any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this subsection to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

"(2) Employees and applicants for employment of the Office of the Director of National Intelligence shall have the same rights and protections under the Office of the Director of National Intelligence as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this subsection.

"(n) ACQUISITION AUTHORITIES.—(1) In carrying out the responsibilities and authorities under this section, the Director of National Intelligence may exercise the acquisition and appropriations authorities referred to in the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) other than the authorities referred to in section 8(b) of that Act (50 U.S.C. 403j(b)).

"(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be deemed to be a reference to the Director of National Intelligence or the Principal Deputy Director of National Intelligence.

"(3)(A) Any determination or decision to be made under an authority referred to in paragraph (1) by the head of an agency may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final.

"(B) Except as provided in subparagraph (C), the Director of National Intelligence or the Principal Deputy Director of National Intelligence may, in such official's discretion, delegate to any officer or other official of the Office of the Director of National Intelligence any authority to make a determination or decision as the head of the agency under an authority referred to in paragraph (1).

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

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

"(o) CONSIDERATION OF VIEWS OF ELEMENTS OF INTELLIGENCE COMMUNITY.—In carrying out the duties and responsibilities under this section, the Director of National Intelligence shall take into account the views of a head of a department containing an element of the intelligence community and of the Director of the Central Intelligence Agency.

"(p) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE REGARDING NATIONAL INTELLIGENCE PROGRAM BUDGET CONCERNING THE DEPARTMENT OF DEFENSE.—Subject to the direction of the President, the Director of National Intelligence shall, after consultation with the Secretary of Defense, ensure that the National Intelligence Program budgets for the elements of the intelligence community that are within the Department of Defense are adequate to satisfy the national intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, and wherever such elements are performing Government-wide functions, the needs of other Federal departments and agencies.

"(q) ACQUISITIONS OF MAJOR SYSTEMS.—(1) For each intelligence program within the National Intelligence Program for the acquisition of a major system, the Director of National Intelligence shall—

"(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria, except that with respect to Department of Defense programs the Director shall consult with the Secretary of Defense;

"(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

"(C) periodically—

"(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and

Reports.

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

President.

"(2) If the Director of National Intelligence and the Secretary of Defense are unable to reach an agreement on a milestone decision under paragraph (1)(B), the President shall resolve the conflict.

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

"(4) In this subsection:

"(A) The term 'intelligence program', with respect to the acquisition of a major system, means a program that—

"(i) is carried out to acquire such major system for an element of the intelligence community; and

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

"(B) The term 'major system' has the meaning given such term in section 4(9) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 403(9)).

"(r) PERFORMANCE OF COMMON SERVICES.—The Director of National Intelligence shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the Director of National Intelligence determines can be more efficiently accomplished in a consolidated manner.

"OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

"SEC. 103. (a) OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE.—There is an Office of the Director of National Intelligence. Establishment. 50 USC 403–3.

"(b) FUNCTION.—The function of the Office of the Director of National Intelligence is to assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director under this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

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

"(1) The Director of National Intelligence.

"(2) The Principal Deputy Director of National Intelligence.

"(3) Any Deputy Director of National Intelligence appointed under section 103A.

"(4) The National Intelligence Council.

"(5) The General Counsel.

"(6) The Civil Liberties Protection Officer.

"(7) The Director of Science and Technology.

"(8) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).

"(9) Such other offices and officials as may be established by law or the Director may establish or designate in the Office, including national intelligence centers.

"(d) STAFF.—(1) To assist the Director of National Intelligence in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the Director of National Intelligence a professional staff having an expertise in matters relating to such duties and responsibilities, and may establish permanent positions and appropriate rates of pay with respect to that staff.

"(2) The staff of the Office of the Director of National Intelligence under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the Director of

National Intelligence under section 1091 of the National Security Intelligence Reform Act of 2004.

Effective date.

"(e) LIMITATION ON CO-LOCATION WITH OTHER ELEMENTS OF INTELLIGENCE COMMUNITY.—Commencing as of October 1, 2008, the Office of the Director of National Intelligence may not be co-located with any other element of the intelligence community.

"DEPUTY DIRECTORS OF NATIONAL INTELLIGENCE

President. Congress. 50 USC 403–3a.

"SEC. 103A. (a) PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE.—(1) There is a Principal Deputy Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) In the event of a vacancy in the position of Principal Deputy Director of National Intelligence, the Director of National Intelligence shall recommend to the President an individual for appointment as Principal Deputy Director of National Intelligence.

"(3) Any individual nominated for appointment as Principal Deputy Director of National Intelligence shall have extensive national security experience and management expertise.

"(4) The individual serving as Principal Deputy Director of National Intelligence shall not, while so serving, serve in any capacity in any other element of the intelligence community.

"(5) The Principal Deputy Director of National Intelligence shall assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director.

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

"(b) DEPUTY DIRECTORS OF NATIONAL INTELLIGENCE.—(1) There may be not more than four Deputy Directors of National Intelligence who shall be appointed by the Director of National Intelligence.

"(2) Each Deputy Director of National Intelligence appointed under this subsection shall have such duties, responsibilities, and authorities as the Director of National Intelligence may assign or are specified by law.

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

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

"(A) The Director of National Intelligence.

"(B) The Principal Deputy Director of National Intelligence.

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

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

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

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

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

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

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

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

"(6) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (2), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of National Intelligence.

"NATIONAL INTELLIGENCE COUNCIL

"SEC. 103B. (a) NATIONAL INTELLIGENCE COUNCIL.—There is a National Intelligence Council. Establishment. 50 USC 403–3b.

"(b) COMPOSITION.—(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of National Intelligence.

"(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose. Requirements.

"(c) DUTIES AND RESPONSIBILITIES.—(1) The National Intelligence Council shall—

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

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

"(C) otherwise assist the Director of National Intelligence in carrying out the responsibilities of the Director under section 102A.

"(2) The Director of National Intelligence shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence.

"(d) SERVICE AS SENIOR INTELLIGENCE ADVISERS.—Within their respective areas of expertise and under the direction of the Director

of National Intelligence, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

"(e) AUTHORITY TO CONTRACT.—Subject to the direction and control of the Director of National Intelligence, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

"(f) STAFF.—The Director of National Intelligence shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

"(g) AVAILABILITY OF COUNCIL AND STAFF.—(1) The Director of National Intelligence shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

"(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

"(h) SUPPORT.—The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the Director of National Intelligence.

"(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term 'National Intelligence Council product' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

"GENERAL COUNSEL

President. Congress. 50 USC 403–3c.

"SEC. 103C. (a) GENERAL COUNSEL.—There is a General Counsel of the Office of the Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) PROHIBITION ON DUAL SERVICE AS GENERAL COUNSEL OF ANOTHER AGENCY.—The individual serving in the position of General Counsel may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

"(c) SCOPE OF POSITION.—The General Counsel is the chief legal officer of the Office of the Director of National Intelligence.

"(d) FUNCTIONS.—The General Counsel shall perform such functions as the Director of National Intelligence may prescribe.

"CIVIL LIBERTIES PROTECTION OFFICER

Government organization. 50 USC 403–3d.

"SEC. 103D. (a) CIVIL LIBERTIES PROTECTION OFFICER.—(1) Within the Office of the Director of National Intelligence, there is a Civil Liberties Protection Officer who shall be appointed by the Director of National Intelligence.

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

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

"(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures

developed for and implemented by the Office of the Director of National Intelligence and the elements of the intelligence community within the National Intelligence Program;

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

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

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

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

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

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

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

"DIRECTOR OF SCIENCE AND TECHNOLOGY

"SEC. 103E. (a) DIRECTOR OF SCIENCE AND TECHNOLOGY.—There is a Director of Science and Technology within the Office of the Director of National Intelligence who shall be appointed by the Director of National Intelligence.

Government organization.
50 USC 403–3e.

"(b) REQUIREMENT RELATING TO APPOINTMENT.—An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology.

"(c) DUTIES.—The Director of Science and Technology shall—

"(1) act as the chief representative of the Director of National Intelligence for science and technology;

"(2) chair the Director of National Intelligence Science and Technology Committee under subsection (d);

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

"(4) assist the Director on the science and technology elements of the budget of the Office of the Director of National Intelligence; and

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

"(d) DIRECTOR OF NATIONAL INTELLIGENCE SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is within the Office of the Director of Science and Technology a Director of National Intelligence Science and Technology Committee.

Government organization.

"(2) The Committee shall be composed of the principal science officers of the National Intelligence Program.

"(3) The Committee shall—

"(A) coordinate advances in research and development related to intelligence; and

"(B) perform such other functions as the Director of Science and Technology shall prescribe.

"NATIONAL COUNTERINTELLIGENCE EXECUTIVE

Government organization. 50 USC 403–3f.

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

"(b) DUTIES.—The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002 and such other duties as may be prescribed by the Director of National Intelligence or specified by law.

"CENTRAL INTELLIGENCE AGENCY

50 USC 403–4.

"SEC. 104. (a) CENTRAL INTELLIGENCE AGENCY.—There is a Central Intelligence Agency.

"(b) FUNCTION.—The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 104A(c).

"DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

President. Congress. 50 USC 403–4a.

"SEC. 104A. (a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) SUPERVISION.—The Director of the Central Intelligence Agency shall report to the Director of National Intelligence regarding the activities of the Central Intelligence Agency.

"(c) DUTIES.—The Director of the Central Intelligence Agency shall—

"(1) serve as the head of the Central Intelligence Agency; and

"(2) carry out the responsibilities specified in subsection (d).

"(d) RESPONSIBILITIES.—The Director of the Central Intelligence Agency shall—

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

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

"(3) provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks

to the United States and those involved in such collection; and

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

"(e) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—(1) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

"(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

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

(b) SENSE OF CONGRESS.—It is the sense of Congress that— 50 USC 403–4b note.

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

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

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

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

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

(c) TRANSFORMATION OF CENTRAL INTELLIGENCE AGENCY.—The Director of the Central Intelligence Agency shall, in accordance with standards developed by the Director in consultation with the Director of National Intelligence— 50 USC 403–4b.

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

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

(3) emphasize the hiring of personnel of diverse backgrounds for purposes of improving the capabilities of the Agency;

(4) establish and maintain effective relationships between human intelligence and signals intelligence within the Agency at the operational level; and

(5) achieve a more effective balance within the Agency with respect to unilateral operations and liaison operations.

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

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

(B) A strategy for improving the human intelligence and other capabilities of the Agency, and the progress of the Agency in implementing that strategy.

(2)(A) The information in the report under paragraph (1) on the strategy referred to in paragraph (1)(B) shall—

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

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

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

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

SEC. 1012. REVISED DEFINITION OF NATIONAL INTELLIGENCE.

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

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

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

"(B) that involves—

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

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

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

50 USC 403–1 note.

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

(a) DEVELOPMENT OF PROCEDURES.—The Director of National Intelligence, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction

of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

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

(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

(B) exchange of information between the Secretary and the Director of the Central Intelligence Agency to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, a mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act, the Director of National Intelligence shall submit to the congressional defense committees (as defined in section 101 of title 10, United States Code) and the congressional intelligence committees (as defined in section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7))) a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.

SEC. 1014. ROLE OF DIRECTOR OF NATIONAL INTELLIGENCE IN APPOINTMENT OF CERTAIN OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

50 USC 403–6.

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

"(a) RECOMMENDATION OF DNI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Director of National Intelligence shall recommend to the President an individual for nomination to fill the vacancy.

"(2) Paragraph (1) applies to the following positions:

Applicability.

"(A) The Principal Deputy Director of National Intelligence.

"(B) The Director of the Central Intelligence Agency.

"(b) CONCURRENCE OF DNI IN APPOINTMENTS TO POSITIONS IN THE INTELLIGENCE COMMUNITY.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may not fill the vacancy or make the recommendation to the President (as the case may be). In the case in which the Director does not concur in such a recommendation, the Director and the head of the department

or agency concerned may advise the President directly of the intention to withhold concurrence or to make a recommendation, as the case may be.

Applicability.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Geospatial-Intelligence Agency.

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

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

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

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

"(H) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.

"(I) The Assistant Secretary of Homeland Security for Information Analysis.

"(c) CONSULTATION WITH DNI IN CERTAIN POSITIONS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

Applicability.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the Defense Intelligence Agency.

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

SEC. 1015. EXECUTIVE SCHEDULE MATTERS.

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

"Director of National Intelligence.".

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

"Principal Deputy Director of National Intelligence.

"Director of the National Counterterrorism Center.

"Director of the National Counter Proliferation Center.".

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

(1) by striking the item relating to the Assistant Directors of Central Intelligence; and

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

"General Counsel of the Office of the National Intelligence Director.".

6 USC 485.

SEC. 1016. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) INFORMATION SHARING COUNCIL.—The term "Information Sharing Council" means the Information Systems Council established by Executive Order 13356, or any successor body designated by the President, and referred to under subsection (g).

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

(3) PROGRAM MANAGER.—The term "program manager" means the program manager designated under subsection (f).

(4) TERRORISM INFORMATION.—The term "terrorism information" means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

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

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(b) INFORMATION SHARING ENVIRONMENT.— President.

(1) ESTABLISHMENT.—The President shall—

(A) create an information sharing environment for the sharing of terrorism information in a manner consistent with national security and with applicable legal standards relating to privacy and civil liberties;

(B) designate the organizational and management structures that will be used to operate and manage the ISE; and

(C) determine and enforce the policies, directives, and rules that will govern the content and usage of the ISE.

(2) ATTRIBUTES.—The President shall, through the structures described in subparagraphs (B) and (C) of paragraph (1), ensure that the ISE provides and facilitates the means for sharing terrorism information among all appropriate Federal, State, local, and tribal entities, and the private sector through the use of policy guidelines and technologies. The President shall, to the greatest extent practicable, ensure that the ISE provides the functional equivalent of, or otherwise supports, a decentralized, distributed, and coordinated environment that—

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

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

(C) facilitates the availability of information in a form and manner that facilitates its use in analysis, investigations and operations;

(D) builds upon existing systems capabilities currently in use across the Government;

(E) employs an information access management approach that controls access to data rather than just systems and networks, without sacrificing security;

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

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

(H) incorporates protections for individuals' privacy and civil liberties; and

(I) incorporates strong mechanisms to enhance accountability and facilitate oversight, including audits, authentication, and access controls.

(c) PRELIMINARY REPORT.—Not later than 180 days after the date of the enactment of this Act, the program manager shall, in consultation with the Information Sharing Council—

(1) submit to the President and Congress a description of the technological, legal, and policy issues presented by the creation of the ISE, and the way in which these issues will be addressed;

Electronic directory.

(2) establish an initial capability to provide electronic directory services, or the functional equivalent, to assist in locating in the Federal Government intelligence and terrorism information and people with relevant knowledge about intelligence and terrorism information; and

(3) conduct a review of relevant current Federal agency capabilities, databases, and systems for sharing information.

Deadline. President.

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

(1) leverage all ongoing efforts consistent with establishing the ISE and issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by using tearlines to separate out data from the sources and methods by which the data are obtained;

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

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

(B) shall be made public, unless nondisclosure is clearly necessary to protect national security; and

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

(A) reducing disincentives to information sharing, including over-classification of information and unnecessary requirements for originator approval, consistent with applicable laws and regulations; and

(B) providing affirmative incentives for information sharing.

President.

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

(1) A description of the functions, capabilities, resources, and conceptual design of the ISE, including standards.

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

(3) A budget estimate that identifies the incremental costs associated with designing, testing, integrating, deploying, and operating the ISE.

(4) A project plan for designing, testing, integrating, deploying, and operating the ISE.

(5) The policies and directives referred to in subsection (b)(1)(C), as well as the metrics and enforcement mechanisms that will be utilized.

(6) Objective, systemwide performance measures to enable the assessment of progress toward achieving the full implementation of the ISE.

(7) A description of the training requirements needed to ensure that the ISE will be adequately implemented and properly utilized.

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

(9) The recommendations of the program manager, in consultation with the Information Sharing Council, regarding whether, and under what conditions, the ISE should be expanded to include other intelligence information.

(10) A delineation of the roles of the Federal departments and agencies that will participate in the ISE, including an identification of the agencies that will deliver the infrastructure needed to operate and manage the ISE (as distinct from individual department or agency components that are part of the ISE), with such delineation of roles to be consistent with—

(A) the authority of the Director of National Intelligence under this title, and the amendments made by this title, to set standards for information sharing throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the Attorney General, and the role of the Department of Homeland Security and the Attorney General, in coordinating with State, local, and tribal officials and the private sector.

(11) The recommendations of the program manager, in consultation with the Information Sharing Council, for a future management structure for the ISE, including whether the position of program manager should continue to remain in existence.

(f) PROGRAM MANAGER.—

(1) DESIGNATION.—Not later than 120 days after the date of the enactment of this Act, with notification to Congress, the President shall designate an individual as the program manager responsible for information sharing across the Federal Government. The individual designated as the program manager shall serve as program manager during the two-year period beginning on the date of designation under this paragraph unless sooner removed from service and replaced by the President (at the President's sole discretion). The program manager shall have and exercise governmentwide authority.

Deadline. President. Notification.

(2) DUTIES AND RESPONSIBILITIES.—

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

(i) plan for and oversee the implementation of, and manage, the ISE;

(ii) assist in the development of policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the ISE; and

(iii) assist, monitor, and assess the implementation of the ISE by Federal departments and agencies to ensure adequate progress, technological consistency and policy compliance; and regularly report the findings to Congress.

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

(i) take into account the varying missions and security requirements of agencies participating in the ISE;

(ii) address development, implementation, and oversight of technical standards and requirements;

(iii) take into account ongoing and planned efforts that support development, implementation and management of the ISE;

(iv) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the homeland security community and the law enforcement community;

(v) address and facilitate information sharing between Federal departments and agencies and State, tribal, and local governments;

(vi) address and facilitate, as appropriate, information sharing between Federal departments and agencies and the private sector;

(vii) address and facilitate, as appropriate, information sharing between Federal departments and agencies with foreign partners and allies; and

(viii) ensure the protection of privacy and civil liberties.

(g) INFORMATION SHARING COUNCIL.—

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

(2) SPECIFIC DUTIES.—In assisting the President and the program manager in their duties under this section, the Information Sharing Council shall—

(A) advise the President and the program manager in developing policies, procedures, guidelines, roles, and standards necessary to establish, implement, and maintain the ISE;

(B) work to ensure coordination among the Federal departments and agencies participating in the ISE in the

establishment, implementation, and maintenance of the ISE;

(C) identify and, as appropriate, recommend the consolidation and elimination of current programs, systems, and processes used by Federal departments and agencies to share information, and recommend, as appropriate, the redirection of existing resources to support the ISE;

(D) identify gaps, if any, between existing technologies, programs and systems used by Federal departments and agencies to share information and the parameters of the proposed information sharing environment;

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

(F) recommend means by which the ISE can be extended to allow interchange of information between Federal departments and agencies and appropriate authorities of State and local governments; and

(G) recommend whether or not, and by which means, the ISE should be expanded so as to allow future expansion encompassing other relevant categories of information.

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

(4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Information Sharing Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(h) PERFORMANCE MANAGEMENT REPORTS.—

(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a report on the state of the ISE and of information sharing across the Federal Government.

(2) CONTENT.—Each report under this subsection shall include—

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

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

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

(D) actions taken to ensure that procurement of and investments in systems and technology are consistent with the implementation plan for the ISE;

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

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

(G) the extent to which private sector data, including information from owners and operators of critical infrastructure, is incorporated in the ISE, and the extent to which individuals and entities outside the government are receiving information through the ISE;

(H) the measures taken by the Federal government to ensure the accuracy of information in the ISE, in particular the accuracy of information about individuals;

(I) an assessment of the privacy and civil liberties protections of the ISE, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections; and

(J) an assessment of the security protections used in the ISE.

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

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established under subsections (b) and (f);

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

(3) ensure full department or agency cooperation in the development of the ISE to implement governmentwide information sharing; and

(4) submit, at the request of the President or the program manager, any reports on the implementation of the requirements of the ISE within such department or agency.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2005 and 2006.

50 USC 403–1 note.

SEC. 1017. ALTERNATIVE ANALYSIS OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY.

Deadline. Establishment. Guidelines.

(a) IN GENERAL.—Not later than 180 days after the effective date of this Act, the Director of National Intelligence shall establish a process and assign an individual or entity the responsibility for ensuring that, as appropriate, elements of the intelligence community conduct alternative analysis (commonly referred to as "red-team analysis") of the information and conclusions in intelligence products.

(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives on the implementation of subsection (a).

50 USC 403 note.

SEC. 1018. PRESIDENTIAL GUIDELINES ON IMPLEMENTATION AND PRESERVATION OF AUTHORITIES.

The President shall issue guidelines to ensure the effective implementation and execution within the executive branch of the authorities granted to the Director of National Intelligence by this title and the amendments made by this title, in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments of the United States Government concerning such departments, including, but not limited to:

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

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

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

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

(C) the State Department Basic Authorities Act of 1956;

(D) section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)); and

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

SEC. 1019. ASSIGNMENT OF RESPONSIBILITIES RELATING TO ANALYTIC INTEGRITY.

50 USC 403–1a.

(a) ASSIGNMENT OF RESPONSIBILITIES.—For purposes of carrying out section 102A(h) of the National Security Act of 1947 (as added by section 1011(a)), the Director of National Intelligence shall, not later than 180 days after the date of the enactment of this Act, assign an individual or entity to be responsible for ensuring that finished intelligence products produced by any element or elements of the intelligence community are timely, objective, independent of political considerations, based upon all sources of available intelligence, and employ the standards of proper analytic tradecraft.

Deadline.

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

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

(B) shall perform, on a regular basis, detailed reviews of finished intelligence product or other analytic products by an element or elements of the intelligence community covering a particular topic or subject matter;

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

(D) upon completion of any review under subparagraph (B), may draft lessons learned, identify best practices, or make recommendations for improvement to the analytic tradecraft employed in the production of the reviewed product or products.

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

(A) include whether the product or products concerned were based on all sources of available intelligence, properly describe the quality and reliability of underlying sources, properly caveat and express uncertainties or confidence in analytic judgments, properly distinguish between underlying intelligence and the assumptions and judgments of analysts, and incorporate, where appropriate, alternative analyses; and

(B) ensure that the analytic methodologies, tradecraft, and practices used by the element or elements concerned in the

production of the product or products concerned meet the standards set forth in subsection (a).

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

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

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

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

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

50 USC 403–1a note.
Deadline.

SEC. 1020. SAFEGUARD OF OBJECTIVITY IN INTELLIGENCE ANALYSIS.

(a) IN GENERAL.—Not later than 180 days after the effective date of this Act, the Director of National Intelligence shall identify an individual within the Office of the Director of National Intelligence who shall be available to analysts within the Office of the Director of National Intelligence to counsel, conduct arbitration, offer recommendations, and, as appropriate, initiate inquiries into real or perceived problems of analytic tradecraft or politicization, biased reporting, or lack of objectivity in intelligence analysis.

(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the implementation of subsection (a).

Subtitle B—National Counterterrorism Center, National Counter Proliferation Center, and National Intelligence Centers

SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.

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

"NATIONAL COUNTERTERRORISM CENTER

50 USC 404*o*.

"SEC. 119. (a) ESTABLISHMENT OF CENTER.—There is within the Office of the Director of National Intelligence a National Counterterrorism Center.

President.
Congress.

"(b) DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—(1) There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

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

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

"(2) The matters described in this paragraph are as follows:

"(A) The budget and programs of the National Counterterrorism Center.

"(B) The activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (h).

"(C) The conduct of intelligence operations implemented by other elements of the intelligence community; and

"(3) The matters described in this paragraph are the planning and progress of joint counterterrorism operations (other than intelligence operations).".

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

"(1) To serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism.

"(2) To conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies.

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

"(4) To ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

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

"(6) To serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.

"(e) DOMESTIC COUNTERTERRORISM INTELLIGENCE.—(1) The Center may, consistent with applicable law, the direction of the President, and the guidelines referred to in section 102A(b), receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.

"(2) Any agency authorized to conduct counterterrorism activities may request information from the Center to assist it in its

responsibilities, consistent with applicable law and the guidelines referred to in section 102A(b).

"(f) DUTIES AND RESPONSIBILITIES OF DIRECTOR.—(1) The Director of the National Counterterrorism Center shall—

"(A) serve as the principal adviser to the Director of National Intelligence on intelligence operations relating to counterterrorism;

"(B) provide strategic operational plans for the civilian and military counterterrorism efforts of the United States Government and for the effective integration of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

"(C) advise the Director of National Intelligence on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President;

"(D) disseminate terrorism information, including current terrorism threat analysis, to the President, the Vice President, the Secretaries of State, Defense, and Homeland Security, the Attorney General, the Director of the Central Intelligence Agency, and other officials of the executive branch as appropriate, and to the appropriate committees of Congress;

"(E) support the Department of Justice and the Department of Homeland Security, and other appropriate agencies, in fulfillment of their responsibilities to disseminate terrorism information, consistent with applicable law, guidelines referred to in section 102A(b), Executive orders and other Presidential guidance, to State and local government officials, and other entities, and coordinate dissemination of terrorism information to foreign governments as approved by the Director of National Intelligence;

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

"(G) have primary responsibility within the United States Government for conducting net assessments of terrorist threats;

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

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

"(2) Nothing in paragraph (1)(G) shall limit the authority of the departments and agencies of the United States to conduct net assessments.

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

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

of the disagreement by the Director of National Intelligence to the President.

"(i) DIRECTORATE OF INTELLIGENCE.—The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence which shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States. Establishment.

"(j) DIRECTORATE OF STRATEGIC OPERATIONAL PLANNING.—(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Strategic Operational Planning which shall provide strategic operational plans for counterterrorism operations conducted by the United States Government. Establishment.

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

"(3) The Director of the National Counterterrorism Center shall monitor the implementation of strategic operational plans, and shall obtain information from each element of the intelligence community, and from each other department, agency, or element of the United States Government relevant for monitoring the progress of such entity in implementing such plans.".

SEC. 1022. NATIONAL COUNTER PROLIFERATION CENTER.

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

"NATIONAL COUNTER PROLIFERATION CENTER

"SEC. 119A. (a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the President shall establish a National Counter Proliferation Center, taking into account all appropriate government tools to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies. Deadline. President. 50 USC 404*o*–1.

"(b) MISSIONS AND OBJECTIVES.—In establishing the National Counter Proliferation Center, the President shall address the following missions and objectives to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies:

"(1) Establishing a primary organization within the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States pertaining to proliferation.

"(2) Ensuring that appropriate agencies have full access to and receive all-source intelligence support needed to execute their counter proliferation plans or activities, and perform independent, alternative analyses.

"(3) Establishing a central repository on known and suspected proliferation activities, including the goals, strategies, capabilities, networks, and any individuals, groups, or entities engaged in proliferation.

"(4) Disseminating proliferation information, including proliferation threats and analyses, to the President, to the appropriate departments and agencies, and to the appropriate committees of Congress.

"(5) Conducting net assessments and warnings about the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

"(6) Coordinating counter proliferation plans and activities of the various departments and agencies of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

"(7) Conducting strategic operational counter proliferation planning for the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

"(c) NATIONAL SECURITY WAIVER.—The President may waive the requirements of this section, and any parts thereof, if the President determines that such requirements do not materially improve the ability of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies. Such waiver shall be made in writing to Congress and shall include a description of how the missions and objectives in subsection (b) are being met.

President.

"(d) REPORT TO CONGRESS.—(1) Not later than nine months after the implementation of this Act, the President shall submit to Congress, in classified form if necessary, the findings and recommendations of the President's Commission on Weapons of Mass Destruction established by Executive Order in February 2004, together with the views of the President regarding the establishment of a National Counter Proliferation Center.

"(2) If the President decides not to exercise the waiver authority granted by subsection (c), the President shall submit to Congress from time to time updates and plans regarding the establishment of a National Counter Proliferation Center.

"(e) SENSE OF CONGRESS.—It is the sense of Congress that a central feature of counter proliferation activities, consistent with the President's Proliferation Security Initiative, should include the physical interdiction, by air, sea, or land, of weapons of mass destruction, their delivery systems, and related materials and technologies, and enhanced law enforcement activities to identify and disrupt proliferation networks, activities, organizations, and persons.".

SEC. 1023. NATIONAL INTELLIGENCE CENTERS.

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

"NATIONAL INTELLIGENCE CENTERS

50 USC 404*o*–2.

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

"(b) RESOURCES OF DIRECTORS OF CENTERS.—(1) The Director of National Intelligence shall ensure that the head of each national

intelligence center under subsection (a) has appropriate authority, direction, and control of such center, and of the personnel assigned to such center, to carry out the assigned mission of such center.

"(2) The Director of National Intelligence shall ensure that each national intelligence center has appropriate personnel to accomplish effectively the mission of such center.

"(c) INFORMATION SHARING.—The Director of National Intelligence shall, to the extent appropriate and practicable, ensure that each national intelligence center under subsection (a) and the other elements of the intelligence community share information in order to facilitate the mission of such center.

"(d) MISSION OF CENTERS.—Pursuant to the direction of the Director of National Intelligence, each national intelligence center under subsection (a) may, in the area of intelligence responsibility assigned to such center—

"(1) have primary responsibility for providing all-source analysis of intelligence based upon intelligence gathered both domestically and abroad;

"(2) have primary responsibility for identifying and proposing to the Director of National Intelligence intelligence collection and analysis and production requirements; and

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

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

"(1) the area of intelligence responsibility assigned to each national intelligence center under subsection (a) continues to meet appropriate intelligence priorities; and

"(2) the staffing and management of such center remains appropriate for the accomplishment of the mission of such center.

"(f) TERMINATION.—The Director of National Intelligence may terminate any national intelligence center under subsection (a).

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

Subtitle C—Joint Intelligence Community Council

SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.

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

"JOINT INTELLIGENCE COMMUNITY COUNCIL

"SEC. 101A. (a) JOINT INTELLIGENCE COMMUNITY COUNCIL.—There is a Joint Intelligence Community Council. 50 USC 402–1. Establishment.

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

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

"(2) The Secretary of State.

"(3) The Secretary of the Treasury.

"(4) The Secretary of Defense.
"(5) The Attorney General.
"(6) The Secretary of Energy.
"(7) The Secretary of Homeland Security.
"(8) Such other officers of the United States Government as the President may designate from time to time.

"(c) FUNCTIONS.—The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by—

"(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and

"(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

"(d) MEETINGS.—The Director of National Intelligence shall convene regular meetings of the Joint Intelligence Community Council.

"(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Director of National Intelligence to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

Procedures.

"(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

"(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.".

Subtitle D—Improvement of Education for the Intelligence Community

50 USC 403–1b.

SEC. 1041. ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS.

(a) FINDINGS.—Congress makes the following findings:

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

(2) Since September 11, 2001, the need for language proficiency levels to meet required national security functions has been raised, and the ability to comprehend and articulate technical and scientific information in foreign languages has become critical.

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

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

(B) identify specific requirements for the range of linguistic skills necessary for the intelligence community, including proficiency in scientific and technical vocabularies of critical foreign languages; and

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

(2) In carrying out activities under paragraph (1), the Director shall take into account education grant programs of the Department of Defense and the Department of Education that are in existence as of the date of the enactment of this Act.

(3) Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director shall submit to Congress a report on the requirements identified under paragraph (1), including the success of the Office of the Director of National Intelligence in meeting such requirements. Each report shall notify Congress of any additional resources determined by the Director to be required to meet such requirements. Deadline. Reports. Notification.

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

(c) PROFESSIONAL INTELLIGENCE TRAINING.—The Director of National Intelligence shall require the head of each element and component within the Office of the Director of National Intelligence who has responsibility for professional intelligence training to periodically review and revise the curriculum for the professional intelligence training of the senior and intermediate level personnel of such element or component in order to—

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

(2) prepare such personnel for duty with other departments, agencies, and elements of the intelligence community.

SEC. 1042. CROSS-DISCIPLINARY EDUCATION AND TRAINING.

Title X of the National Security Act of 1947 (50 U.S.C. 441g) is amended by adding at the end the following new section:

"FRAMEWORK FOR CROSS-DISCIPLINARY EDUCATION AND TRAINING

"SEC. 1002. The Director of National Intelligence shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.". 50 USC 441g–1.

SEC. 1043. INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM.

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

"INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM

"SEC. 1003. (a) ESTABLISHMENT.— 50 USC 441g–2.

"(1) IN GENERAL.—The Director of National Intelligence, in consultation with the head of each agency of the intelligence community, shall establish a scholarship program (to be known as the 'Intelligence Community Scholarship Program') to award

scholarships to individuals that is designed to recruit and prepare students for civilian careers in the intelligence community to meet the critical needs of the intelligence community agencies.

"(2) SELECTION OF RECIPIENTS.—

"(A) MERIT AND AGENCY NEEDS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit and the needs of the agency.

"(B) DEMONSTRATED COMMITMENT.—Individuals selected under this section shall have a demonstrated commitment to the field of study for which the scholarship is awarded.

"(3) CONTRACTUAL AGREEMENTS.—To carry out the Program the head of each agency shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the agency, for the period described in subsection (g)(1), in positions needed by the agency and for which the individuals are qualified, in exchange for receiving a scholarship.

"(b) ELIGIBILITY.—In order to be eligible to participate in the Program, an individual shall—

"(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education and be pursuing or intend to pursue undergraduate or graduate education in an academic field or discipline described in the list made available under subsection (d);

"(2) be a United States citizen; and

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

"(c) APPLICATION.— An individual seeking a scholarship under this section shall submit an application to the Director of National Intelligence at such time, in such manner, and containing such information, agreements, or assurances as the Director may require.

"(d) PROGRAMS AND FIELDS OF STUDY.—The Director of National Intelligence shall—

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

"(2) update the list as necessary.

"(e) SCHOLARSHIPS.—

"(1) IN GENERAL.—The Director of National Intelligence may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Director, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

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

"(3) STUDENT RESPONSIBILITIES.—Scholarship recipients shall maintain satisfactory academic progress.

"(4) AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under

regulations issued by the Director of National Intelligence, but shall in no case exceed the cost of tuition, fees, and other authorized expenses as established by the Director.

"(5) USE OF SCHOLARSHIPS.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Director of National Intelligence by regulation.

"(6) PAYMENT TO INSTITUTION OF HIGHER EDUCATION.—The Director of National Intelligence may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

"(f) SPECIAL CONSIDERATION FOR CURRENT EMPLOYEES.—

"(1) SET ASIDE OF SCHOLARSHIPS.—Notwithstanding paragraphs (1) and (3) of subsection (b), 10 percent of the scholarships awarded under this section shall be set aside for individuals who are employees of agencies on the date of enactment of this section to enhance the education of such employees in areas of critical needs of agencies.

"(2) FULL- OR PART-TIME EDUCATION.—Employees who are awarded scholarships under paragraph (1) shall be permitted to pursue undergraduate or graduate education under the scholarship on a full-time or part-time basis.

"(g) EMPLOYEE SERVICE.—

"(1) PERIOD OF SERVICE.—Except as provided in subsection (i)(2), the period of service for which an individual shall be obligated to serve as an employee of the agency is 24 months for each academic year for which a scholarship under this section is provided. Under no circumstances shall the total period of obligated service be more than 8 years.

"(2) BEGINNING OF SERVICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

"(B) DEFERRAL.—In accordance with regulations established by the Director of National Intelligence, the Director or designee may defer the obligation of an individual to provide a period of service under paragraph (1) if the Director or designee determines that such a deferral is appropriate.

"(h) REPAYMENT.—

"(1) IN GENERAL.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Director of National Intelligence, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (i)(2). The

repayment period may be extended by the Director when determined to be necessary, as established by regulation.

"(2) LIABILITY.—Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Director of National Intelligence under subsection (i)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

"(A) the total amount of scholarships received by such individual under this section; and

"(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

"(i) CANCELLATION, WAIVER, OR SUSPENSION OF OBLIGATION.—

"(1) CANCELLATION.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

"(2) WAIVER OR SUSPENSION.—The Director of National Intelligence shall prescribe regulations to provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

"(j) REGULATIONS.—The Director of National Intelligence shall prescribe regulations necessary to carry out this section.

"(k) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency' means each element of the intelligence community as determined by the Director of National Intelligence.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(3) PROGRAM.—The term 'Program' means the Intelligence Community Scholarship Program established under subsection (a).".

Subtitle E—Additional Improvements of Intelligence Activities

SEC. 1051. SERVICE AND NATIONAL LABORATORIES AND THE INTELLIGENCE COMMUNITY.

The Director of National Intelligence, in cooperation with the Secretary of Defense and the Secretary of Energy, should seek to ensure that each service laboratory of the Department of Defense and each national laboratory of the Department of Energy may,

acting through the relevant Secretary and in a manner consistent with the missions and commitments of the laboratory—

(1) assist the Director of National Intelligence in all aspects of technical intelligence, including research, applied sciences, analysis, technology evaluation and assessment, and any other aspect that the relevant Secretary considers appropriate; and

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

(A) the analysis and production services of the service and national laboratories, in a manner that maximizes the capacity and services of such laboratories; and

(B) the facilities and human resources of the service and national laboratories, in a manner that improves the technological capabilities of the intelligence community.

SEC. 1052. OPEN-SOURCE INTELLIGENCE.

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

(1) the Director of National Intelligence should establish an intelligence center for the purpose of coordinating the collection, analysis, production, and dissemination of open-source intelligence to elements of the intelligence community;

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

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

(b) REQUIREMENT FOR EFFICIENT USE BY INTELLIGENCE COMMUNITY OF OPEN-SOURCE INTELLIGENCE.—The Director of National Intelligence shall ensure that the intelligence community makes efficient and effective use of open-source information and analysis. 50 USC 403–1 note.

(c) REPORT.—Not later than June 30, 2005, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing the decision of the Director as to whether an open-source intelligence center will be established. If the Director decides not to establish an open-source intelligence center, such report shall also contain a description of how the intelligence community will use open-source intelligence and effectively integrate open-source intelligence into the national intelligence cycle.

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

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

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1053. NATIONAL INTELLIGENCE RESERVE CORPS. 50 USC 403–1c.

(a) ESTABLISHMENT.—The Director of National Intelligence may provide for the establishment and training of a National Intelligence Reserve Corps (in this section referred to as "National Intelligence Reserve Corps") for the temporary reemployment on a voluntary basis of former employees of elements of the intelligence community during periods of emergency, as determined by the Director.

(b) ELIGIBLE INDIVIDUALS.—An individual may participate in the National Intelligence Reserve Corps only if the individual previously served as a full time employee of an element of the intelligence community.

(c) TERMS OF PARTICIPATION.—The Director of National Intelligence shall prescribe the terms and conditions under which eligible individuals may participate in the National Intelligence Reserve Corps.

(d) EXPENSES.—The Director of National Intelligence may provide members of the National Intelligence Reserve Corps transportation and per diem in lieu of subsistence for purposes of participating in any training that relates to service as a member of the Reserve Corps.

(e) TREATMENT OF ANNUITANTS.—(1) If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby.

(2) An annuitant so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

(f) TREATMENT UNDER OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE PERSONNEL CEILING.—A member of the National Intelligence Reserve Corps who is reemployed on a temporary basis pursuant to this section shall not count against any personnel ceiling applicable to the Office of the Director of National Intelligence.

Subtitle F—Privacy and Civil Liberties

5 USC 601 note.

SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

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

(1) In conducting the war on terrorism, the Federal Government may need additional powers and may need to enhance the use of its existing powers.

(2) This potential shift of power and authority to the Federal Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life.

(b) ESTABLISHMENT OF BOARD.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this section as the "Board").

(c) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON DEVELOPMENT AND IMPLEMENTATION OF POLICY.—For the purpose of providing advice to the President or to the head of any department or agency of the executive branch, the Board shall—

(A) review proposed regulations and executive branch policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under subsections (d) and (f) of section 1016;

(B) review the implementation of laws, regulations, and executive branch policies related to efforts to protect the Nation from terrorism, including the implementation

of information sharing guidelines under subsections (d) and (f) of section 1016;

(C) advise the President and the head of any department or agency of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such regulations and executive branch policies; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch concerned has explained—

(i) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties;

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

(iii) that the need for the power, including the risk presented to the national security if the Federal Government does not take certain actions, is balanced with the need to protect privacy and civil liberties.

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

(A) regulations, executive branch policies, and procedures (including the implementation of such regulations, policies, and procedures), related laws pertaining to efforts to protect the Nation from terrorism, and other actions by the executive branch related to efforts to protect the Nation from terrorism to ensure that privacy and civil liberties are protected; and

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether or not such practices appropriately protect privacy and civil liberties and adhere to the information sharing guidelines under subsections (d) and (f) of section 1016 and to other applicable laws, regulations, and executive branch policies regarding the protection of privacy and civil liberties.

(3) SCOPE.—The Board shall ensure that concerns with respect to privacy and civil liberties are appropriately considered in the implementation of laws, regulations, and executive branch policies related to efforts to protect the Nation against terrorism.

(4) REPORTS TO CONGRESS.—Not less frequently than annually, the Board shall prepare a report to Congress, unclassified to the greatest extent possible (with a classified annex, if necessary), on the Board's major activities during the preceding period.

(d) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized, to the extent permitted by law, to—

(A) have access from any department or agency of the executive branch, or any Federal officer or employee of any such department or agency, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview or take statements from officers of any department or agency of the executive branch;

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

(D)(i) request that persons (other than departments, agencies, and elements of the executive branch) produce for the Board relevant information, documents, reports, answers, records, accounts, papers, and other documentary and testimonial evidence; and

Deadline.
Notification.

(ii) if the person to whom such a request is directed does not comply with the request within 45 days of receipt of such request, notify the Attorney General of such person's failure to comply with such request, which notice shall include all relevant information.

(2) PRODUCTION OF INFORMATION AND EVIDENCE.—

(A) EXPLANATION OF NONCOMPLIANCE.—Upon receiving notification under paragraph (1)(D)(ii) regarding a request, the Attorney General shall provide an opportunity for the person subject to the request to explain the reasons for not complying with the request.

(B) ACTION BY ATTORNEY GENERAL.—Upon receiving notification under paragraph (1)(D)(ii) regarding a request, the Attorney General shall review the request and may take such steps as appropriate to ensure compliance with the request for the information, documents, reports, answers, records, accounts, papers, and other documentary and testimonial evidence covered by the request.

Reports.

(3) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department or agency concerned without delay. If the requested information or assistance may be provided to the Board in accordance with applicable law, the head of the department or agency concerned shall ensure compliance with such request.

(4) EXCEPTIONS FOR NATIONAL SECURITY.—

(A) IN GENERAL.—If the National Intelligence Director, in consultation with the Attorney General, determines that it is necessary to withhold information requested under paragraph (3) to protect the national security interests of the United States, the head of the department or agency concerned shall not furnish such information to the Board.

(B) CERTAIN INFORMATION.—If the Attorney General determines that it is necessary to withhold information requested under paragraph (3) from disclosure to protect sensitive law enforcement or counterterrorism information or ongoing operations, the head of the department or agency concerned shall not furnish such information to the Board.

(e) MEMBERSHIP.—

(1) MEMBERS.—

President.

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

President.
Congress.

(B) CHAIRMAN AND VICE CHAIRMAN.—The chairman and vice chairman shall each be appointed by the President, by and with the advice and consent of the Senate.

(C) APPOINTMENT REQUIREMENTS.—Any individual appointed to the Board shall be appointed from among trustworthy and distinguished citizens outside the Federal Government who are qualified on the basis of achievement, experience, and independence.

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

(E) SERVICE AT PLEASURE OF PRESIDENT.—The chairman, vice chairman, and other members of the Board shall each serve at the pleasure of the President.

(2) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(3) QUORUM AND MEETINGS.—The Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

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

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

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

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

(g) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the

Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Federal employees may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

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

(h) SECURITY CLEARANCES.—The appropriate departments and agencies of the executive branch shall cooperate with the Board to expeditiously provide Board members and staff with appropriate security clearances to the extent possible under applicable procedures and requirements. Promptly upon commencing its work, the Board shall adopt, after consultation with the Secretary of Defense, the Attorney General, and the National Intelligence Director, rules and procedures of the Board for physical, communications, computer, document, personnel, and other security in relation to the work of the Board.

(i) APPLICABILITY OF CERTAIN LAWS.—

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

(2) FREEDOM OF INFORMATION ACT.—For purposes of the Freedom of Information Act, the Board shall be treated as an agency (as that term is defined in section 551(1) of title 5, United States Code).

(j) CONSTRUCTION.—Except as otherwise provided in this section, nothing in this section shall be construed to require any consultation with the Board by any department or agency of the executive branch or any Federal officer or employee, or any waiting period that must be observed by any department or agency of the executive branch or any Federal officer or employee, before developing, proposing, or implementing any legislation, law, regulation, policy, or guideline related to efforts to protect the Nation from terrorism.

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

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

SEC. 1062. SENSE OF CONGRESS ON DESIGNATION OF PRIVACY AND CIVIL LIBERTIES OFFICERS.

It is the sense of Congress that each executive department or agency with law enforcement or antiterrorism functions should designate a privacy and civil liberties officer.

Subtitle G—Conforming and Other Amendments

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

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

(A) Section 101(h)(2)(A) (50 U.S.C. 402(h)(2)(A)).
(B) Section 101(h)(5) (50 U.S.C. 402(h)(5)).
(C) Section 101(i)(2)(A) (50 U.S.C. 402(i)(2)(A)).
(D) Section 101(j) (50 U.S.C. 402(j)).
(E) Section 105(a) (50 U.S.C. 403–5(a)).
(F) Section 105(b)(6)(A) (50 U.S.C. 403–5(b)(6)(A)).
(G) Section 105B(a)(1) (50 U.S.C. 403–5b(a)(1)).
(H) Section 105B(b) (50 U.S.C. 403–5b(b)), the first place it appears.
(I) Section 110(b) (50 U.S.C. 404e(b)).
(J) Section 110(c) (50 U.S.C. 404e(c)).
(K) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).
(L) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).
(M) Section 113(b)(2)(A) (50 U.S.C. 404h(b)(2)(A)).
(N) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
(O) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
(P) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
(Q) Section 115(b) (50 U.S.C. 404j(b)).
(R) Section 115(c)(1)(B) (50 U.S.C. 404j(c)(1)(B)).
(S) Section 116(a) (50 U.S.C. 404k(a)).
(T) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
(U) Section 303(a) (50 U.S.C. 405(a)), both places it appears.
(V) Section 501(d) (50 U.S.C. 413(d)).
(W) Section 502(a) (50 U.S.C. 413a(a)).
(X) Section 502(c) (50 U.S.C. 413a(c)).
(Y) Section 503(b) (50 U.S.C. 413b(b)).
(Z) Section 504(a)(3)(C) (50 U.S.C. 414(a)(3)(C)).
(AA) Section 504(d)(2) (50 U.S.C. 414(d)(2)).
(BB) Section 506A(a)(1) (50 U.S.C. 415a–1(a)(1)).
(CC) Section 603(a) (50 U.S.C. 423(a)).
(DD) Section 702(a)(1) (50 U.S.C. 432(a)(1)).
(EE) Section 702(a)(6)(B)(viii) (50 U.S.C. 432(a)(6)(B)(viii)).
(FF) Section 702(b)(1) (50 U.S.C. 432(b)(1)), both places it appears.
(GG) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).
(HH) Section 703(a)(6)(B)(viii) (50 U.S.C. 432a(a)(6)(B)(viii)).
(II) Section 703(b)(1) (50 U.S.C. 432a(b)(1)), both places it appears.
(JJ) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).
(KK) Section 704(f)(2)(H) (50 U.S.C. 432b(f)(2)(H)).
(LL) Section 704(g)(1)) (50 U.S.C. 432b(g)(1)), both places it appears.
(MM) Section 1001(a) (50 U.S.C. 441g(a)).
(NN) Section 1102(a)(1) (50 U.S.C. 442a(a)(1)).
(OO) Section 1102(b)(1) (50 U.S.C. 442a(b)(1)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF NATIONAL INTELLIGENCE".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) CIA VOLUNTARY SEPARATION PAY ACT.—Subsection (a)(1) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 2001 note) is amended to read as follows: 50 USC 403–4 note.

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

(e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking "Director of Central Intelligence" each place it appears and inserting "Director of National Intelligence".

(f) CLASSIFIED INFORMATION PROCEDURES ACT.—Section 9(a) of the Classified Information Procedures Act (5 U.S.C. App.) is amended by striking "Director of Central Intelligence" and inserting "Director of National Intelligence". 18 USC app. 9.

(g) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 103–359.—Section 811(c)(6)(C) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359) is amended by striking "Director of Central Intelligence" and inserting "Director of National Intelligence". 50 USC 402a.

(2) PUBLIC LAW 107–306.—(A) The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306) is amended by striking "Director of Central Intelligence, acting as the head of the intelligence community," each place it appears in the following provisions and inserting "Director of National Intelligence":

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

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

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

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

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

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

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

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

(D) Section 352(b) of that Act (50 U.S.C. 404–3 note) is amended by striking "Director" and inserting "Director of National Intelligence". 50 USC 403–3 note.

(3) PUBLIC LAW 108–177.—(A) The Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "Director of National Intelligence":

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

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

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

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

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

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

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

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

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

SEC. 1072. OTHER CONFORMING AMENDMENTS

(a) NATIONAL SECURITY ACT OF 1947.—(1) Section 101(j) of the National Security Act of 1947 (50 U.S.C. 402(j)) is amended by striking "Deputy Director of Central Intelligence" and inserting "Principal Deputy Director of National Intelligence".

(2) Section 105(a) of that Act (50 U.S.C. 403–5(a)) is amended by striking "The Secretary" in the matter preceding paragraph (1) and inserting "Consistent with sections 102 and 102A, the Secretary".

(3) Section 105(b) of that Act (50 U.S.C. 403–5(b)) is amended by striking "103 and 104" in the matter preceding paragraph (1) and inserting "102 and 102A".

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

(5) Section 116(b) of that Act (50 U.S.C. 404k(b)) is amended by striking "to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency, the Director may delegate such authority to the Deputy Director for Operations" and inserting "to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency".

(6) Section 506A(b)(1) of that Act (50 U.S.C. 415a–1(b)(1)) is amended by striking "Office of the Deputy Director of Central Intelligence" and inserting "Office of the Director of National Intelligence".

(7) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking "Office of the Director of Central Intelligence" and inserting "Office of the Director of National Intelligence".

(8) Section 1001(b) of that Act (50 U.S.C. 441g(b)) is amended by striking "Assistant Director of Central Intelligence for Administration" and inserting "Office of the Director of National Intelligence".

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

(50 U.S.C. 403–3(c)(7))" and inserting "section 102A(i) of the National Security Act of 1947".

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

(d) INTELLIGENCE AUTHORIZATION ACTS.—

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

(B)(i) Section 902 of that Act (also known as the Counterintelligence Enhancements Act of 2002) (50 U.S.C. 402b) is amended by striking "President" each place it appears and inserting "Director of National Intelligence".

(ii) Section 902(a)(2) of that Act is amended by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

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

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

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

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

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

(ii) in subsection (h)(2)(C), by striking "Assistant Director" and inserting "Deputy Director of National Intelligence".

(B) Section 318(e) of that Act (50 U.S.C. 441g note) is amended by striking "Assistant Director of Central Intelligence for Analysis and Production" and inserting "Deputy Director of National Intelligence".

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

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

"(4) The term 'intelligence community' includes the following:

"(A) The Office of the Director of National Intelligence.

"(B) The Central Intelligence Agency.

"(C) The National Security Agency.

"(D) The Defense Intelligence Agency.

"(E) The National Geospatial-Intelligence Agency.

"(F) The National Reconnaissance Office.

"(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

"(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

"(I) The Bureau of Intelligence and Research of the Department of State.

"(J) The Office of Intelligence and Analysis of the Department of the Treasury.

"(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

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

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

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

(b) CONFORMING AMENDMENTS.—(1)(A) Section 506 of the National Security Act of 1947 (50 U.S.C. 415a) is amended—

(i) in subsection (a), by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program"; and

(ii) in the section heading, by striking "FOREIGN".

(B) Section 105 of that Act (50 U.S.C. 403–5) is amended—

(i) in paragraphs (2) and (3) of subsection (a), by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program"; and

(ii) in the section heading, by striking "FOREIGN".

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

SEC. 1075. REPEAL OF SUPERSEDED AUTHORITY.

Section 111 of the National Security Act of 1947 (50 U.S.C. 404f) is repealed.

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

The table of contents in the first section of the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 102 through 105 and inserting the following new 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.";

(2) by striking the item relating to section 111;

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

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

(4) by inserting after the item relating to section 118 the following new items:

"Sec. 119. National Counterterrorism Center.
"Sec. 119A. National Counter Proliferation Center.
"Sec. 119B. National intelligence centers.

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

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

and

(6) by inserting after the item relating to section 1001 the following new items:

"Sec. 1002. Framework for cross-disciplinary education and training.
"Sec. 1003. Intelligence Community Scholarship Program.".

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

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

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

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

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

SEC. 1078. AUTHORITY TO ESTABLISH INSPECTOR GENERAL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8J the following new section:

"AUTHORITY TO ESTABLISH INSPECTOR GENERAL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 8K. If the Director of National Intelligence determines that an Office of Inspector General would be beneficial to improving the operations and effectiveness of the Office of the Director of National Intelligence, the Director of National Intelligence is authorized to establish, with any of the duties, responsibilities, and authorities set forth in this Act, an Office of Inspector General.".

SEC. 1079. ETHICS MATTERS.

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

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

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

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

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

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

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

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

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

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

5 USC app. 105.

SEC. 1080. CONSTRUCTION OF AUTHORITY OF DIRECTOR OF NATIONAL INTELLIGENCE TO ACQUIRE AND MANAGE PROPERTY AND SERVICES.

Section 113(e) of title 40, United States Code, is amended—

(1) in paragraph (18), by striking "or" at the end;

(2) in paragraph (19), by striking the period at the end and inserting "; or"; and

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

"(20) the Office of the Director of National Intelligence.".

50 USC 401 note.

SEC. 1081. GENERAL REFERENCES.

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

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

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

Subtitle H—Transfer, Termination, Transition, and Other Provisions

SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF. 50 USC 401 note.

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

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

SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER. 50 USC 401 note.

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

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

SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE. 50 USC 401 note.

(a) TERMINATION.—The positions referred to in subsection (b) are hereby abolished.

(b) COVERED POSITIONS.—The positions referred to in this subsection are as follows:

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

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

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

SEC. 1094. IMPLEMENTATION PLAN. President. 50 USC 401 note.

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

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

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

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

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

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

50 USC 401 note.

SEC. 1095. DIRECTOR OF NATIONAL INTELLIGENCE REPORT ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

(a) REPORT.—Not later than one year after the effective date of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the progress made in the implementation of this title, including the amendments made by this title. The report shall include a comprehensive description of the progress made, and may include such recommendations for additional legislative or administrative action as the Director considers appropriate.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

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

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

50 USC 401 note.

SEC. 1096. TRANSITIONAL AUTHORITIES.

(a) IN GENERAL.—Upon the request of the Director of National Intelligence, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to the Director of National Intelligence.

(b) TRANSFER OF PERSONNEL.—In addition to any other authorities available under law for such purposes, in the fiscal year after the effective date of this Act, the Director of National Intelligence—

(1) is authorized within the Office of the Director of National Intelligence 500 new personnel billets; and

(2) with the approval of the Director of the Office of Management and Budget, may detail not more than 150 personnel funded within the National Intelligence Program to the Office of the Director of National Intelligence for a period of not more than 2 years.

50 USC 401 note.

SEC. 1097. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect not later than six months after the date of the enactment of this Act.

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

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

President.

(2) Not later than 180 days after the effective date of this Act, the President shall transmit to Congress the implementation plan required by section 1094.

Regulations.

(3) Not later than one year after the date of the enactment of this Act, the Director of National Intelligence shall prescribe

regulations, policies, procedures, standards, and guidelines required under section 102A of the National Security Act of 1947, as amended by section 1011(a) of this Act.

Subtitle I—Other Matters

SEC. 1101. STUDY OF PROMOTION AND PROFESSIONAL MILITARY EDUCATION SCHOOL SELECTION RATES FOR MILITARY INTELLIGENCE OFFICERS.

(a) STUDY.—The Secretary of Defense shall conduct a study of the promotion selection rates, and the selection rates for attendance at professional military education schools, of intelligence officers of the Armed Forces, particularly in comparison to the rates for other officers of the same Armed Force who are in the same grade and competitive category.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing the Secretary's findings resulting from the study under subsection (a) and the Secretary's recommendations (if any) for such changes in law as the Secretary considers needed to ensure that intelligence officers, as a group, are selected for promotion, and for attendance at professional military education schools, at rates not less than the rates for all line (or the equivalent) officers of the same Armed Force (both in the zone and below the zone) in the same grade. The report shall be submitted not later than April 1, 2005.

SEC. 1102. EXTENSION AND IMPROVEMENT OF AUTHORITIES OF PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) DIRECTION.—Section 703(a) of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 114 Stat. 2856; 50 U.S.C. 435 note) is amended—

(1) by inserting "(1)" after "ESTABLISHMENT.—"; and

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

"(2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official authorized to classify information under Executive Order 12958, or any successor order.".

(b) PURPOSES.—Section 703(b) of that Act (114 Stat. 2856) is amended by adding at the end the following new paragraph:

"(5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction, to declassify certain records or to reconsider a declination to declassify specific records.".

(c) RECOMMENDATIONS ON SPECIAL SEARCHES.—Section 704(c)(2)(A) of that Act (114 Stat. 2860) is amended by inserting before the period the following: ", and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records".

(d) DECLASSIFICATION REVIEWS.—Section 704 of that Act (114 Stat. 2859) is further amended by adding at the end the following new subsection:

"(e) DECLASSIFICATION REVIEWS.—If requested by the President, the Board shall review in a timely manner certain records or declinations to declassify specific records, the declassification of which has been the subject of specific congressional request described in section 703(b)(5).".

(e) NOTIFICATION OF REVIEW.—Section 706 of that Act (114 Stat. 2861) is amended by adding at the end the following new subsection:

"(f) NOTIFICATION OF REVIEW.—In response to a specific congressional request for declassification review described in section 703(b)(5), the Board shall advise the originators of the request in a timely manner whether the Board intends to conduct such review.".

(f) EXTENSION.—Section 710(b) of that Act (114 Stat. 2864) is amended by striking "4 years" and inserting "8 years".

50 USC 401 note.

SEC. 1103. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other those to which such provision is held invalid shall not be affected thereby.

TITLE II—FEDERAL BUREAU OF INVESTIGATION

28 USC 532 note.

SEC. 2001. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The National Commission on Terrorist Attacks Upon the United States in its final report stated that, under Director Robert Mueller, the Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) In the report, the members of the Commission also urged that the Federal Bureau of Investigation fully institutionalize the shift of the Bureau to a preventive counterterrorism posture.

(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—The Director of the Federal Bureau of Investigation shall continue efforts to improve the intelligence capabilities of the Federal Bureau of Investigation and to develop and maintain within the Bureau a national intelligence workforce.

(c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In developing and maintaining a national intelligence workforce under subsection (b), the Director of the Federal Bureau of Investigation shall, develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner which ensures the existence within the Federal Bureau of Investigation an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.

(2) Each agent employed by the Bureau after the date of the enactment of this Act shall receive basic training in both criminal justice matters and national intelligence matters.

(3) Each agent employed by the Bureau after the date of the enactment of this Act shall, to the maximum extent practicable,

be given the opportunity to undergo, during such agent's early service with the Bureau, meaningful assignments in criminal justice matters and in national intelligence matters.

(4) The Director shall—

(A) establish career positions in national intelligence matters for agents, analysts, and related personnel of the Bureau; and

(B) in furtherance of the requirement under subparagraph (A) and to the maximum extent practicable, afford agents, analysts, and related personnel of the Bureau the opportunity to work in the career specialty selected by such agents, analysts, and related personnel over their entire career with the Bureau.

(5) The Director shall carry out a program to enhance the capacity of the Bureau to recruit and retain individuals with backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the Bureau.

(6) The Director shall, to the maximum extent practicable, afford the analysts of the Bureau training and career opportunities commensurate with the training and career opportunities afforded analysts in other elements of the intelligence community.

(7) Commencing as soon as practicable after the date of the enactment of this Act, each direct supervisor of a Field Intelligence Group, and each Bureau Operational Manager at the Section Chief and Assistant Special Agent in Charge (ASAC) level and above, shall be a certified intelligence officer.

(8) The Director shall, to the maximum extent practicable, ensure that the successful discharge of advanced training courses, and of one or more assignments to another element of the intelligence community, is a precondition to advancement to higher level intelligence assignments within the Bureau.

(d) FIELD OFFICE MATTERS.—(1) In improving the intelligence capabilities of the Federal Bureau of Investigation under subsection (b), the Director of the Federal Bureau of Investigation shall ensure that each Field Intelligence Group reports directly to a field office senior manager responsible for intelligence matters.

(2) The Director shall provide for such expansion of the secure facilities in the field offices of the Bureau as is necessary to ensure the discharge by the field offices of the intelligence mission of the Bureau.

(3) The Director shall require that each Field Intelligence Group manager ensures the integration of analysts, agents, linguists, and surveillance personnel in the field.

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and the National Intelligence Director in a manner consistent with section 112(e).

(f) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation shall, establish a budget structure of the Federal Bureau of Investigation to reflect the four principal missions of the Bureau as follows:

(1) Intelligence.

(2) Counterterrorism and counterintelligence.

(3) Criminal Enterprises/Federal Crimes.

(4) Criminal justice services.

(g) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress made as of the date of such report in carrying out the requirements of this section.

(2) The Director shall include in each annual program review of the Federal Bureau of Investigation that is submitted to Congress a report on the progress made by each field office of the Bureau during the period covered by such review in addressing Bureau and national program priorities.

(3) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report assessing the qualifications, status, and roles of analysts at Bureau headquarters and in the field offices of the Bureau.

(4) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report on the progress of the Bureau in implementing information-sharing principles.

Government organization.
28 USC 532 note.

SEC. 2002. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act as the Office of Intelligence is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) Supervision of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Coordinating human source development and management by the Bureau.

(5) Coordinating collection by the Bureau against nationally-determined intelligence requirements.

(6) Strategic analysis.

(7) Intelligence program and budget management.

(8) The intelligence workforce.

(9) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

28 USC 532 note.

SEC. 2003. FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.

(a) ESTABLISHMENT OF FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.—The Director of the Federal Bureau of Investigation may—

(1) in consultation with the Director of the Office of Personnel Management—

(A) establish positions for intelligence analysts, and prescribe standards and procedures for establishing and classifying such positions, without regard to chapter 51 of title 5, United States Code; and

(B) fix the rate of basic pay for such positions, without regard to subchapter III of chapter 53 of title 5, United States Code, if the rate of pay is not greater than the rate of basic pay payable for level IV of the Executive Schedule;

(2) appoint individuals to such positions; and

(3) establish a performance management system for such individuals with at least one level of performance above a retention standard.

(b) REPORTING REQUIREMENT.—Not less than 60 days before the date of the implementation of authorities authorized under this section, the Director of the Federal Bureau of Investigation shall submit an operating plan describing the Director's intended use of the authorities under this section to the appropriate committees of Congress.

(c) ANNUAL REPORT.—Not later than December 31, 2005, and annually thereafter for 4 years, the Director of the Federal Bureau of Investigation shall submit an annual report of the use of the permanent authorities provided under this section during the preceding fiscal year to the appropriate committees of Congress.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress means"—

(1) the Committees on Appropriations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Appropriations, Government Reform, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 2004. FEDERAL BUREAU OF INVESTIGATION RESERVE SERVICE.

(a) IN GENERAL.—Chapter 35 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VII—RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

"§ 3598. Federal Bureau of Investigation Reserve Service

"(a) ESTABLISHMENT.—The Director of the Federal Bureau of Investigation may provide for the establishment and training of a Federal Bureau of Investigation Reserve Service (hereinafter in this section referred to as the 'FBI Reserve Service') for temporary reemployment of employees in the Bureau during periods of emergency, as determined by the Director.

"(b) MEMBERSHIP.—Membership in the FBI Reserve Service shall be limited to individuals who previously served as full-time employees of the Bureau.

"(c) ANNUITANTS.—If an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby.

An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84.

"(d) NO IMPACT ON BUREAU PERSONNEL CEILING.—FBI Reserve Service members reemployed on a temporary basis pursuant to this section shall not count against any personnel ceiling applicable to the Bureau.

"(e) EXPENSES.—The Director may provide members of the FBI Reserve Service transportation and per diem in lieu of subsistence, in accordance with applicable provisions of this title, for the purpose of participating in any training that relates to service as a member of the FBI Reserve Service.

"(f) LIMITATION ON MEMBERSHIP.—Membership of the FBI Reserve Service is not to exceed 500 members at any given time.

"(g) LIMITATION ON DURATION OF SERVICE.—An individual may not be reemployed under this section for more than 180 days in connection with any particular emergency unless, in the judgment of the Director, the public interest so requires.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 35 of title 5, United States Code, is amended by adding 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.".

Applicability. Termination date.

SEC. 2005. FEDERAL BUREAU OF INVESTIGATION MANDATORY SEPARATION AGE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The Federal Bureau of Investigation may not grant more than 50 exemptions in any fiscal year in accordance with the preceding sentence, and the authority to grant such exemptions shall cease to be available after September 30, 2007.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The Federal Bureau of Investigation may not grant more than 50 exemptions in any fiscal year in accordance with the preceding sentence, and the authority to grant such exemptions shall cease to be available after September 30, 2007.".

Deadline. Reports. 28 USC 509 note.

SEC. 2006. FEDERAL BUREAU OF INVESTIGATION USE OF TRANSLATORS.

Not later than 30 days after the date of the enactment of this Act, and annually thereafter, the Attorney General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that contains, with respect to each preceding 12-month period—

(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by the Federal, State, or local agencies on a full-time, part-time, or shared basis;

(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

(4) the status of any automated statistical reporting system, including implementation and future viability;

(5) the storage capabilities of the digital collection system or systems utilized;

(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation; and

(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures.

TITLE III—SECURITY CLEARANCES

SEC. 3001. SECURITY CLEARANCES. 50 USC 435b.

(a) DEFINITIONS.—In this section:

(1) The term "agency" means—

(A) an executive agency (as that term is defined in section 105 of title 5, United States Code);

(B) a military department (as that term is defined in section 102 of title 5, United States Code); and

(C) an element of the intelligence community.

(2) The term "authorized investigative agency" means an agency designated by the head of the agency selected pursuant to subsection (b) to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(3) The term "authorized adjudicative agency" means an agency authorized by law, regulation, or direction of the Director of National Intelligence to determine eligibility for access to classified information in accordance with Executive Order 12968.

(4) The term "highly sensitive program" means—

(A) a government program designated as a Special Access Program (as that term is defined in section 4.1(h) of Executive Order 12958 or any successor Executive order); or

(B) a government program that applies restrictions required for—

(i) restricted data (as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)); or

(ii) other information commonly referred to as "sensitive compartmented information".

(5) The term "current investigation file" means, with respect to a security clearance, a file on an investigation or adjudication that has been conducted during—

(A) the 5-year period beginning on the date the security clearance was granted, in the case of a Top Secret Clearance, or the date access was granted to a highly sensitive program;

(B) the 10-year period beginning on the date the security clearance was granted in the case of a Secret Clearance; and

(C) the 15-year period beginning on the date the security clearance was granted in the case of a Confidential Clearance.

(6) The term "personnel security investigation" means any investigation required for the purpose of determining the eligibility of any military, civilian, or government contractor personnel to access classified information.

(7) The term "periodic reinvestigations" means investigations conducted for the purpose of updating a previously completed background investigation—

(A) every 5 years in the case of a top secret clearance or access to a highly sensitive program;

(B) every 10 years in the case of a secret clearance; or

(C) every 15 years in the case of a Confidential Clearance.

(8) The term "appropriate committees of Congress" means—

(A) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Homeland Security, Government Reform, and the Judiciary of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committees on Armed Services, Homeland Security and Governmental Affairs, and the Judiciary of the Senate.

Deadline. President.

(b) SELECTION OF ENTITY.—Not later than 90 days after the date of the enactment of this Act, the President shall select a single department, agency, or element of the executive branch to be responsible for—

(1) directing day-to-day oversight of investigations and adjudications for personnel security clearances, including for highly sensitive programs, throughout the United States Government;

(2) developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of security clearances and determinations for access to highly sensitive programs, including the standardization of security questionnaires, financial disclosure requirements for security clearance applicants, and polygraph policies and procedures;

(3) serving as the final authority to designate an authorized investigative agency or authorized adjudicative agency;

(4) ensuring reciprocal recognition of access to classified information among the agencies of the United States Government, including acting as the final authority to arbitrate and resolve disputes involving the reciprocity of security clearances and access to highly sensitive programs pursuant to subsection (d);

(5) ensuring, to the maximum extent practicable, that sufficient resources are available in each agency to achieve clearance and investigative program goals; and

(6) reviewing and coordinating the development of tools and techniques for enhancing the conduct of investigations and granting of clearances.

(c) PERFORMANCE OF SECURITY CLEARANCE INVESTIGATIONS.—(1) Notwithstanding any other provision of law, not later than 180 days after the date of the enactment of this Act, the President shall, in consultation with the head of the entity selected pursuant to subsection (b), select a single agency of the executive branch to conduct, to the maximum extent practicable, security clearance investigations of employees and contractor personnel of the United States Government who require access to classified information and to provide and maintain all security clearances of such employees and contractor personnel. The head of the entity selected pursuant to subsection (b) may designate other agencies to conduct such investigations if the head of the entity selected pursuant to subsection (b) considers it appropriate for national security and efficiency purposes. Deadline. President.

(2) The agency selected under paragraph (1) shall—

(A) take all necessary actions to carry out the requirements of this section, including entering into a memorandum of understanding with any agency carrying out responsibilities relating to security clearances or security clearance investigations before the date of the enactment of this Act;

(B) as soon as practicable, integrate reporting of security clearance applications, security clearance investigations, and determinations of eligibility for security clearances, with the database required by subsection (e); and

(C) ensure that security clearance investigations are conducted in accordance with uniform standards and requirements established under subsection (b), including uniform security questionnaires and financial disclosure requirements.

(d) RECIPROCITY OF SECURITY CLEARANCE AND ACCESS DETERMINATIONS.—(1) All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies.

(2) All security clearance background investigations initiated by an authorized investigative agency shall be transferable to any other authorized investigative agency.

(3)(A) An authorized investigative agency or authorized adjudicative agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed requirements specified in Executive Orders establishing security requirements for access to classified information without the approval of the head of the entity selected pursuant to subsection (b).

(B) Notwithstanding subparagraph (A), the head of the entity selected pursuant to subsection (b) may establish such additional requirements as the head of such entity considers necessary for national security purposes.

(4) An authorized investigative agency or authorized adjudicative agency may not conduct an investigation for purposes of determining whether to grant a security clearance to an individual where a current investigation or clearance of equal level already

exists or has been granted by another authorized adjudicative agency.

(5) The head of the entity selected pursuant to subsection (b) may disallow the reciprocal recognition of an individual security clearance by an agency under this section on a case-by-case basis if the head of the entity selected pursuant to subsection (b) determines that such action is necessary for national security purposes.

Procedures.

(6) The head of the entity selected pursuant to subsection (b) shall establish a review procedure by which agencies can seek review of actions required under this section.

Deadline.
Establishment.

(e) DATABASE ON SECURITY CLEARANCES.—(1) Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Personnel Management shall, in cooperation with the heads of the entities selected pursuant to subsections (b) and (c), establish and commence operating and maintaining an integrated, secure, database into which appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or government contractor personnel shall be entered from all authorized investigative and adjudicative agencies.

(2) The database under this subsection shall function to integrate information from existing Federal clearance tracking systems from other authorized investigative and adjudicative agencies into a single consolidated database.

(3) Each authorized investigative or adjudicative agency shall check the database under this subsection to determine whether an individual the agency has identified as requiring a security clearance has already been granted or denied a security clearance, or has had a security clearance revoked, by any other authorized investigative or adjudicative agency.

(4) The head of the entity selected pursuant to subsection (b) shall evaluate the extent to which an agency is submitting information to, and requesting information from, the database under this subsection as part of a determination of whether to certify the agency as an authorized investigative agency or authorized adjudicative agency.

(5) The head of the entity selected pursuant to subsection (b) may authorize an agency to withhold information about certain individuals from the database under this subsection if the head of the entity considers it necessary for national security purposes.

(f) EVALUATION OF USE OF AVAILABLE TECHNOLOGY IN CLEARANCE INVESTIGATIONS AND ADJUDICATIONS.—(1) The head of the entity selected pursuant to subsection (b) shall evaluate the use of available information technology and databases to expedite investigative and adjudicative processes for all and to verify standard information submitted as part of an application for a security clearance.

(2) The evaluation shall assess the application of the technologies described in paragraph (1) for—

(A) granting interim clearances to applicants at the secret, top secret, and special access program levels before the completion of the appropriate full investigation;

(B) expediting investigations and adjudications of security clearances, including verification of information submitted by the applicant;

(C) ongoing verification of suitability of personnel with security clearances in effect for continued access to classified information;

(D) use of such technologies to augment periodic reinvestigations;

(E) assessing the impact of the use of such technologies on the rights of applicants to verify, correct, or challenge information obtained through such technologies; and

(F) such other purposes as the head of the entity selected pursuant to subsection (b) considers appropriate.

(3) An individual subject to verification utilizing the technology described in paragraph (1) shall be notified of such verification, shall provide consent to such use, and shall have access to data being verified in order to correct errors or challenge information the individual believes is incorrect.

(4) Not later than one year after the date of the enactment of this Act, the head of the entity selected pursuant to subsection (b) shall submit to the President and the appropriate committees of Congress a report on the results of the evaluation, including recommendations on the use of technologies described in paragraph (1). Deadline. Reports.

(g) REDUCTION IN LENGTH OF PERSONNEL SECURITY CLEARANCE PROCESS.—(1) The head of the entity selected pursuant to subsection (b) shall, within 90 days of selection under that subsection, develop, in consultation with the appropriate committees of Congress and each authorized adjudicative agency, a plan to reduce the length of the personnel security clearance process. Deadlines.

(2)(A) To the extent practical the plan under paragraph (1) shall require that each authorized adjudicative agency make a determination on at least 90 percent of all applications for a personnel security clearance within an average of 60 days after the date of receipt of the completed application for a security clearance by an authorized investigative agency. Such 60-day average period shall include—

(i) a period of not longer than 40 days to complete the investigative phase of the clearance review; and

(ii) a period of not longer than 20 days to complete the adjudicative phase of the clearance review.

(B) Determinations on clearances not made within 60 days shall be made without delay.

(3)(A) The plan under paragraph (1) shall take effect 5 years after the date of the enactment of this Act.

(B) During the period beginning on a date not later than 2 years after the date after the enactment of this Act and ending on the date on which the plan under paragraph (1) takes effect, each authorized adjudicative agency shall make a determination on at least 80 percent of all applications for a personnel security clearance pursuant to this section within an average of 120 days after the date of receipt of the application for a security clearance by an authorized investigative agency. Such 120-day average period shall include—

(i) a period of not longer than 90 days to complete the investigative phase of the clearance review; and

(ii) a period of not longer than 30 days to complete the adjudicative phase of the clearance review.

(h) REPORTS.—(1) Not later than February 15, 2006, and annually thereafter through 2011, the head of the entity selected

pursuant to subsection (b) shall submit to the appropriate committees of Congress a report on the progress made during the preceding year toward meeting the requirements of this section.

(2) Each report shall include, for the period covered by such report—

(A) the periods of time required by the authorized investigative agencies and authorized adjudicative agencies for conducting investigations, adjudicating cases, and granting clearances, from date of submission to ultimate disposition and notification to the subject and the subject's employer;

(B) a discussion of any impediments to the smooth and timely functioning of the requirements of this section; and

(C) such other information or recommendations as the head of the entity selected pursuant to subsection (b) considers appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each fiscal year thereafter for the implementation, maintenance, and operation of the database required by subsection (e).

TITLE IV—TRANSPORTATION SECURITY

Subtitle A—National Strategy for Transportation Security

SEC. 4001. NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by adding at the end the following:

"(t) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall develop, prepare, implement, and update, as needed—

"(A) a National Strategy for Transportation Security; and

"(B) transportation modal security plans.

"(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in developing, revising, and updating the documents required by paragraph (1).

"(3) CONTENTS OF NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—The National Strategy for Transportation Security shall include the following:

"(A) An identification and evaluation of the transportation assets in the United States that, in the interests of national security and commerce, must be protected from attack or disruption by terrorist or other hostile forces, including modal security plans for aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, mass transit, over-the-road bus, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

"(B) The development of risk-based priorities across all transportation modes and realistic deadlines for addressing security needs associated with those assets referred to in subparagraph (A).

"(C) The most appropriate, practical, and cost-effective means of defending those assets against threats to their security.

"(D) A forward-looking strategic plan that sets forth the agreed upon roles and missions of Federal, State, regional, and local authorities and establishes mechanisms for encouraging private sector cooperation and participation in the implementation of such plan.

"(E) A comprehensive delineation of response and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States.

"(F) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital transportation assets.

"(4) SUBMISSIONS OF PLANS TO CONGRESS.—

"(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans, developed under this subsection to the appropriate congressional committees not later than April 1, 2005.

"(B) SUBSEQUENT VERSIONS.—After December 31, 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Strategy for Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.

"(C) PERIODIC PROGRESS REPORT.—

"(i) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security.

"(ii) CONTENT.—Each progress report under this subparagraph shall include, at a minimum, recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal security plans that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.

"(D) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security or the transportation modal security plans that involve information that is properly classified under criteria established by Executive order shall be submitted to the appropriate congressional committees separately in a classified format.

"(E) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and

Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.

"(5) PRIORITY STATUS.—

"(A) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

"(B) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

"(i) the current National Maritime Transportation Security Plan under section 70103 of title 46;

"(ii) the report required by section 44938 of this title;

"(iii) transportation modal security plans required under this section; and

"(iv) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.".

(b) AVIATION SECURITY PLANNING; OPERATIONAL CRITERIA.—Section 44904 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

"(c) MODAL SECURITY PLAN FOR AVIATION.—In addition to the requirements set forth in subparagraphs (B) through (F) of section 114(t)(3), the modal security plan for aviation prepared under section 114(t) shall—

"(1) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

"(2) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

Deadline. Guidelines.

"(d) OPERATIONAL CRITERIA.—Not later than 90 days after the date of the submission of the National Strategy for Transportation Security under section 114(t)(4)(A), the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue operational criteria to protect airport infrastructure and operations against the threats identified in the plans prepared under section 114(t)(1) and shall approve best practices guidelines for airport assets.".

Subtitle B—Aviation Security

SEC. 4011. PROVISION FOR THE USE OF BIOMETRIC OR OTHER TECHNOLOGY.

(a) USE OF BIOMETRIC IDENTIFIER TECHNOLOGY.—Section 44903(h) of title 49, United States Code, is amended—

(1) in paragraph (4)(E) by striking "may provide for" and inserting "shall issue, not later than March 31, 2005, guidance for"; and

(2) by adding at the end the following:

"(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—In issuing guidance under paragraph (4)(E), the Assistant Secretary of Homeland Security (Transportation Security Administration) in consultation with representatives of the aviation industry, the biometric identifier industry,

and the National Institute of Standards and Technology, shall establish, at a minimum—

"(A) comprehensive technical and operational system requirements and performance standards for the use of biometric identifier technology in airport access control systems (including airport perimeter access control systems) to ensure that the biometric identifier systems are effective, reliable, and secure;

"(B) a list of products and vendors that meet the requirements and standards set forth in subparagraph (A);

"(C) procedures for implementing biometric identifier systems—

"(i) to ensure that individuals do not use an assumed identity to enroll in a biometric identifier system; and

"(ii) to resolve failures to enroll, false matches, and false non-matches; and

"(D) best practices for incorporating biometric identifier technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

"(6) USE OF BIOMETRIC TECHNOLOGY FOR LAW ENFORCEMENT OFFICER TRAVEL.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Assistant Secretary, in consultation with the Attorney General, shall— Deadline.

"(i) establish a law enforcement officer travel credential that incorporates biometric identifier technology and is uniform across all Federal, State, local, tribal, and territorial government law enforcement agencies;

"(ii) establish a process by which the travel credential will be used to verify the identity of a Federal, State, local, tribal, or territorial law enforcement officer seeking to carry a weapon on board an aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer;

"(iii) establish procedures— Procedures.

"(I) to ensure that only Federal, State, local, tribal, and territorial government law enforcement officers are issued a law enforcement travel credential;

"(II) to resolve failures to enroll, false matches, and false non-matches relating to use of the law enforcement travel credential; and

"(III) to invalidate any law enforcement travel credential that is lost, stolen, or no longer authorized for use;

"(iv) begin issuance of the travel credential to each Federal, State, local, tribal, or territorial government law enforcement officer authorized by the Assistant Secretary to carry a weapon on board an aircraft; and

"(v) take such other actions with respect to the travel credential as the Assistant Secretary considers appropriate.

"(B) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out this paragraph.

"(7) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) BIOMETRIC IDENTIFIER INFORMATION.—The term 'biometric identifier information' means the distinct physical or behavioral characteristics of an individual that are used for unique identification, or verification of the identity, of an individual.

"(B) BIOMETRIC IDENTIFIER.—The term 'biometric identifier' means a technology that enables the automated identification, or verification of the identity, of an individual based on biometric information.

"(C) FAILURE TO ENROLL.—The term 'failure to enroll' means the inability of an individual to enroll in a biometric identifier system due to an insufficiently distinctive biometric sample, the lack of a body part necessary to provide the biometric sample, a system design that makes it difficult to provide consistent biometric identifier information, or other factors.

"(D) FALSE MATCH.—The term 'false match' means the incorrect matching of one individual's biometric identifier information to another individual's biometric identifier information by a biometric identifier system.

"(E) FALSE NON-MATCH.—The term 'false non-match' means the rejection of a valid identity by a biometric identifier system.

"(F) SECURE AREA OF AN AIRPORT.—The term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).".

Appropriation authorization.

(b) AVIATION SECURITY RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of advanced biometric technology applications to aviation security, including mass identification technology.

(c) SENSE OF CONGRESS ON TRANSFER OF TECHNOLOGY.—It is the sense of Congress that the national intelligence community and the Department of Homeland Security should share information on and technological advancements to biometric systems, biometric technology, and biometric identifier systems obtained through research and development programs conducted by various Federal agencies.

Appropriation authorization.

(d) BIOMETRIC CENTER OF EXCELLENCE.—There is authorized to be appropriated $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of a competitive center of excellence that will develop and expedite the Federal Government's use of biometric identifiers.

SEC. 4012. ADVANCED AIRLINE PASSENGER PRESCREENING.

(a) IN GENERAL.—

(1) DOMESTIC FLIGHTS.—Section 44903(j)(2) of title 49, United States Code, is amended by adding at the end the following:

"(C) ADVANCED AIRLINE PASSENGER PRESCREENING.— Deadlines.

"(i) COMMENCEMENT OF TESTING.—Not later than January 1, 2005, the Assistant Secretary of Homeland Security (Transportation Security Administration), or the designee of the Assistant Secretary, shall commence testing of an advanced passenger prescreening system that will allow the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Assistant Secretary, to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.

"(ii) ASSUMPTION OF FUNCTION.—Not later than 180 days after completion of testing under clause (i), the Assistant Secretary, or the designee of the Assistant Secretary, shall begin to assume the performance of the passenger prescreening function of comparing passenger information to the automatic selectee and no fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government in performing that function.

"(iii) REQUIREMENTS.—In assuming performance of the function under clause (ii), the Assistant Secretary shall—

"(I) establish a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the advanced passenger prescreening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system; Procedures.

"(II) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

"(III) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented; Establishment.

"(IV) establish sufficient operational safeguards to reduce the opportunities for abuse;

"(V) implement substantial security measures to protect the system from unauthorized access;

"(VI) adopt policies establishing effective oversight of the use and operation of the system; and

"(VII) ensure that there are no specific privacy concerns with the technological architecture of the system.

"(iv) PASSENGER INFORMATION.—Not later than 180 days after the completion of the testing of the advanced passenger prescreening system, the Assistant Secretary, by order or interim final rule—

"(I) shall require air carriers to supply to the Assistant Secretary the passenger information needed to begin implementing the advanced passenger prescreening system; and

"(II) shall require entities that provide systems and services to air carriers in the operation of air carrier reservations systems to provide to air carriers passenger information in possession of such entities, but only to the extent necessary to comply with subclause (I).

"(D) SCREENING OF EMPLOYEES AGAINST WATCHLIST.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

"(i) being certificated by the Federal Aviation Administration;

"(ii) being granted unescorted access to the secure area of an airport; or

"(iii) being granted unescorted access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

"(E) AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING.—

Deadline.

"(i) IN GENERAL.—Not later than 90 days after the date on which the Assistant Secretary assumes the performance of the advanced passenger prescreening function under subparagraph (C)(ii), the Assistant Secretary shall establish a process by which operators of aircraft to be used in charter air transportation with a maximum takeoff weight greater than 12,500 pounds and lessors of aircraft with a maximum takeoff weight greater than 12,500 pounds may—

"(I) request the Department of Homeland Security to use the advanced passenger prescreening system to compare information about any individual seeking to charter an aircraft with a maximum takeoff weight greater than 12,500 pounds, any passenger proposed to be transported aboard such aircraft, and any individual seeking to lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government; and

"(II) refuse to charter or lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to or transport aboard such aircraft any persons identified on such watch list.

Applicability.

"(ii) REQUIREMENTS.—The requirements of subparagraph (C)(iii) shall apply to this subparagraph.

"(iii) NO FLY AND AUTOMATIC SELECTEE LISTS.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall design and review, as necessary, guidelines, policies, and operating procedures for the collection, removal, and updating

of data maintained, or to be maintained, in the no fly and automatic selectee lists.

"(F) APPLICABILITY.—Section 607 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44903 note; 117 Stat. 2568) shall not apply to the advanced passenger prescreening system established under subparagraph (C).

"(G) APPEAL PROCEDURES.—

"(i) IN GENERAL.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any erroneous information.

"(ii) RECORDS.—The process shall include the establishment of a method by which the Assistant Secretary will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Transportation Security Administration record shall contain information determined by the Assistant Secretary to authenticate the identity of such a passenger or individual.

"(H) DEFINITION.—In this paragraph, the term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).".

(2) INTERNATIONAL FLIGHTS.—Section 44909(c) of title 49, United States Code, is amended—

(A) by striking "paragraph (5)," in paragraph (4) and inserting "paragraphs (5) and (6),"; and

(B) by adding at the end the following:

"(6) PRESCREENING INTERNATIONAL PASSENGERS.—

"(A) IN GENERAL.—Not later than 60 days after date of enactment of this paragraph, the Secretary of Homeland Security, or the designee of the Secretary, shall issue a notice of proposed rulemaking that will allow the Department of Homeland Security to compare passenger information for any international flight to or from the United States against the consolidated and integrated terrorist watchlist maintained by the Federal Government before departure of the flight. Deadline.

"(B) APPEAL PROCEDURES.—

"(i) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals identified as a threat under subparagraph (A) to appeal to the Department of Homeland Security the determination and correct any erroneous information.

"(ii) RECORDS.—The process shall include the establishment of a method by which the Secretary will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other

individuals, the Department of Homeland Security record shall contain information determined by the Secretary to authenticate the identity of such a passenger or individual.".

(b) REPORT ON EFFECTS ON PRIVACY AND CIVIL LIBERTIES.—

(1) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Security Privacy Officer of the Department of Homeland Security shall submit a report assessing the impact of the automatic selectee and no fly lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Homeland Security and Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on the Judiciary, the Committee on Government Reform, the Committee on Transportation and Infrastructure, and the Select Committee on Homeland Security of the House of Representatives.

(2) CONTENT.—The report submitted under paragraph (1) shall include—

(A) any recommendations for practices, procedures, regulations, or legislation that the Security Privacy Officer considers necessary to minimize adverse effects of automatic selectee and no fly lists on privacy, discrimination, due process, and other civil liberties;

(B) a discussion of the implications of applying those lists to other modes of transportation; and

(C) the effect that implementation of the recommendations would have on the effectiveness of the use of such lists to protect the United States against terrorist attacks.

Public information.

(3) FORM.—To the greatest extent consistent with the protection of law enforcement-sensitive information and classified information, and the administration of applicable law, the report shall be submitted in unclassified form and shall be available to the public. The report may contain a classified annex if necessary.

(c) REPORT ON CRITERIA FOR CONSOLIDATED TERRORIST WATCH LIST.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Homeland Security, the Secretary of State, and the Attorney General, shall submit to Congress a report on the Terrorist Screening Center consolidated screening watch list.

(2) CONTENTS.—The report shall include—

(A) the criteria for placing the name of an individual on the watch list;

(B) the minimum standards for reliability and accuracy of identifying information;

(C) the degree of information certainty and the range of threat levels that are to be identified for an individual; and

(D) the range of applicable consequences that are to apply to an individual, if located.

Public information.

(3) FORM.—To the greatest extent consistent with the protection of law enforcement-sensitive information and classified information and the administration of applicable law, the report shall be submitted in unclassified form and shall be

available to the public. The report may contain a classified annex if necessary.

SEC. 4013. DEPLOYMENT AND USE OF DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.

(a) IN GENERAL.—Subchapter I of chapter 449, of title 49, United States Code, is amended by adding at the end the following:

"§ 44925. Deployment and use of detection equipment at airport screening checkpoints

"(a) WEAPONS AND EXPLOSIVES.—The Secretary of Homeland Security shall give a high priority to developing, testing, improving, and deploying, at airport screening checkpoints, equipment that detects nonmetallic, chemical, biological, and radiological weapons, and explosives, in all forms, on individuals and in their personal property. The Secretary shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

"(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a strategic plan to promote the optimal utilization and deployment of explosive detection equipment at airports to screen individuals and their personal property. Such equipment includes walk-through explosive detection portals, document scanners, shoe scanners, and backscatter x-ray scanners. The plan may be submitted in a classified format. Deadline.

"(2) CONTENT.—The strategic plan shall include, at minimum—

"(A) a description of current efforts to detect explosives in all forms on individuals and in their personal property;

"(B) a description of the operational applications of explosive detection equipment at airport screening checkpoints;

"(C) a deployment schedule and a description of the quantities of equipment needed to implement the plan;

"(D) a description of funding needs to implement the plan, including a financing plan that provides for leveraging of non-Federal funding;

"(E) a description of the measures taken and anticipated to be taken in carrying out subsection (d); and

"(F) a description of any recommended legislative actions.

"(c) PORTAL DETECTION SYSTEMS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials. Appropriation authorization.

"(d) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Assistant Secretary shall provide, by such means as the Assistant Secretary

considers appropriate, explosives detection screening for all passengers identified for additional screening and their personal property that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44924 the following:

"44925. Deployment and use of detection equipment at airport screening checkpoints.".

49 USC 44925 note.

SEC. 4014. ADVANCED AIRPORT CHECKPOINT SCREENING DEVICES.

Deadline.

(a) ADVANCED INTEGRATED AIRPORT CHECKPOINT SCREENING SYSTEM PILOT PROGRAM.—Not later than March 31, 2005, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop and initiate a pilot program to deploy and test advanced airport checkpoint screening devices and technology as an integrated system at not less than 5 airports in the United States.

(b) FUNDING.—Of the amounts appropriated pursuant to section 48301(a) of title 49, United States Code, for each of fiscal years 2005 and 2006, not more than $150,000,000 shall be available to carry out subsection (a).

49 USC 44935 note.

SEC. 4015. IMPROVEMENT OF SCREENER JOB PERFORMANCE.

(a) REQUIRED ACTION.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to improve the job performance of airport screening personnel.

Deadline. Reports.

(b) HUMAN FACTORS STUDY.—In carrying out this section, the Assistant Secretary shall provide, not later than 180 days after the date of the enactment of this Act, to the appropriate congressional committees a report on the results of any human factors study conducted by the Department of Homeland Security to better understand problems in screener performance and to improve screener performance.

49 USC 44917 note.

SEC. 4016. FEDERAL AIR MARSHALS.

(a) FEDERAL AIR MARSHAL ANONYMITY.—The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue operational initiatives to protect the anonymity of Federal air marshals.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal air marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal-year period beginning with fiscal year 2005. Such sums shall remain available until expended.

(c) FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.—

(1) AVAILABILITY OF INFORMATION.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, shall make available, as practicable, appropriate information on in-flight counterterrorism and weapons handling procedures and tactics training to Federal

law enforcement officers who fly while in possession of a firearm.

(2) IDENTIFICATION OF FRAUDULENT DOCUMENTS.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal air marshals receive training in identifying fraudulent identification documents, including fraudulent or expired visas and passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in a State that borders Canada or Mexico.

SEC. 4017. INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL AIR MARSHALS.

The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals on international flights.

SEC. 4018. FOREIGN AIR MARSHAL TRAINING.

Section 44917 of title 49, United States Code, is amended by adding at the end the following:

"(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

"(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

"(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal Government.

"(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.".

SEC. 4019. IN-LINE CHECKED BAGGAGE SCREENING.

49 USC 44901 note.

(a) IN-LINE BAGGAGE SCREENING EQUIPMENT.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to expedite the installation and use of in-line baggage screening equipment at airports at which screening is required by section 44901 of title 49, United States Code.

Deadline.

(b) SCHEDULE.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall submit to the appropriate congressional committees a schedule to expedite the installation and use of in-line baggage screening equipment

at such airports, with an estimate of the impact that such equipment, facility modification, and baggage conveyor placement will have on staffing needs and levels related to aviation security.

Deadline.

(c) REPLACEMENT OF TRACE-DETECTION EQUIPMENT.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall establish and submit to the appropriate congressional committees a schedule for replacing trace-detection equipment, as soon as practicable and where appropriate, with explosive detection system equipment.

(d) COST-SHARING STUDY.—The Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the appropriate congressional committees, in conjunction with the submission of the budget for fiscal year 2006 to Congress under section 1105(a) of title 31, United States Code—

(1) a proposed formula for cost-sharing among the Federal Government, State and local governments, and the private sector for projects to install in-line baggage screening equipment that reflects the benefits that each of such entities derive from such projects, including national security benefits and labor and other cost savings;

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the in-line baggage screening equipment authorized by this title; and

(3) the results of a review of innovative financing approaches and possible cost savings associated with the installation of in-line baggage screening equipment at airports.

(e) AUTHORIZATION FOR EXPIRING AND NEW LOIS.—

(1) IN GENERAL.—Section 44923(i) of title 49, United States Code, is amended by striking "$250,000,000 for each of fiscal years 2004 through 2007." and inserting "$400,000,000 for each of fiscal years 2005, 2006, and 2007.".

49 USC 44923 note.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, and letters of intent issued under section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

49 USC 44901 note.

SEC. 4020. CHECKED BAGGAGE SCREENING AREA MONITORING.

(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide, subject to the availability of funds, assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for fiscal

year 2005 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

SEC. 4021. WIRELESS COMMUNICATION.

(a) STUDY.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Administrator of the Federal Aviation Administration, shall conduct a study to determine the viability of providing devices or methods, including wireless methods, to enable a flight crew to discreetly notify the pilot in the case of a security breach or safety issue occurring in the cabin.

(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Transportation Security Administration and the Federal Aviation Administration shall consider technology that is readily available and can be quickly integrated and customized for use aboard aircraft for flight crew communication.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Transportation Security Administration shall submit to the appropriate congressional committees a report on the results of the study.

SEC. 4022. IMPROVED PILOT LICENSES.

49 USC 44703 note.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations. Deadline.

(b) REQUIREMENTS.—Improved pilots licenses issued under subsection (a) shall—

(1) be resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) be capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier that the Administrator considers necessary.

(c) TAMPERING.—To the extent practical, the Administrator shall develop methods to determine or reveal whether any component or security feature of a license issued under subsection (a) has been tampered, altered, or counterfeited.

(d) USE OF DESIGNEES.—The Administrator may use designees to carry out subsection (a) to the extent feasible in order to minimize the burdens on pilots.

SEC. 4023. AVIATION SECURITY STAFFING.

(a) AVIATION SECURITY STAFFING.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop and submit to the appropriate congressional committees standards for determining the aviation security staffing for all airports at which screening is required under section 44901 of title 49, United States Code, necessary to— Deadline. Standards.

(1) provide necessary levels of aviation security; and

(2) ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(b) GAO ANALYSIS.—As soon as practicable after the date on which the Assistant Secretary has developed standards under subsection (a), the Comptroller General shall conduct an expedited analysis of, and submit a report to the appropriate congressional Reports.

committees on, the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(c) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security-related functions under the authority of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

49 USC 44913 note.

SEC. 4024. IMPROVED EXPLOSIVE DETECTION SYSTEMS.

(a) PLAN AND GUIDELINES.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of improved explosive detection systems for aviation security under section 44913 of title 49, United States Code.

Deadline.

SEC. 4025. PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Assistant Secretary for Homeland Security (Transportation Security Administration) shall complete a review of the list of items prohibited from being carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation set forth in section 1540 of title 49, Code of Federal Regulations, and shall release a revised list that includes—

(1) butane lighters; and

(2) any other modification that the Assistant Secretary considers appropriate.

22 USC 2751 note.

SEC. 4026. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).

(a) UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.—

(1) TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

(2) TO LIMIT THE PROLIFERATION OF MANPADS.—The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—

(A) prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

(B) prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any

component, part, accessory, or attachment thereof, without an individual validated license; and

(C) prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

(3) TO ACHIEVE DESTRUCTION OF MANPADS.—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

(4) REPORTING AND BRIEFING REQUIREMENT.—

(A) PRESIDENT'S REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under paragraphs (1), (2), and (3) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting Office set forth in its report GAO–04–519, entitled "Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems".

(B) ANNUAL BRIEFINGS.—Annually after the date of submission of the report under subparagraph (A) and until completion of the diplomatic and compliance efforts referred to in subparagraph (A), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

(b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

(1) IN GENERAL.—As soon as practicable, but not later than the date of completion of Phase II of the Department of Homeland Security's counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

(2) CERTIFICATION ACCEPTANCE.—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

(3) EXPEDITIOUS CERTIFICATION.—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(4) REPORTS.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and

annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

(c) PROGRAMS TO REDUCE MANPADS.—

(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary of State shall brief the appropriate congressional committees on the status of programs.

(3) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(d) MANPADS VULNERABILITY ASSESSMENTS REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security's plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

(2) MATTERS TO BE ADDRESSED.—The Secretary's report shall address, at a minimum, the following:

(A) The status of the Department's efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

(B) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

(C) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

(D) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

(E) Any other issues that the Secretary deems relevant.

(3) FORMAT.—The report required by this subsection may be submitted in a classified format.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term "MANPADS" means—

(A) a surface-to-air missile system designed to be manportable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

SEC. 4027. TECHNICAL CORRECTIONS.

(a) ADMINISTRATIVE IMPOSITION OF PENALTIES.—Section 46301(d) of title 49, United States Code, is amended—

(1) in the first sentence of paragraph (2) by striking "46302, 46303," and inserting "46302 (for a violation relating to section 46504),";

(2) in the second sentence of paragraph (2)—

(A) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security"; and

(B) by striking "44909)" and inserting "44909), 46302 (except for a violation relating to section 46504), 46303,";

(3) in paragraphs (2), (3), and (4) by striking "Under Secretary or" each place it occurs and inserting "Secretary of Homeland Security or"; and

(4) in paragraph (4)(A) by moving clauses (i), (ii), and (iii) 2 ems to the left.

(b) COMPROMISE AND SETOFF FOR FALSE INFORMATION.—Section 46302(b)(1) of title 49, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation,".

(c) CARRYING A WEAPON.—Section 46303 of title 49, United States Code, is amended—

(1) in subsection (b)(1) by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security"; and

(2) in subsection (c)(2) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security".

SEC. 4028. REPORT ON SECONDARY FLIGHT DECK BARRIERS.

Not later than 6 months after the date of the enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a report on the costs and benefits associated with the use of secondary flight deck barriers, including the recommendation of the Assistant Secretary whether or not the use of such barriers should be mandated for all air carriers. The report may be submitted in a classified form.

SEC. 4029. EXTENSION OF AUTHORIZATION OF AVIATION SECURITY FUNDING.

Section 48301(a) of title 49, United States Code, is amended by striking "and 2005" and inserting "2005, and 2006".

Subtitle C—Air Cargo Security

49 USC 44901 note.

SEC. 4051. PILOT PROGRAM TO EVALUATE USE OF BLAST RESISTANT CARGO AND BAGGAGE CONTAINERS.

Deadline.

(a) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device.

(b) INCENTIVES FOR PARTICIPATION IN PILOT PROGRAM.—

(1) IN GENERAL.—As part of the pilot program, the Assistant Secretary shall provide incentives to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(2) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier shall submit to the Assistant Secretary an application that is in such form and contains such information as the Assistant Secretary requires.

(3) TYPES OF INCENTIVES.—Incentives provided by the Assistant Secretary to air carriers that volunteer to participate in the pilot program shall include the use of, and financial assistance to cover increased costs to the carriers associated with the use and maintenance of, blast-resistant containers, including increased fuel costs.

(c) TECHNOLOGICAL IMPROVEMENTS.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation, shall support efforts to explore alternative technologies for minimizing the potential effects of detonation of an explosive device on cargo and passenger aircraft.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsections (a) and (b) $2,000,000. Such sum shall remain available until expended.

49 USC 44901 note.

SEC. 4052. AIR CARGO SECURITY.

(a) AIR CARGO SCREENING TECHNOLOGY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop technology to better identify, track, and screen air cargo.

Appropriation authorization.

(b) IMPROVED AIR CARGO AND AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(c) RESEARCH, DEVELOPMENT, AND DEPLOYMENT.—To carry out subsection (a), there is authorized to be appropriated to the Secretary, in addition to any amounts otherwise authorized by law, for research and development related to enhanced air cargo security technology as well as for deployment and installation of enhanced air cargo security technology—

(1) $100,000,000 for fiscal year 2005;

(2) $100,000,000 for fiscal year 2006; and
(3) $100,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(d) ADVANCED CARGO SECURITY GRANTS.—

(1) IN GENERAL.—The Secretary shall establish and carry out a program to issue competitive grants to encourage the development of advanced air cargo security technology, including use of innovative financing or other means of funding such activities. The Secretary may make available funding for this purpose from amounts appropriated pursuant to subsection (c).

(2) ELIGIBILITY CRITERIA, ETC.—The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and rapidly as possible. Procedures.

SEC. 4053. AIR CARGO SECURITY REGULATIONS. Deadline.

Not later than 240 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue a final rule in Docket Number TSA-2004-19515 to amend transportation security regulations to enhance and improve the security of air cargo transported in both passenger and all-cargo aircraft.

SEC. 4054. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological, or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in such a classified and redacted format as the Secretary determines appropriate or necessary.

Subtitle D—Maritime Security

SEC. 4071. WATCH LISTS FOR PASSENGERS ABOARD VESSELS. 46 USC 70101 note.

(a) WATCH LISTS.—

(1) IN GENERAL.—As soon as practicable but not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(A) implement a procedure under which the Department of Homeland Security compares information about

passengers and crew who are to be carried aboard a cruise ship with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates;

(B) use the information obtained by comparing the passenger and crew information with the information in the database to prevent known or suspected terrorists and their associates from boarding such ships or to subject them to specific additional security scrutiny, through the use of "no transport" and "automatic selectee" lists or other means.

(2) WAIVER.—The Secretary may waive the requirement in paragraph (1)(B) with respect to cruise ships embarking at foreign ports if the Secretary determines that the application of such requirement to such cruise ships is impracticable.

Regulations.

(b) COOPERATION FROM OPERATORS OF CRUISE SHIPS.—The Secretary of Homeland Security shall by rulemaking require operators of cruise ships to provide the passenger and crew information necessary to implement the procedure required by subsection (a).

(c) MAINTENANCE OF ACCURACY AND INTEGRITY OF "NO TRANSPORT" AND "AUTOMATIC SELECTEE" LISTS.—

Guidelines. Procedures.

(1) WATCH LIST DATABASE.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall develop guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the "no transport" and "automatic selectee" lists described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the lists.

(2) ACCURACY OF ENTRIES.—In developing the "no transport" and "automatic selectee" lists under subsection (a)(1)(B), the Secretary shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger and crew screening process. The Secretary shall also establish a process to provide an individual whose name is confused with, or similar to, a name in the watch list database with a means of demonstrating that such individual is not the person named in the database.

(d) CRUISE SHIP DEFINED.—In this section, the term "cruise ship" means a vessel on an international voyage that embarks or disembarks passengers at a port of United States jurisdiction to which subpart C of part 160 of title 33, Code of Federal Regulations, applies and that provides overnight accommodations.

SEC. 4072. DEADLINES FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—Section 70103(a)(1) of title 46, United States Code, is amended by striking "The Secretary" and inserting "Not later than April 1, 2005, the Secretary".

(b) FACILITY AND VESSEL VULNERABILITY ASSESSMENTS.—Section 70102(b)(1) of title 46, United States Code, is amended by striking ", the Secretary" and inserting "and by not later than December 31, 2004, the Secretary".

(c) STRATEGIC PLAN REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) a comprehensive program management plan that identifies specific tasks to be completed, and deadlines for completion, for the transportation security card program under section 70105 of title 46, United States Code, that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(2) a report on the status of negotiations under section 103(a) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111);

(3) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(4) a report on the status of the development of the system and standards required by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(d) OTHER REPORTS.—Not later than 90 days after the date of the enactment of this Act—

(1) the Secretary of Homeland Security shall submit to the appropriate congressional committees—

(A) a report on the establishment of the National Maritime Security Advisory Committee under section 70112 of title 46, United States Code; and

(B) a report on the status of the program required by section 70116 of title 46, United States Code, to evaluate and certify secure systems of international intermodal transportation;

(2) the Secretary of Transportation shall submit to the appropriate congressional committees the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall submit to the appropriate congressional committees the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

Subtitle E—General Provisions

SEC. 4081. DEFINITIONS.

49 USC 44901 note.

In this title (other than in sections 4001 and 4026), the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) AVIATION DEFINITIONS.—The terms "air carrier", "air transportation", "aircraft", "airport", "cargo", "foreign air carrier", and "intrastate air transportation" have the meanings given such terms in section 40102 of title 49, United States Code.

(3) SECURE AREA OF AN AIRPORT.—The term "secure area of an airport" means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulations).

49 USC 114 note.

SEC. 4082. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

TITLE V—BORDER PROTECTION, IMMIGRATION, AND VISA MATTERS

Subtitle A—Advanced Technology Northern Border Security Pilot Program

8 USC 1712 note.

SEC. 5101. ESTABLISHMENT.

The Secretary of Homeland Security may carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

8 USC 1712 note.

SEC. 5102. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this subtitle to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry with a relatively small presence of United States border patrol officers.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this subtitle—

(1) is coordinated among United States, State, local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 5103. ADMINISTRATIVE PROVISIONS. 8 USC 1712 note.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this subtitle.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program under this subtitle, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as law enforcement and border security agencies referred to in section 5102(b), institutions of higher education, and private sector entities.

SEC. 5104. REPORT. 8 USC 1712 note.

(a) REQUIREMENT FOR REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this subtitle.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding whether to expand the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 5105. AUTHORIZATION OF APPROPRIATIONS. 8 USC 1712 note.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this subtitle.

Subtitle B—Border and Immigration Enforcement

SEC. 5201. BORDER SURVEILLANCE. 8 USC 1701 note.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the southwest border of the United States by remotely piloted aircraft. Deadline.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions;

(6) the equipment necessary to carry out the plan; and

(7) a recommendation regarding whether to expand the pilot program along the entire southwest border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

Effective date.

In each of the fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 2,000 the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year. In each of the fiscal years 2006 through 2010, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

SEC. 5203. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

Effective date.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

SEC. 5204. INCREASE IN DETENTION BED SPACE.

Effective date.

(a) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary of Homeland Security shall increase by not less than 8,000, in each of the fiscal years 2006 through 2010, the number of beds available for immigration detention and removal operations of the Department of Homeland Security above the number for which funds were allotted for the preceding fiscal year.

(b) PRIORITY.—The Secretary shall give priority for the use of these additional beds to the detention of individuals charged with removability under section 237(a)(4) of the Immigration and

Nationality Act (8 U.S.C. 1227(a)(4)) or inadmissibility under section 212(a)(3) of that Act (8 U.S.C. 1182(a)(3)).

Subtitle C—Visa Requirements

SEC. 5301. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

"(1) who is at least 14 years of age and not more than 79 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

"(A) by a consular official and such alien is—

"(i) within that class of nonimmigrants enumerated in subparagraph (A) or (G) of section 101(a)(15);

"(ii) within the NATO visa category;

"(iii) within that class of nonimmigrants enumerated in section 101(a)(15)(C)(iii) (referred to as the 'C–3 visa' category); or

"(iv) granted a diplomatic or official visa on a diplomatic or official passport or on the equivalent thereof;

"(B) by a consular official and such alien is applying for a visa—

"(i) not more than 12 months after the date on which such alien's prior visa expired;

"(ii) for the visa classification for which such prior visa was issued;

"(iii) from the consular post located in the country of such alien's usual residence, unless otherwise prescribed in regulations that require an applicant to apply for a visa in the country of which such applicant is a national; and

"(iv) the consular officer has no indication that such alien has not complied with the immigration laws and regulations of the United States; or

"(C) by the Secretary of State if the Secretary determines that such waiver is—

"(i) in the national interest of the United States; or

"(ii) necessary as a result of unusual or emergent circumstances; and

"(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

"(A) is not a national or resident of the country in which such alien is applying for a visa;

"(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

"(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

"(D) is a national of a country officially designated by the Secretary of State as a state sponsor of terrorism,

except such nationals who possess nationalities of countries that are not designated as state sponsors of terrorism;

"(E) requires a security advisory opinion or other Department of State clearance, unless such alien is—

"(i) within that class of nonimmigrants enumerated in subparagraph (A) or (G) of section 101(a)(15);

"(ii) within the NATO visa category;

"(iii) within that class of nonimmigrants enumerated in section 101(a)(15)(C)(iii) (referred to as the 'C–3 visa' category); or

"(iv) an alien who qualifies for a diplomatic or official visa, or its equivalent; or

"(F) is identified as a member of a group or sector that the Secretary of State determines—

"(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

"(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

"(iii) poses a security threat to the United States.".

SEC. 5302. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting "The alien shall provide complete and accurate information in response to any request for information contained in the application." after the second sentence.

8 USC 1202 note.

SEC. 5303. EFFECTIVE DATE.

Notwithstanding section 1086 or any other provision of this Act, sections 5301 and 5302 shall take effect 90 days after the date of enactment of this Act.

SEC. 5304. REVOCATION OF VISAS AND OTHER TRAVEL DOCUMENTATION.

(a) LIMITATION ON REVIEW.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: "There shall be no means of judicial review (including review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title) of a revocation under this subsection, except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 237(a)(1)(B).".

(b) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking "United States is" and inserting the following: "United States, or whose nonimmigrant visa (or other documentation authorizing admission into the United States as a nonimmigrant) has been revoked under section 221(i), is".

(c) REVOCATION OF PETITIONS.—Section 205 of the Immigration and Nationality Act (8 U.S.C. 1155) is amended—

(1) by striking "Attorney General" and inserting "Secretary of Homeland Security"; and

(2) by striking the final two sentences.

8 USC 1155 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to revocations under sections 205 and 221(i) of the Immigration and Nationality Act (8 U.S.C. 1155, 1201(i)) made before, on, or after such date.

Subtitle D—Immigration Reform

SEC. 5401. BRINGING IN AND HARBORING CERTAIN ALIENS.

(a) CRIMINAL PENALTIES.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended by adding at the end the following:

"(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if—

"(A) the offense was part of an ongoing commercial organization or enterprise;

"(B) aliens were transported in groups of 10 or more; and

"(C)(i) aliens were transported in a manner that endangered their lives; or

"(ii) the aliens presented a life-threatening health risk to people in the United States.".

(b) OUTREACH PROGRAM.—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324), as amended by subsection (a), is further amended by adding at the end the following:

"(e) OUTREACH PROGRAM.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.".

SEC. 5402. DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.

Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) RECIPIENT OF MILITARY-TYPE TRAINING.—

"(i) IN GENERAL.—Any alien who has received military-type training from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in subclause (I) or (II) of section 212(a)(3)(B)(vi)), is deportable.

"(ii) DEFINITION.—As used in this subparagraph, the term 'military-type training' includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction (as defined in section 2332a(c)(2) of title 18, United States Code).".

SEC. 5403. STUDY AND REPORT ON TERRORISTS IN THE ASYLUM SYSTEM.

(a) STUDY.—Commencing not later than 30 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to evaluate the extent to which weaknesses in the United States asylum system and withholding of removal system have been or could be exploited by aliens connected to, charged in connection with, or tied to terrorist activity. Deadline.

(b) ELEMENTS.—The study under subsection (a) shall address, but not be limited to, the following:

(1) The number of aliens connected to, tied to, charged in connection with, or who claim to have been accused of or charged in connection with terrorist activity who have applied for, been granted, or been denied asylum.

(2) The number of aliens connected to, tied to, charged in connection with, or who claim to have been accused of or charged in connection with terrorist activity who have applied for, been granted, or been denied release from detention.

(3) The number of aliens connected to, tied to, charged in connection with, or who claim to have been accused of or charged in connection with terrorist activity who have been denied asylum but who remain at large in the United States.

(4) The effect of the confidentiality provisions of section 208.6 of title 8, Code of Federal Regulations, on the ability of the United States Government to establish that an alien is connected to or tied to terrorist activity, such that the alien is barred from asylum or withholding of removal, is removable from the United States, or both.

(5) The effect that precedential decisions, if any, holding that the extrajudicial punishment of an individual connected to terrorism, or guerrilla or militant activity abroad, or threats of such punishment, constitute persecution on account of political opinion as defined in section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)), have had on the ability of the United States Government to remove aliens whom the United States Government believes are connected to or have ties to terrorism.

(6) The extent to which court precedents have affected the ability of the United States Government to determine or prove that an alien the United States Government believes to be connected to or tied to terrorism is in fact so connected or tied, including—

(A) so-called "imputed political opinion";

(B) judicial review, reversal, or both of the credibility determinations of immigration judges; and

(C) the need to use classified information in removal proceedings against aliens suspected of connections or ties to terrorism.

(7) The likelihood that an alien connected to or with ties to terrorism has been granted asylum or withholding of removal.

(8) The likelihood that an alien connected to or with ties to terrorism has used the United States asylum system to enter or remain in the United States in order to plan, conspire, or carry out, or attempt to plan, conspire, or carry out, an act of terrorism.

(c) CONSIDERATION AND ASSESSMENT.—Solely for purposes of conducting the study under subsection (a), the Comptroller General shall consider the possibility, and assess the likelihood, that an alien whom the United States Government accuses or has accused of having a connection to or ties to terrorism is in fact connected to or tied to terrorism, notwithstanding any administrative or judicial determination to the contrary.

(d) SCOPE.—In conducting the study under subsection (a), the Comptroller General shall seek information from the Department of Homeland Security, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Justice, foreign

governments, experts in the field of alien terrorists, and any other appropriate source.

(e) PRIVACY.—

(1) IN GENERAL.—Notwithstanding section 208.6 of title 8, Code of Federal Regulations, the Comptroller General shall, for purposes of the study under subsection (a), have access to the applications and administrative and judicial records of alien applicants for asylum and withholding of removal. Except for purposes of preparing the reports under subsection (f), such information shall not be further disclosed or disseminated, nor shall the names or personal identifying information of any applicant be released.

(2) SECURITY OF RECORDS.—The Comptroller General shall ensure that records received pursuant to this section are appropriately secured to prevent their inadvertent disclosure.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress and the Secretary of Homeland Security a report on the findings and recommendations of the Comptroller General under the study under subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) The assessment of the Comptroller General on each matter specified in subsection (b).

(B) Any recommendations of the Comptroller General for such administrative action on any matter specified in subsection (a) as the Comptroller General considers necessary to better protect the national security of the United States.

(C) Any recommendations of the Comptroller General for such legislative action on any matter specified in subsection (a) as the Comptroller General considers necessary to better protect the national security of the United States.

(3) FORM.—If necessary, the Comptroller General may submit a classified and unclassified version of the report under paragraph (1).

(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle E—Treatment of Aliens Who Commit Acts of Torture, Extrajudicial Killings, or Other Atrocities Abroad

SEC. 5501. INADMISSIBILITY AND DEPORTABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) in clause (ii), by striking "has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible" and inserting "ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible";

(2) by adding at the end the following:

"(iii) COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS.—Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

"(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

"(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note),

is inadmissible."; and

(3) in the subparagraph heading, by striking "PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE" and inserting "PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING".

(b) DEPORTABILITY.—Section 237(a)(4)(D) of such Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) by striking "clause (i) or (ii)" and inserting "clause (i), (ii), or (iii)"; and

(2) in the subparagraph heading, by striking "ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE" and inserting "PARTICIPATED IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING".

8 USC 1182 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 5502. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) GROUND OF INADMISSIBILITY.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

"(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), is inadmissible.".

(b) GROUND OF DEPORTABILITY.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien described in section 212(a)(2)(G) is deportable.".

SEC. 5503. WAIVER OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended—

(1) in subparagraph (A), by striking "and 3(E)" and inserting "and clauses (i) and (ii) of paragraph (3)(E)"; and

(2) in subparagraph (B), by striking "and 3(E)" and inserting "and clauses (i) and (ii) of paragraph (3)(E)".

SEC. 5504. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by striking the period at the end of paragraph (8) and inserting "; or"; and

(2) by adding at the end the following:

"(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).".

SEC. 5505. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

"(h)(1) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority to detect and investigate, and, where appropriate, to take legal action to denaturalize any alien described in section 212(a)(3)(E).

"(2) The Attorney General shall consult with the Secretary of Homeland Security in making determinations concerning the criminal prosecution or extradition of aliens described in section 212(a)(3)(E).

"(3) In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to—

"(A) the availability of criminal prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

"(B) the availability of extradition of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this subtitle) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 5506. REPORT ON IMPLEMENTATION.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this subtitle that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations and other components within the Department of Justice and the Department of Homeland Security in a manner consistent with the amendments made by this subtitle;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this subtitle; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.

TITLE VI—TERRORISM PREVENTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

SEC. 6001. INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

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

"(C) engages in international terrorism or activities in preparation therefore; or".

50 USC 1801 note.

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

SEC. 6002. ADDITIONAL SEMIANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating— 50 USC 1801 note.

(A) title VI as title VII; and

(B) section 601 as section 701; and

(2) by inserting after title V the following new title:

"TITLE VI—REPORTING REQUIREMENT

"SEC. 601. SEMIANNUAL REPORT OF THE ATTORNEY GENERAL. 50 USC 1871 note.

"(a) REPORT.—On a semiannual basis, the Attorney General shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate, in a manner consistent with the protection of the national security, a report setting forth with respect to the preceding 6-month period—

"(1) the aggregate number of persons targeted for orders issued under this Act, including a breakdown of those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501;

"(2) the number of individuals covered by an order issued pursuant to section 101(b)(1)(C);

"(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding;

"(4) a summary of significant legal interpretations of this Act involving matters before the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review, including interpretations presented in applications or pleadings filed with the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review by the Department of Justice; and

"(5) copies of all decisions (not including orders) or opinions of the Foreign Intelligence Surveillance Court or Foreign Intelligence Surveillance Court of Review that include significant construction or interpretation of the provisions of this Act.

"(b) FREQUENCY.—The first report under this section shall be submitted not later than 6 months after the date of enactment of this section. Subsequent reports under this section shall be submitted semi-annually thereafter.".

(b) CLERICAL AMENDMENT.—The table of contents for the Foreign Intelligence Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to title 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.".

Subtitle B—Money Laundering and Terrorist Financing

SEC. 6101. ADDITIONAL AUTHORIZATION FOR FINCEN.

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

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

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

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

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

"(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to exploit the information in the FinCEN data banks, $16,500,000.

"(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, $5,000,000.

"(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, $3,000,000.

"(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, $3,000,000.

"(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, $8,000,000.".

SEC. 6102. MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY REAUTHORIZATION.

(a) PROGRAM.—Section 5341(a)(2) of title 31, United States Code, is amended—

(1) by striking "February 1" and inserting "August 1"; and

(2) by striking "and 2003," and inserting "2003, 2005, and 2007,".

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

"2004	$15,000,000.
"2005	$15,000,000.".

Subtitle C—Money Laundering Abatement and Financial Antiterrorism Technical Corrections

International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004.
31 USC 5301 note.

SEC. 6201. SHORT TITLE.

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

SEC. 6202. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–56.

(a) The heading of title III of Public Law 107–56 is amended to read as follows: 115 Stat. 296.

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

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

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

(c) Section 302 of Public Law 107–56 is amended— 31 USC 5311 note.

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

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

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

(d) Section 303(a) of Public Law 107–56 is amended by striking "Anti-Terrorist Financing Act" and inserting "Financial Antiterrorism Act". 31 USC 5311 note.

(e) The heading for section 311 of Public Law 107–56 is amended by striking "**OR INTERNATIONAL TRANSACTIONS**" and inserting "**INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS**". 31 USC 5311 note.

(f) Section 314 of Public Law 107–56 is amended— 31 USC 5311 note.

(1) in paragraph (1)—

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

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

(2) in paragraph (2)(A)—

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

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

(3) in paragraph (3)(A)—

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

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

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

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

31 USC 5318. (h) Section 325 of Public Law 107–56 is amended by striking "as amended by section 202 of this title," and inserting "as amended by section 352,".

(i) Subsections (a)(2) and (b)(2) of section 327 of Public Law 107–56 are each amended by striking "2001" and all that follows and inserting a period.

12 USC 1842 note, 1828 note.

31 USC 5311 note. (j) Section 356(c)(4) of Public Law 107–56 is amended by striking "or business or other grantor trust" and inserting ", business trust, or other grantor trust".

12 USC 1953. (k) Section 358(e) of Public Law 107–56 is amended—

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

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

(3) in the amendment made in that subsection (e), by striking "person." and inserting the following: "person—".

22 USC 262p–4r. (l) Section 360 of Public Law 107–56 is amended—

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

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

31 USC 310 note. (m) Section 362(a)(1) of Public Law 107–56 is amended by striking "subchapter II or III" and inserting "subchapter II".

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

31 USC 5301. (1) by redesignating the second of the 2 subsections designated as subsection (c) (relating to a clerical amendment) as subsection (d); and

31 USC 5331 note. (2) by redesignating subsection (f) as subsection (e).

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

SEC. 6203. TECHNICAL CORRECTIONS TO OTHER PROVISIONS OF LAW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6204. REPEAL OF REVIEW.

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

SEC. 6205. EFFECTIVE DATE.

12 USC 1828 note.

The amendments made by this subchapter to Public Law 107–56, the United States Code, the Federal Deposit Insurance Act, and any other provision of law shall take effect as if such amendments had been included in Public Law 107–56, as of the date

of enactment of such Public Law, and no amendment made by such Public Law that is inconsistent with an amendment made by this subchapter shall be deemed to have taken effect.

Subtitle D—Additional Enforcement Tools

SEC. 6301. BUREAU OF ENGRAVING AND PRINTING SECURITY PRINTING.

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

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

"(a) AUTHORITY TO ENGRAVE AND PRINT.—

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

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

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

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

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

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

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

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

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

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

SEC. 6302. REPORTING OF CERTAIN CROSS-BORDER TRANSMITTAL OF FUNDS.

Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(n) REPORTING OF CERTAIN CROSS-BORDER TRANSMITTALS OF FUNDS.—

Regulations.

"(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Secretary shall prescribe regulations requiring such financial

institutions as the Secretary determines to be appropriate to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds, if the Secretary determines that reporting of such transmittals is reasonably necessary to conduct the efforts of the Secretary against money laundering and terrorist financing.

"(2) LIMITATION ON REPORTING REQUIREMENTS.—Information required to be reported by the regulations prescribed under paragraph (1) shall not exceed the information required to be retained by the reporting financial institution pursuant to section 21 of the Federal Deposit Insurance Act and the regulations promulgated thereunder, unless—

"(A) the Board of Governors of the Federal Reserve System and the Secretary jointly determine that a particular item or items of information are not currently required to be retained under such section or such regulations; and

"(B) the Secretary determines, after consultation with the Board of Governors of the Federal Reserve System, that the reporting of such information is reasonably necessary to conduct the efforts of the Secretary to identify cross-border money laundering and terrorist financing.

"(3) FORM AND MANNER OF REPORTS.—In prescribing the regulations required under paragraph (1), the Secretary shall, subject to paragraph (2), determine the appropriate form, manner, content, and frequency of filing of the required reports.

"(4) FEASIBILITY REPORT.—

"(A) IN GENERAL.—Before prescribing the regulations required under paragraph (1), and as soon as is practicable after the date of enactment of the National Intelligence Reform Act of 2004, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that—

"(i) identifies the information in cross-border electronic transmittals of funds that may be found in particular cases to be reasonably necessary to conduct the efforts of the Secretary to identify money laundering and terrorist financing, and outlines the criteria to be used by the Secretary to select the situations in which reporting under this subsection may be required;

"(ii) outlines the appropriate form, manner, content, and frequency of filing of the reports that may be required under such regulations;

"(iii) identifies the technology necessary for the Financial Crimes Enforcement Network to receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing; and

"(iv) discusses the information security protections required by the exercise of the Secretary's authority under this subsection.

"(B) CONSULTATION.—In reporting the feasibility report under subparagraph (A), the Secretary may consult with

the Bank Secrecy Act Advisory Group established by the Secretary, and any other group considered by the Secretary to be relevant.

"(5) REGULATIONS.—

Deadline.

"(A) IN GENERAL.—Subject to subparagraph (B), the regulations required by paragraph (1) shall be prescribed in final form by the Secretary, in consultation with the Board of Governors of the Federal Reserve System, before the end of the 3-year period beginning on the date of enactment of the National Intelligence Reform Act of 2004.

Certification.

"(B) TECHNOLOGICAL FEASIBILITY.—No regulations shall be prescribed under this subsection before the Secretary certifies to the Congress that the Financial Crimes Enforcement Network has the technological systems in place to effectively and efficiently receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing.".

SEC. 6303. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations;

(D) the effectiveness and efficiency of efforts to protect the critical infrastructure of the United States financial system, and ways to improve the effectiveness of financial institutions;

(E) ways to improve multilateral and international governmental cooperation on terrorist financing, including the adequacy of agency coordination within the United States related to participating in international cooperative efforts and implementing international treaties and compacts; and

(F) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, additional resources, or use of appropriated funds.

(b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

Applicability.

"(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

"(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

"(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

"(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

"(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

"(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'depository institution' includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

"(B) the term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

"(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

"(4) REGULATIONS.—

"(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines

to define the scope of persons referred to in paragraph (1)(B).

"(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

"(5) WAIVER.—

"(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

"(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

"(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

"(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

"(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

"(6) PENALTIES.—

"(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

Notice.

"(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal banking agency shall serve a written notice or order in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraph (1) or (2) of section 8(e), upon such person of the intention of the agency—

"(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

"(II) to prohibit any further participation by such person, in any manner, in the conduct of

the affairs of any insured depository institution for a period of up to 5 years.

"(ii) CIVIL MONETARY PENALTY.—The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. Any administrative proceeding under this clause shall be conducted in accordance with section 8(i). In lieu of an action by the Federal banking agency under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court.

"(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

"(C) DEFINITIONS.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).".

(c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

"(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.—

Applicability.

"(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

"(A) was an officer or employee (including any special Government employee) of the Administration;

"(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) of that insured credit union on behalf of the Administration; and

"(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

"(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

"(B) CONSULTATION.—In prescribing rules or regulations under this paragraph, the Board shall, to the extent

it deems necessary, consult with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

"(4) WAIVER.—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

"(5) PENALTIES.—

"(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever the Board determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall impose upon such person one or more of the following penalties:

Notice.

"(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Board shall serve a written notice or order in accordance with and subject to the provisions of subsection (g)(4) for written notices or orders under paragraph (1) or (2) of subsection (g), upon such person of the intention of the Board—

"(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

"(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

"(ii) CIVIL MONETARY PENALTY.—The Board may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. Any administrative proceeding under this clause shall be conducted in accordance with subsection (k). In lieu of an action by the Board under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court.

"(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subparagraph (A)(i) shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).".

12 USC 1786 note.

(d) EFFECTIVE DATE.—Notwithstanding any other effective date established pursuant to this Act, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

Subtitle E—Criminal History Background Checks

SEC. 6401. PROTECT ACT.

Public Law 108–21 is amended—

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

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

42 USC 5119a note.

SEC. 6402. REVIEWS OF CRIMINAL RECORDS OF APPLICANTS FOR PRIVATE SECURITY OFFICER EMPLOYMENT.

Private Security Officer Employment Authorization Act of 2004. 28 USC 534 note.

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

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term "employee" includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term "authorized employer" means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record

information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.—The term "private security officer"—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full or part time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this Act if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term "security services" means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term "State identification bureau" means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this Act.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of the participating State the request to search the criminal history record information of the employee under this Act.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this Act.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this Act, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

Notification.

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

Deadline.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and record keeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this Act; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this Act by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this subsection.

SEC. 6403. CRIMINAL HISTORY BACKGROUND CHECKS.

Deadline. Reports.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall report to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice or any of its components.

(b) DEFINITIONS.—As used in this section—

(1) the terms "criminal history information" and "criminal history records" include—

(A) an identifying description of the individual to whom the information or records pertain;

(B) notations of arrests, detentions, indictments, or other formal criminal charges pertaining to such individual; and

(C) any disposition to a notation described in subparagraph (B), including acquittal, sentencing, correctional supervision, or release; and

(2) the term "IAFIS" means the Integrated Automated Fingerprint Identification System of the Federal Bureau of Allocation, which serves as the national depository for fingerprint, biometric, and criminal history information, through which fingerprints are processed electronically.

(c) IDENTIFICATION OF INFORMATION.—The Attorney General shall identify—

(1) the number of criminal history record checks requested, including the type of information requested;

(2) the usage of different terms and definitions regarding criminal history information; and

(3) the variation in fees charged for such information and who pays such fees.

(d) RECOMMENDATIONS.—The Attorney General shall make recommendations to Congress for improving, standardizing, and consolidating the existing statutory authorization, programs, and procedures for the conduct of criminal history record checks for non-criminal justice purposes. In making these recommendations to Congress, the Attorney General shall consider— Procedures.

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

(2) any security concerns created by the existence of these commercially available databases concerning their ability to provide sensitive information that is not readily available about law enforcement or intelligence officials, including their identity, residence, and financial status;

(3) the effectiveness of utilizing State databases;

(4) any feasibility studies by the Department of Justice of the resources and structure of the Federal Bureau of Investigation to establish a system to provide criminal history information;

(5) privacy rights and other employee protections, including—

(A) employee consent;

(B) access to the records used if employment was denied;

(C) the disposition of the fingerprint submissions after the records are searched;

(D) an appeal mechanism; and

(E) penalties for misuse of the information;

(6) the scope and means of processing background checks for private employers utilizing data maintained by the Federal Bureau of Investigation that the Attorney General should be allowed to authorize in cases where the authority for such checks is not available at the State level;

(7) any restrictions that should be placed on the ability of an employer to charge an employee or prospective employee for the cost associated with the background check;

(8) which requirements should apply to the handling of incomplete records;

(9) the circumstances under which the criminal history information should be disseminated to the employer;

(10) the type of restrictions that should be prescribed for the handling of criminal history information by an employer;

(11) the range of Federal and State fees that might apply to such background check requests;

(12) any requirements that should be imposed concerning the time for responding to such background check requests;

(13) any infrastructure that may need to be developed to support the processing of such checks, including—

(A) the means by which information is collected and submitted in support of the checks; and

(B) the system capacity needed to process such checks at the Federal and State level;

(14) the role that States should play; and

(15) any other factors that the Attorney General determines to be relevant to the subject of the report.

(e) CONSULTATION.—In developing the report under this section, the Attorney General shall consult with representatives of State

criminal history record repositories, the National Crime Prevention and Privacy Compact Council, appropriate representatives of private industry, and representatives of labor, as determined appropriate by the Attorney General.

Subtitle F—Grand Jury Information Sharing

SEC. 6501. GRAND JURY INFORMATION SHARING.

18 USC app.

(a) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking "or state subdivision or of an Indian tribe" and inserting ", state subdivision, Indian tribe, or foreign government";

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: "An attorney for the government may also disclose any grand jury matter involving, within the United States or elsewhere, a threat of attack or other grave hostile acts of a foreign power or its agent, a threat of domestic or international sabotage or terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by its agent, to any appropriate Federal, State, State subdivision, Indian tribal, or foreign government official, for the purpose of preventing or responding to such threat or activities."; and

(ii) in clause (i)—

(I) by striking "federal"; and

(II) by adding at the end the following: "Any State, State subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and the Director of National Intelligence shall jointly issue."; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

"(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;"; and

(iii) in clause (iv), as redesignated—

(I) by striking "state or Indian tribal" and inserting "State, Indian tribal, or foreign"; and

(II) by striking "or Indian tribal official" and inserting "Indian tribal, or foreign government official"; and

(2) in paragraph (7), by inserting ", or of guidelines jointly issued by the Attorney General and the Director of National Intelligence pursuant to Rule 6," after "Rule 6".

(b) CONFORMING AMENDMENT.—Section 203(c) of Public Law 107–56 (18 U.S.C. 2517 note) is amended by striking "Rule 6(e)(3)(C)(i)(V) and (VI)" and inserting "Rule 6(e)(3)(D)".

Subtitle G—Providing Material Support to Terrorism

Material Support to Terrorism Prohibition Enhancement Act of 2004. 18 USC 2331 note.

SEC. 6601. SHORT TITLE.

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

SEC. 6602. RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

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

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

"(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

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

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

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

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

"(4) the offense occurs in whole or in part within the United States;

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

"(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'military-type training' includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including

any weapon of mass destruction (as defined in section 2232a(c)(2));

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365(h)(3);

"(3) the term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

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

SEC. 6603. ADDITIONS TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended—

(1) in section 2332b(g)(5)(B)(i)—

(A) by inserting "1361 (relating to government property or contracts)," before "1362"; and

(B) by inserting "2156 (relating to national defense material, premises, or utilities)," before "2280"; and

(2) in section 2339A—

(A) by striking "or" before "section 46502"; and

(B) by inserting "or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B)" after "section 60123(b) of title 49,".

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows:

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'material support or resources' means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

"(2) the term 'training' means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

"(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical or other specialized knowledge.".

(c) ADDITION TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ", within the United States or subject to the jurisdiction of the United States,"; and

(2) by adding at the end the following: "To violate this paragraph, a person must have knowledge that the organization

is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).".

(d) FEDERAL AUTHORITY.—Section 2339B(d) of title 18 is amended by striking "There" and inserting the following:

"(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

"(B) an offender is a stateless person whose habitual residence is in the United States;

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

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; or

"(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).".

"(2) EXTRATERRITORIAL JURISDICTION.—There".

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

"(4) the term 'material support or resources' has the same meaning given that term in section 2339A (including the definitions of 'training' and 'expert advice or assistance' in that section);".

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

"(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

"(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

"(j) EXCEPTION.—No person may be prosecuted under this section in connection with the term 'personnel', 'training', or 'expert advice or assistance' if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act).".

18 USC 2332b note.

(g) SUNSET PROVISION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

(A) is prohibited by this section or amendments made by this section; and

(B) began or occurred before December 31, 2006.

SEC. 6604. FINANCING OF TERRORISM.

18 USC 2339C.

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

(1) by striking ", resources, or funds" and inserting "or resources, or any funds or proceeds of such funds";

(2) in subparagraph (A), by striking "were provided" and inserting "are to be provided, or knowing that the support or resources were provided,"; and

(3) in subparagraph (B)—

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

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

18 USC 2339C.

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

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

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

"(13) the term 'material support or resources' has the same meaning given that term in section 2339B(g)(4) of this title; and".

Stop Terrorist and Military Hoaxes Act of 2004.

Subtitle H—Stop Terrorist and Military Hoaxes Act of 2004

18 USC 1 note.

SEC. 6701. SHORT TITLE.

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

SEC. 6702. HOAXES AND RECOVERY COSTS.

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

"§ 1038. False information and hoaxes

"(a) CRIMINAL VIOLATION.—

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

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

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

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

"(2) ARMED FORCES.—Any person who makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged—

"(A) shall be fined under this title, imprisoned not more than 5 years, or both;

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

"(C) if death results, shall be fined under this title, imprisoned for any number of years or for life, or both.

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

"(c) REIMBURSEMENT.—

"(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

"(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

"(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

"(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.".

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

"1038. False information and hoaxes.".

SEC. 6703. OBSTRUCTION OF JUSTICE AND FALSE STATEMENTS IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Section 1001(a) and the third undesignated paragraph of section 1505 of title 18, United States Code, are amended by striking "be fined under this title or imprisoned not more than 5 years, or both" and inserting "be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both".

Deadline.
28 USC 994 note.

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

SEC. 6704. CLARIFICATION OF DEFINITION.

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

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

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

Weapons of Mass Destruction Prohibition Improvement Act of 2004.
18 USC 1 note.

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

SEC. 6801. SHORT TITLE.

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

SEC. 6802. WEAPONS OF MASS DESTRUCTION.

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

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

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

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

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

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

"(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;";

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

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

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

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

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

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

"(3) the term 'property' includes all real and personal property.".

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

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

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

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

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G) by—

(A) inserting "(i)" after "(G)";

(B) inserting ", or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph" after "terrorism"; and

(C) striking "or" after the semicolon.

(2) in subparagraph (H) by striking the period and inserting "; or"; and

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

"(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).".

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) Section 175b(a)(1) of title 18, United States Code, is amended by striking "as a select agent in Appendix A" and all that follows and inserting the following: "as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.".

(2) The amendment made by paragraph (1) shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

Effective date. 18 USC 175b note.

(e) ENHANCING PROSECUTION OF WEAPONS OF MASS DESTRUCTION OFFENSES.—Section 1961(1)(B) of title 18, United States Code,

is amended by adding at the end the following: "sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials),".

SEC. 6803. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking "in the production of any special nuclear material" and inserting "or participate in the development or production of any special nuclear material".

(b) Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended—

(1) by inserting ", inside or outside of the United States," after "for any person"; and

(2) by inserting "participate in the development of," after "interstate or foreign commerce,".

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

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

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

(2) by inserting after section 831 the following:

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

"(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or knowingly provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

"(b) There is extraterritorial Federal jurisdiction over an offense under this section.

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

"(d) As used in this section—

"(1) 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons;

"(2) 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

"(3) 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

"(4) 'nuclear weapon' means any weapon that contains or uses nuclear material as defined in section 831(f)(1).''; and

(3) in section 2332b(g)(5)(B)(i), by inserting after "nuclear materials)," the following: "832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)".

Subtitle J—Prevention of Terrorist Access to Destructive Weapons Act of 2004

Prevention of Terrorist Access to Destructive Weapons Act of 2004.
18 USC 1 note.

SEC. 6901. SHORT TITLE.

This subtitle may be cited as the "Prevention of Terrorist Access to Destructive Weapons Act of 2004".

SEC. 6902. FINDINGS AND PURPOSE.

18 USC 175c note.

(a) FINDINGS.—Congress makes the following findings:

(1) The criminal use of man-portable air defense systems (referred to in this section as "MANPADS") presents a serious threat to civil aviation worldwide, especially in the hands of terrorists or foreign states that harbor them.

(2) Atomic weapons or weapons designed to release radiation (commonly known as "dirty bombs") could be used by terrorists to inflict enormous loss of life and damage to property and the environment.

(3) Variola virus is the causative agent of smallpox, an extremely serious, contagious, and sometimes fatal disease. Variola virus is classified as a Category A agent by the Centers for Disease Control and Prevention, meaning that it is believed to pose the greatest potential threat for adverse public health impact and has a moderate to high potential for large-scale dissemination. The last case of smallpox in the United States was in 1949. The last naturally occurring case in the world was in Somalia in 1977. Although smallpox has been officially eradicated after a successful worldwide vaccination program, there remain two official repositories of the variola virus for research purposes. Because it is so dangerous, the variola virus may appeal to terrorists.

(4) The use, or even the threatened use, of MANPADS, atomic or radiological weapons, or the variola virus, against the United States, its allies, or its people, poses a grave risk to the security, foreign policy, economy, and environment of the United States. Accordingly, the United States has a compelling national security interest in preventing unlawful activities that lead to the proliferation or spread of such items, including their unauthorized production, construction, acquisition, transfer, possession, import, or export. All of these activities markedly increase the chances that such items will be obtained by terrorist organizations or rogue states, which could use them to attack the United States, its allies, or United States nationals or corporations.

(5) There is no legitimate reason for a private individual or company, absent explicit government authorization, to produce, construct, otherwise acquire, transfer, receive, possess, import, export, or use MANPADS, atomic or radiological weapons, or the variola virus.

(b) PURPOSE.—The purpose of this subtitle is to combat the potential use of weapons that have the ability to cause widespread harm to United States persons and the United States economy

(and that have no legitimate private use) and to threaten or harm the national security or foreign relations of the United States.

SEC. 6903. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

Chapter 113B of title 18, United States Code, is amended by adding after section 2332f the following:

"§ 2332g. Missile systems designed to destroy aircraft

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

"(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

"(ii) otherwise direct or guide the rocket or missile to an aircraft;

"(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

"(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

"(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

"(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

"(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

"(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

"(d) DEFINITION.—As used in this section, the term 'aircraft' has the definition set forth in section 40102(a)(6) of title 49, United States Code.".

SEC. 6904. ATOMIC WEAPONS.

(a) PROHIBITIONS.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended—

(1) by inserting at the beginning "a." before "It";

(2) by inserting "knowingly" after "for any person to";

(3) by striking "or" before "export";

(4) by striking "transfer or receive in interstate or foreign commerce," before "manufacture";

(5) by inserting "receive," after "acquire,";

(6) by inserting ", or use, or possess and threaten to use," before "any atomic weapon"; and

(7) by inserting at the end the following:

"b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

"(2) the offense is committed against a national of the United States while the national is outside the United States;

"(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.".

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning "a." before "Whoever";

(2) striking ", 92,"; and

(3) inserting at the end the following:

"b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 25 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000

and imprisoned for not less than 30 years or imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than $2,000,000 and punished by imprisonment for life.".

SEC. 6905. RADIOLOGICAL DISPERSAL DEVICES.

Chapter 113B of title 18, United States Code, is amended by adding after section 2332g the following:

"§ 2332h. Radiological dispersal devices

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

"(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

"(2) EXCEPTION.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

"(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

"(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.".

SEC. 6906. VARIOLA VIRUS.

Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

"§ 175c. Variola virus

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

"(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

"(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

"(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

"(d) DEFINITION.—As used in this section, the term 'variola virus' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.".

SEC. 6907. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting "2122 and" after "sections";

(2) in paragraph (c), by inserting "section 175c (relating to variola virus)," after "section 175 (relating to biological weapons),"; and

(3) in paragraph (q), by inserting "2332g, 2332h," after "2332f,".

SEC. 6908. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before "2339 (relating to harboring terrorists)" the following: "2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices),"; and

(B) by inserting "175c (relating to variola virus)," after "175 or 175b (relating to biological weapons),"; and

(2) in clause (ii)—

(A) by striking "section" and inserting "sections 92 (relating to prohibitions governing atomic weapons) or"; and

(B) by inserting "2122 or" before "2284".

SEC. 6909. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after "section 152 (relating to concealment of assets; false oaths and claims; bribery)," the following: "section 175c (relating to the variola virus),";

(2) by inserting after "section 2332(b) (relating to international terrorist acts transcending national boundaries)," the following: "section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices),"; and

(3) striking "or" after "any felony violation of the Foreign Agents Registration Act of 1938," and after "any felony violation of the Foreign Corrupt Practices Act", striking ";" and inserting ", or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)".

SEC. 6910. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking "or" before "(xi)"; and

(2) by inserting after clause (xi) the following: "or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);".

SEC. 6911. CLERICAL AMENDMENTS.

(a) CHAPTER 113B.—The table of sections for chapter 113B of title 18, United States Code, is amended by inserting the following after the item for section 2332f:

"2332g. Missile systems designed to destroy aircraft.
"2332h. Radiological dispersal devices.".

(b) CHAPTER 10.—The table of sections for chapter 10 of title 18, United States Code, is amended by inserting the following item after the item for section 175b:

"175c. Variola virus.".

Subtitle K—Pretrial Detention of Terrorists

Pretrial Detention of Terrorists Act of 2004.

SEC. 6951. SHORT TITLE.

18 USC 3141 note.

This subtitle may be cited as the "Pretrial Detention of Terrorists Act of 2004".

SEC. 6952. PRESUMPTION FOR PRETRIAL DETENTION IN CASES INVOLVING TERRORISM.

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "or" before "the Maritime"; and

(B) by inserting "or an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, for which a maximum term of imprisonment of 10 years or more is prescribed" after "or 2332b of this title,"; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting ", or an offense listed in section 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed" after "violence" each place such term appears.

TITLE VII—IMPLEMENTATION OF 9/11 COMMISSION RECOMMENDATIONS

9/11 Commission Implementation Act of 2004.

SEC. 7001. SHORT TITLE.

6 USC 101 note.

This title may be cited as the "9/11 Commission Implementation Act of 2004".

Subtitle A—Diplomacy, Foreign Aid, and the Military in the War on Terrorism

SEC. 7101. FINDINGS.

22 USC 2656 note.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. 7102. TERRORIST SANCTUARIES.

22 USC 2656f note.

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

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by Government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are often focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS ON UNITED STATES POLICY ON TERRORIST SANCTUARIES.—It is the sense of Congress that it should be the policy of the United States—

(1) to identify foreign countries that are being used as terrorist sanctuaries;

(2) to assess current United States resources and tools being used to assist foreign governments to eliminate such sanctuaries;

(3) to develop and implement a coordinated strategy to prevent terrorists from using such foreign countries as sanctuaries; and

(4) to work in bilateral and multilateral fora to elicit the cooperation needed to identify and address terrorist sanctuaries that may exist today, but, so far, remain unknown to governments.

(c) AMENDMENTS TO EXISTING LAW TO INCLUDE TERRORIST SANCTUARIES.—

(1) IN GENERAL.—Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following:

"(5)(A) As used in paragraph (1), the term 'repeatedly provided support for acts of international terrorism' shall include

the recurring use of any part of the territory of the country as a sanctuary for terrorists or terrorist organizations.

"(B) In this paragraph—

"(i) the term 'territory of a country' means the land, waters, and airspace of the country; and

"(ii) the term 'sanctuary' means an area in the territory of a country—

"(I) that is used by a terrorist or terrorist organization—

"(aa) to carry out terrorist activities, including training, financing, and recruitment; or

"(bb) as a transit point; and

"(II) the government of which expressly consents to, or with knowledge, allows, tolerates, or disregards such use of its territory.".

(2) RULE OF CONSTRUCTION.—Nothing in this subsection or the amendments made by this subsection shall be construed as affecting any determination made by the Secretary of State pursuant to section 6(j) of the Export Administration Act of 1979 with respect to a country prior to the date of enactment of this Act. 50 USC app. 2405 note.

(3) IMPLEMENTATION.—The President shall implement the amendments made by paragraph (1) by exercising the authorities of the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.). President. 50 USC app. 2405 note.

(d) AMENDMENTS TO GLOBAL PATTERNS OF TERRORISM REPORT.—

(1) IN GENERAL.—Section 140(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)(1)) is amended—

(A) by striking "(1)" and inserting "(1)(A)";

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(C) in subparagraph (A)(iii) (as redesignated), by adding "and" at the end; and

(D) by adding at the end the following:

"(B) detailed assessments with respect to each foreign country whose territory is being used as a sanctuary for terrorists or terrorist organizations;".

(2) CONTENTS.—Section 140(b) of such Act (22 U.S.C. 2656f(b)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)"; and

(ii) by striking "and" at the end;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) with respect to subsection (a)(1)(B)—

"(A) the extent of knowledge by the government of the country with respect to terrorist activities in the territory of the country; and

"(B) the actions by the country—

"(i) to eliminate each terrorist sanctuary in the territory of the country;

"(ii) to cooperate with United States antiterrorism efforts; and

"(iii) to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country;";

(D) in paragraph (3), as redesignated, by striking the period at the end and inserting a semicolon; and

(E) by inserting after paragraph (3) the following:

"(4) a strategy for addressing, and where possible eliminating, terrorist sanctuaries that shall include—

"(A) a description of terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

"(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

"(C) a description of efforts by the United States to work with other countries in bilateral and multilateral fora to address or eliminate terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

"(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries; and

"(5) an update of the information contained in the report required to be transmitted to Congress under 7120(b) of the 9/11 Commission Implementation Act of 2004.".

(3) DEFINITIONS.—Section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)) is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) the terms 'territory' and 'territory of the country' mean the land, waters, and airspace of the country; and

"(5) the terms 'terrorist sanctuary' and 'sanctuary' mean an area in the territory of the country—

"(A) that is used by a terrorist or terrorist organization—

"(i) to carry out terrorist activities, including training, fundraising, financing, and recruitment; or

"(ii) as a transit point; and

"(B) the government of which expressly consents to, or with knowledge, allows, tolerates, or disregards such use of its territory and is not subject to a determination under—

"(i) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A));

"(ii) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); or

"(iii) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).".

22 USC 2656f note.

(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.

SEC. 7103. UNITED STATES COMMITMENT TO THE FUTURE OF PAKISTAN.

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

(1) The Government of Pakistan has a critical role to perform in the struggle against terrorism.

(2) Due to its location, topography, social conditions, and other factors, Pakistan can be attractive to extremists seeking refuge or opportunities to recruit or train, or a place from which to operate against Coalition Forces in Afghanistan.

(3) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

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

(1) help to ensure a promising, stable, and secure future for Pakistan over the long term;

(2) provide a comprehensive program of assistance to encourage and enable Pakistan—

(A) to continue and improve upon its commitment to combating extremists;

(B) to seek to resolve any outstanding difficulties with its neighbors and other countries in its region;

(C) to continue to make efforts to fully control its territory and borders;

(D) to progress toward becoming a more effective and participatory democracy;

(E) to participate more vigorously in the global marketplace and to continue to modernize its economy;

(F) to take all necessary steps to halt the spread of weapons of mass destruction;

(G) to improve and expand access to education for all citizens; and

(H) to increase the number and level of exchanges between the Pakistani people and the American people; and

(3) continue to provide assistance to Pakistan at not less than the overall levels requested by the President for fiscal year 2005.

(c) EXTENSION OF PAKISTAN WAIVERS.—The Act entitled "An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes", approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), as amended by section 2213 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1232), is further amended—

(1) in section 1(b)— 115 Stat. 403.

(A) in the heading, by striking "FISCAL YEAR 2004" and inserting "FISCAL YEARS 2005 and 2006"; and

(B) in paragraph (1), by striking "2004" and inserting "2005 or 2006";

(2) in section 3(2), by striking "and 2004," and inserting "2004, 2005, and 2006"; and 115 Stat. 404.

(3) in section 6, by striking "2004" and inserting "2006". 115 Stat. 405.

Afghanistan Freedom Support Act Amendments of 2004.
22 USC 7501 note.
22 USC 7511 note.

SEC. 7104. ASSISTANCE FOR AFGHANISTAN.

(a) SHORT TITLE.—This section may be cited as the "Afghanistan Freedom Support Act Amendments of 2004".

(b) COORDINATION OF ASSISTANCE.—

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

(A) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(B) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(i) improving security throughout the country;

(ii) disarming and demobilizing militias;

(iii) curtailing the rule of the warlords;

(iv) promoting equitable economic development;

(v) protecting the human rights of the people of Afghanistan;

(vi) continuing to hold elections for public officials; and

(vii) ending the cultivation, production, and trafficking of narcotics.

(C) The United States and the international community must make a long-term commitment to addressing the unstable security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should take, with respect to Afghanistan, the following actions:

(A) Work with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Use the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Take appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of

personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(c) COORDINATOR FOR ASSISTANCE.—

(1) FINDINGS.—Congress makes the following findings: 22 USC 7514 note.

(A) The Final Report of the National Commission on Terrorist Attacks Upon the United States criticized the provision of United States assistance to Afghanistan for being too inflexible.

(B) The Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) contains provisions that provide for flexibility in the provision of assistance for Afghanistan and are not subject to the requirements of typical foreign assistance programs and provide for the designation of a coordinator to oversee United States assistance for Afghanistan.

(2) DESIGNATION OF COORDINATOR.—Section 104(a) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7514(a)) is amended in the matter preceding paragraph (1) by striking "is strongly urged to" and inserting "shall".

(d) ASSISTANCE PLAN; INTERNATIONAL COORDINATION.—Section 104 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7514) is amended by adding at the end the following:

"(c) ASSISTANCE PLAN.—

"(1) SUBMISSION TO CONGRESS.—The coordinator designated under subsection (a) shall annually submit the Afghanistan assistance plan of the Administration to— Deadlines.

"(A) the Committee on Foreign Relations of the Senate;

"(B) the Committee on International Relations of the House of Representatives;

"(C) the Committee on Appropriations of the Senate; and

"(D) the Committee on Appropriations of the House of Representatives.

"(2) CONTENTS.—The assistance plan submitted under paragraph (1) shall describe—

"(A) how the plan relates to the strategy provided pursuant to section 304; and

"(B) how the plan builds upon United States assistance provided to Afghanistan since 2001.

"(d) COORDINATION WITH INTERNATIONAL COMMUNITY.—

"(1) IN GENERAL.—The coordinator designated under subsection (a) shall work with the international community and the Government of Afghanistan to ensure that assistance to Afghanistan is implemented in a coherent, consistent, and efficient manner to prevent duplication and waste.

"(2) INTERNATIONAL FINANCIAL INSTITUTIONS.—The coordinator designated under subsection (a), under the direction of the Secretary of State, shall work through the Secretary of the Treasury and the United States Executive Directors at the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2))) to coordinate United States assistance for Afghanistan with international financial institutions.

(e) GENERAL PROVISIONS RELATING TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—

(1) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL AND SOCIAL DEVELOPMENT.—

22 USC 7513 note.

(A) DECLARATION OF POLICY.—Congress reaffirms the authorities contained in title I of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), relating to economic and democratic development assistance for Afghanistan.

(B) PROVISION OF ASSISTANCE.—Section 103(a) of such Act (22 U.S.C. 7513(a)) is amended in the matter preceding paragraph (1) by striking "section 512 of Public Law 107–115 or any other similar" and inserting "any other".

22 USC 7511 note.

(2) DECLARATIONS OF GENERAL POLICY.—Congress makes the following declarations:

(A) The United States reaffirms the support that it and other countries expressed for the report entitled "Securing Afghanistan's Future" in their Berlin Declaration of April 2004. The United States should help enable the growth needed to create an economically sustainable Afghanistan capable of the poverty reduction and social development foreseen in the report.

(B) The United States supports the parliamentary elections to be held in Afghanistan by April 2005 and will help ensure that such elections are not undermined, including by warlords or narcotics traffickers.

(C) The United States continues to urge North Atlantic Treaty Organization members and other friendly countries to make much greater military contributions toward securing the peace in Afghanistan.

(3) FORM OF REPORTS.—Section 304 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7554) is amended—

(A) by striking "The Secretary" and inserting the following:

"(a) IN GENERAL.—The Secretary";

(B) by striking "The first report" and inserting the following:

"(b) DEADLINE FOR SUBMISSION.—The first report"; and

(C) by adding at the end the following:

"(c) FORM OF REPORTS.—Any report or other matter that is required to be submitted to Congress (including a committee of Congress) by this Act may contain a classified annex.".

(4) LONG-TERM STRATEGY.—

(A) STRATEGY.—Title III of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7551 et seq.) is amended by adding at the end the following:

22 USC 7555.

"SEC. 305. FORMULATION OF LONG-TERM STRATEGY FOR AFGHANISTAN.

"(a) STRATEGY.—

Deadline. President.

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the President shall formulate a 5-year strategy for Afghanistan and submit such strategy to—

"(A) the Committee on Foreign Relations of the Senate;

"(B) the Committee on International Relations of the House of Representatives;

"(C) the Committee on Appropriations of the Senate; and

"(D) the Committee on Appropriations of the House of Representatives.

"(2) CONTENTS.—The strategy formulated under paragraph (1) shall include specific and measurable goals for addressing the long-term development and security needs of Afghanistan, including sectors such as agriculture and irrigation, parliamentary and democratic development, the judicial system and rule of law, human rights, education, health, telecommunications, electricity, women's rights, counternarcotics, police, border security, anti-corruption, and other law-enforcement activities, as well as the anticipated costs and time frames associated with achieving those goals.

"(b) MONITORING.—

"(1) ANNUAL REPORT.—The President shall transmit on an annual basis through 2010 a report describing the progress made toward the implementation of the strategy required by subsection (a) and any changes to the strategy since the date of the submission of the last report to— President.

"(A) the Committee on Foreign Relations of the Senate;

"(B) the Committee on International Relations of the House of Representatives;

"(C) the Committee on Appropriations of the Senate; and

"(D) the Committee on Appropriations of the House of Representatives.".

(B) CLERICAL AMENDMENT.—The table of contents for such Act (22 U.S.C. 7501 note) is amended by adding after the item relating to section 303 the following new item:

"Sec. 305. Formulation of long-term strategy for Afghanistan.".

(f) EDUCATION, THE RULE OF LAW, AND RELATED ISSUES.—

(1) DECLARATION OF POLICY.—Congress declares that, although Afghanistan has adopted a new constitution and made progress on primary education, the United States must invest in a concerted effort in Afghanistan to improve the rule of law, good governance, and effective policing, to accelerate work on secondary and university education systems, and to establish new initiatives to increase the capacity of civil society. 22 USC 7513 note.

(2) AMENDMENT.—Section 103(a)(5) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(5)) is amended to read as follows:

"(5) EDUCATION, THE RULE OF LAW, AND RELATED ISSUES.—

"(A) EDUCATION.—To assist in the development of the capacity of the Government of Afghanistan to provide education to the people of Afghanistan, including assistance such as—

"(i) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children, especially orphans;

"(ii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

"(iii) programs to enable the Government of Afghanistan to develop school curricula that incorporate relevant information such as landmine awareness, food security and agricultural education, civic

education, and human rights education, including education relating to religious freedom;

"(iv) programs to construct, renovate, or rebuild, and to equip and provide teacher training, for primary schools, secondary schools, and universities; and

"(v) programs to increase educational exchanges and partnerships between the United States and Afghanistan.

"(B) RULE OF LAW.—To assist in the development of the rule of law and good governance and reduced corruption in Afghanistan, including assistance such as—

"(i) support for the activities of the Government of Afghanistan to implement its constitution, to develop modern legal codes and court rules, to provide for the creation of legal assistance programs, and other initiatives to promote the rule of law in Afghanistan;

"(ii) support for improvements in the capacity and physical infrastructure of the justice system in Afghanistan, such as for professional training (including for women) to improve the administration of justice, for programs to enhance prosecutorial and judicial capabilities and to protect participants in judicial cases, for improvements in the instruction of law enforcement personnel (including human rights training), and for the promotion of civilian police roles that support democracy;

"(iii) support for rehabilitation and rebuilding of courthouses and detention facilities;

"(iv) support for the effective administration of justice at the national, regional, and local levels, including programs to improve penal institutions and the rehabilitation of prisoners, and to establish a responsible and community-based police force;

"(v) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance, such as the development of regulations relating to financial disclosure for public officials, political parties, and candidates for public office, and transparent budgeting processes and financial management systems;

"(vi) support for establishment of a central bank and central budgeting authority;

"(vii) support for international organizations that provide civil advisers to the Government of Afghanistan; and

"(viii) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities.

"(C) CIVIL SOCIETY AND DEMOCRACY.—To support the development of democratic institutions in Afghanistan, including assistance for—

"(i) international monitoring and observing of, and the promotion of, free and fair elections;

"(ii) strengthening democratic political parties;

"(iii) international exchanges and professional training for members or officials of government, political, and civic or other nongovernmental entities;

"(iv) national, regional, and local elections and political party development;

"(v) an independent media;

"(vi) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels; and

"(vii) programs to strengthen civil society organizations that promote human rights, including religious freedom, freedom of expression, and freedom of association, and support human rights monitoring.

"(D) PROTECTION OF SITES.—To provide for the protection of Afghanistan's culture, history, and national identity, including the rehabilitation of Afghanistan's museums and sites of cultural significance.".

(3) CONFORMING AMENDMENT.—Section 103(a)(4) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(4)) is amended—

(A) in subparagraph (K), by striking "and" at the end;

(B) in subparagraph (L), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(M) assistance in identifying and surveying key road and rail routes that are essential for economic renewal in Afghanistan and the region and support for the establishment of a customs service and training for customs officers.".

(g) MONITORING OF ASSISTANCE FOR AFGHANISTAN.—Section 103 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513), is amended by adding at the end the following:

"(d) MONITORING OF ASSISTANCE FOR AFGHANISTAN.—

"(1) REPORT.—

"(A) IN GENERAL.—The Secretary of State, in consultation with the Administrator for the United States Agency for International Development, shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the obligations of United States assistance for Afghanistan from all United States Government departments and agencies.

"(B) CONTENTS.—Each such report shall set forth, for the preceding annual period and cumulatively, a description of—

"(i) the activities and the purposes for which funds were obligated;

"(ii) the source of the funds stated specifically by fiscal year, agency, and program;

"(iii) the participation of each United States Government department or agency; and

"(iv) such other information as the Secretary considers appropriate to fully inform Congress on such matters.

"(C) ADDITIONAL REQUIREMENTS.—The first report submitted under this paragraph shall include a cumulative account of information described in subparagraph (B) from all prior periods beginning with fiscal year 2001. The first report under this paragraph shall be submitted not later than March 15, 2005. Subsequent reports shall be submitted every 12 months thereafter and may be included in the report required under section 206(c)(2).

"(2) SUBMISSION OF INFORMATION FOR REPORT.—The head of each United States Government agency referred to in paragraph (1) shall provide on a timely basis to the Secretary of State such information as the Secretary may reasonably require to allow the Secretary to prepare and submit the report required under paragraph (1).".

(h) UNITED STATES POLICY TO SUPPORT DISARMAMENT OF PRIVATE MILITIAS AND EXPANSION OF INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

22 USC 7536 note.

(1) UNITED STATES POLICY RELATING TO DISARMAMENT OF PRIVATE MILITIAS.—

(A) IN GENERAL.—It shall be the policy of the United States to take immediate steps to provide active support for the disarmament, demobilization, and reintegration of armed soldiers, particularly child soldiers, in Afghanistan, in close consultation with the President of Afghanistan.

(B) REPORT.—The report required under section 206(c)(2) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(c)(2)) shall include a description of the progress to implement paragraph (1).

(2) INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—Section 206 of such Act (22 U.S.C. 7536) is amended by adding at the end the following:

"(e) UNITED STATES POLICY RELATING TO INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—It shall be the policy of the United States to make every effort to support the expansion of international peacekeeping and security operations in Afghanistan in order to—

"(1) increase the area in which security is provided and undertake vital tasks related to promoting security, such as disarming warlords, militias, and irregulars, and disrupting opium production; and

"(2) safeguard highways in order to allow the free flow of commerce and to allow material assistance to the people of Afghanistan, and aid personnel in Afghanistan, to move more freely.".

(i) EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—Section 206(d)(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as follows:

President.

"(1) EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

"(A) EFFORTS.—The President shall encourage, and, as authorized by law, enable other countries to actively participate in expanded international peacekeeping and

security operations in Afghanistan, especially through the provision of military personnel for extended periods of time.

"(B) REPORTS.—The President shall prepare and transmit a report on the efforts carried out pursuant to subparagraph (A) to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. The first report under this subparagraph shall be transmitted not later than 60 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004 and subsequent reports shall be transmitted every 6 months thereafter and may be included in the report required by subsection (c)(2).".

(j) PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN.—

(1) AUTHORIZATION OF ASSISTANCE.—Section 103(a)(3)(A) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(3)(A)) is amended—

(A) in clause (i), by striking "establish crop substitution programs," and inserting "promote alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers,";

(B) in clause (ii), by inserting before the semicolon at the end the following: ", and to create special counternarcotics courts, prosecutors, and places of incarceration";

(C) in clause (iii), by inserting before the semicolon at the end the following: ", in particular, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), by providing non-lethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2005 through 2008, for salaries for special counternarcotics police and supporting units";

(D) in clause (iv), by striking "and" at the end;

(E) in clause (v), by striking the period at the end and inserting "; and"; and

(F) by adding after clause (v) the following:

"(vi) assist the Afghan National Army with respect to any of the activities under this paragraph.".

(2) SENSE OF CONGRESS AND REPORT.—Title II of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7531 et seq.) is amended—

(A) by redesignating sections 207 and 208 as sections 208 and 209, respectively; and 22 USC 7537, 7538.

(B) by inserting after section 206 the following:

"SEC. 207. SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN. 22 USC 7536a.

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

"(1) the President should make the substantial reduction of illegal drug production and trafficking in Afghanistan a priority in the Global War on Terrorism;

"(2) the Secretary of Defense, in coordination with the Secretary of State and the heads of other appropriate Federal

agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

"(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

"(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

"(A) the progress made toward substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

"(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

"(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of the 9/11 Recommendations Implementation Act.".

(3) CLERICAL AMENDMENT.—The table of contents for such Act (22 U.S.C. 7501 note) is amended by striking the items relating to sections 207 and 208 and inserting the following:

"Sec. 207. Sense of Congress and report regarding counter-drug efforts in Afghanistan.

"Sec. 208. Relationship to other authority.

"Sec. 209. Authorization of appropriations.".

(k) ADDITIONAL AMENDMENTS TO AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—

(1) EXTENSION OF REPORTS ON IMPLEMENTATION OF STRATEGY.—Section 206(c)(2) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(c)(2)) is amended in the matter preceding subparagraph (A) by striking "2007" and inserting "2010".

(2) TECHNICAL AMENDMENT.—Section 103(a)(7)(A)(xii) of such Act (22 U.S.C. 7513(a)(7)(A)(xii)) is amended by striking "National" and inserting "Afghan Independent".

(l) REPEAL OF PROHIBITION ON ASSISTANCE.—Section 620D of the Foreign Assistance Act of 1961 (22 U.S.C. 2374; relating to prohibition on assistance to Afghanistan) is repealed.

(m) AUTHORIZATION OF APPROPRIATIONS.—Section 108(a) of the Afghanistan Freedom Assistance Act of 2002 (22 U.S.C. 7518(a)) is amended by striking "$1,825,000,000 for fiscal year 2004" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 2005 and 2006.".

SEC. 7105. THE RELATIONSHIP BETWEEN THE UNITED STATES AND SAUDI ARABIA.

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

(1) Despite a long history of friendly relations with the United States, there have been problems in cooperation between the United States and Saudi Arabia.

(2) The Government of Saudi Arabia has not always responded promptly or fully to United States requests for assistance in the global war on Islamist terrorism.

(3) The Government of Saudi Arabia has not done all it can to prevent financial or other support from being provided to, or reaching, extremist organizations in Saudi Arabia or other countries.

(4) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, and the Government of Saudi Arabia is now pursuing al Qaeda and other terror groups operating inside Saudi Arabia.

(5) The United States must enhance its cooperation and strong relationship with Saudi Arabia based upon a shared and public commitment to political and economic reform, greater tolerance and respect for religious and cultural diversity and joint efforts to prevent funding for and support of extremist organizations in Saudi Arabia and elsewhere.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should be a more robust dialogue between the people and Government of the United States and the people and Government of Saudi Arabia in order to improve the relationship between the United States and Saudi Arabia.

SEC. 7106. EFFORTS TO COMBAT ISLAMIST TERRORISM.

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

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in countries with predominantly Muslim populations and influential broadcasters who reach Muslim audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

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

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of countries with predominantly Muslim populations to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Muslims; and

(4) the United States should work to defeat extremism in all its form, especially in nations with predominantly Muslim populations by providing assistance to governments, non-

governmental organizations, and individuals who promote modernization.

SEC. 7107. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

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

(1) United States foreign policy should promote the importance of individual educational and economic opportunity, encourage widespread political participation, condemn violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must encourage the governments of all countries with predominantly Muslim populations, including those that are friends and allies of the United States, to promote the value of life and the importance of individual education and economic opportunity, encourage widespread political participation, condemn violence and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

22 USC 1431 note.

SEC. 7108. PROMOTION OF FREE MEDIA AND OTHER AMERICAN VALUES.

(a) PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.—

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

(A) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is neither convincingly presented nor widely understood.

(B) If the United States does not act to vigorously define its message in countries with predominantly Muslim populations, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(C) Recognizing that many Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Islamic world, including Iran and Afghanistan.

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

(A) the United States must do more to defend and promote its values and ideals to the broadest possible audience in countries with predominantly Muslim populations;

(B) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large Muslim audiences and should be robustly supported;

(C) the United States Government could and should do more to engage Muslim audiences in the struggle of ideas; and

(D) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(b) ENHANCING FREE AND INDEPENDENT MEDIA.—

(1) FINDINGS.—Congress makes the following findings:

(A) Freedom of speech and freedom of the press are fundamental human rights.

(B) The United States has a national interest in promoting these freedoms by supporting free media abroad, which is essential to the development of free and democratic societies consistent with our own.

(C) Free media is undermined, endangered, or nonexistent in many repressive and transitional societies around the world, including in Eurasia, Africa, and the Middle East.

(D) Individuals lacking access to a plurality of free media are vulnerable to misinformation and propaganda and are potentially more likely to adopt anti-United States views.

(E) Foreign governments have a responsibility to actively and publicly discourage and rebut unprofessional and unethical media while respecting journalistic integrity and editorial independence.

(2) STATEMENT OF POLICY.—It shall be the policy of the United States, acting through the Secretary of State, to—

(A) ensure that the promotion of freedom of the press and freedom of media worldwide is a priority of United States foreign policy and an integral component of United States public diplomacy;

(B) respect the journalistic integrity and editorial independence of free media worldwide; and

(C) ensure that widely accepted standards for professional and ethical journalistic and editorial practices are employed when assessing international media.

(c) ESTABLISHMENT OF MEDIA NETWORK.—

(1) GRANTS FOR ESTABLISHMENT OF NETWORK.—The Secretary of State shall, utilizing amounts authorized to be appropriated by subsection (e)(2), make grants to the National Endowment for Democracy (NED) under the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.) for utilization by the Endowment to provide funding to a private sector group to establish and manage a free and independent media network as specified in paragraph (2).

(2) MEDIA NETWORK.—The media network established using funds under paragraph (1) shall provide an effective forum to convene a broad range of individuals, organizations, and governmental participants involved in journalistic activities and the development of free and independent media in order to—

(A) fund a clearinghouse to collect and share information concerning international media development and training;

(B) improve research in the field of media assistance and program evaluation to better inform decisions

regarding funding and program design for government and private donors;

(C) explore the most appropriate use of existing means to more effectively encourage the involvement of the private sector in the field of media assistance; and

(D) identify effective methods for the development of a free and independent media in societies in transition.

(d) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as may be necessary to carry out United States Government broadcasting activities consistent with this section under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

(2) GRANTS FOR MEDIA NETWORK.—In addition to the amounts authorized to be appropriated under paragraph (1), there are authorized to be appropriated for each of fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as may be necessary for grants under subsection (c)(1) for the establishment of the media network described in subsection (c)(2).

SEC. 7109. PUBLIC DIPLOMACY RESPONSIBILITIES OF THE DEPARTMENT OF STATE.

(a) IN GENERAL.—The State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by inserting after section 59 the following new section:

22 USC 2732.

"SEC. 60. PUBLIC DIPLOMACY RESPONSIBILITIES OF THE DEPARTMENT OF STATE.

"(a) INTEGRAL COMPONENT.—The Secretary of State shall make public diplomacy an integral component in the planning and execution of United States foreign policy.

"(b) COORDINATION AND DEVELOPMENT OF STRATEGY.—The Secretary shall make every effort to—

"(1) coordinate, subject to the direction of the President, the public diplomacy activities of Federal agencies; and

"(2) coordinate with the Broadcasting Board of Governors to—

"(A) develop a comprehensive and coherent strategy for the use of public diplomacy resources; and

"(B) develop and articulate long-term measurable objectives for United States public diplomacy.

"(c) OBJECTIVES.—The strategy developed pursuant to subsection (b) shall include public diplomacy efforts targeting developed and developing countries and select and general audiences, using appropriate media to properly explain the foreign policy of the United States to the governments and populations of such countries, with the objectives of increasing support for United States policies and providing news and information. The Secretary shall, through the most effective mechanisms, counter misinformation and propaganda concerning the United States. The Secretary shall continue

to articulate the importance of freedom, democracy, and human rights as fundamental principles underlying United States foreign policy goals.

"(d) IDENTIFICATION OF UNITED STATES FOREIGN ASSISTANCE.—In cooperation with the United States Agency for International Development (USAID) and other public and private assistance organizations and agencies, the Secretary should ensure that information relating to foreign assistance provided by the United States, nongovernmental organizations, and private entities of the United States is disseminated widely, and particularly, to the extent practicable, within countries and regions that receive such assistance. The Secretary should ensure that, to the extent practicable, projects funded by USAID not involving commodities, including projects implemented by private voluntary organizations, are identified as provided by the people of the United States.".

(b) FUNCTIONS OF THE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.—

(1) AMENDMENT.—Section 1(b)(3) of such Act (22 U.S.C. 2651a(b)(3)) is amended by adding at the end the following new sentence: "The Under Secretary for Public Diplomacy shall—

"(A) prepare an annual strategic plan for public diplomacy in collaboration with overseas posts and in consultation with the regional and functional bureaus of the Department;

"(B) ensure the design and implementation of appropriate program evaluation methodologies;

"(C) provide guidance to Department personnel in the United States and overseas who conduct or implement public diplomacy policies, programs, and activities;

"(D) assist the United States Agency for International Development and the Broadcasting Board of Governors to present the policies of the United States clearly and effectively; and

"(E) submit statements of United States policy and editorial material to the Broadcasting Board of Governors for broadcast consideration.".

(2) CONSULTATION.—The Under Secretary of State for Public Diplomacy, in carrying out the responsibilities described in section 1(b)(3) of such Act (as amended by paragraph (1)), shall consult with public diplomacy officers operating at United States overseas posts and in the regional bureaus of the Department of State. 22 USC 2651a note.

SEC. 7110. PUBLIC DIPLOMACY TRAINING. 22 USC 3922b.

(a) STATEMENT OF POLICY.—The following should be the policy of the United States:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) United States chiefs of mission should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and should be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training

on public diplomacy and the tools and technology of mass communication.

(b) PERSONNEL.—

(1) QUALIFICATIONS.—In the recruitment, training, and assignment of members of the Foreign Service, the Secretary of State—

(A) should emphasize the importance of public diplomacy and applicable skills and techniques;

(B) should consider the priority recruitment into the Foreign Service, including at middle-level entry, of individuals with expertise and professional experience in public diplomacy, mass communications, or journalism; and

(C) shall give special consideration to individuals with language facility and experience in particular countries and regions.

(2) LANGUAGES OF SPECIAL INTEREST.—The Secretary of State shall seek to increase the number of Foreign Service officers proficient in languages spoken in countries with predominantly Muslim populations. Such increase should be accomplished through the recruitment of new officers and incentives for officers in service.

(c) PUBLIC DIPLOMACY SUGGESTED FOR PROMOTION IN FOREIGN SERVICE.—Section 603(b) of the Foreign Service Act of 1980 (22 U.S.C. 4003(b)) is amended by adding at the end the following: "The precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—

(1) a willingness and ability to explain United States policies in person and through the media when occupying positions for which such willingness and ability is, to any degree, an element of the member's duties, or

(2) other experience in public diplomacy.

SEC. 7111. PROMOTING DEMOCRACY AND HUMAN RIGHTS AT INTERNATIONAL ORGANIZATIONS.

(a) SUPPORT AND EXPANSION OF DEMOCRACY CAUCUS.—

(1) IN GENERAL.—The President, acting through the Secretary of State and the relevant United States chiefs of mission, should—

(A) continue to strongly support and seek to expand the work of the democracy caucus at the United Nations General Assembly and the United Nations Human Rights Commission; and

(B) seek to establish a democracy caucus at the United Nations Conference on Disarmament and at other broad-based international organizations.

(2) PURPOSES OF THE CAUCUS.—A democracy caucus at an international organization should—

(A) forge common positions, including, as appropriate, at the ministerial level, on matters of concern before the organization and work within and across regional lines to promote agreed positions;

(B) work to revise an increasingly outmoded system of membership selection, regional voting, and decision-making; and

(C) establish a rotational leadership agreement to provide member countries an opportunity, for a set period

of time, to serve as the designated president of the caucus, responsible for serving as its voice in each organization.

(b) LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.—The President, acting through the Secretary of State, the relevant United States chiefs of mission, and, where appropriate, the Secretary of the Treasury, should use the voice, vote, and influence of the United States to—

(1) where appropriate, reform the criteria for leadership and, in appropriate cases, for membership, at all United Nations bodies and at other international organizations and multilateral institutions to which the United States is a member so as to exclude countries that violate the principles of the specific organization;

(2) make it a policy of the United Nations and other international organizations and multilateral institutions of which the United States is a member that a member country may not stand in nomination for membership or in nomination or in rotation for a significant leadership position in such bodies if the member country is subject to sanctions imposed by the United Nations Security Council; and

(3) work to ensure that no member country stand in nomination for membership, or in nomination or in rotation for a significant leadership position in such organizations, or for membership on the United Nations Security Council, if the government of the member country has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism.

(c) INCREASED TRAINING IN MULTILATERAL DIPLOMACY.— 22 USC 4029.

(1) STATEMENT OF POLICY.—It shall be the policy of the United States that training courses should be established for Foreign Service Officers and civil service employees of the State Department, including appropriate chiefs of mission, on the conduct of multilateral diplomacy, including the conduct of negotiations at international organizations and multilateral institutions, negotiating skills that are required at multilateral settings, coalition-building techniques, and lessons learned from previous United States multilateral negotiations.

(2) PERSONNEL.—

(A) IN GENERAL.—The Secretary shall ensure that the training described in paragraph (1) is provided at various stages of the career of members of the Service.

(B) ACTIONS OF THE SECRETARY.—The Secretary shall ensure that—

(i) officers of the Service receive training on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments as part of their training upon entry into the Service; and

(ii) officers of the Service, including chiefs of mission, who are assigned to United States missions representing the United States to international organizations and other multilateral institutions or who are assigned in Washington, D.C., to positions that have as their primary responsibility formulation of policy toward such organizations and institutions or toward participation in broad-based multilateral

negotiations of international instruments, receive specialized training in the areas described in paragraph (1) prior to beginning of service for such assignment or, if receiving such training at that time is not practical, within the first year of beginning such assignment.

(3) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The Secretary shall ensure that employees of the Department of State who are members of the civil service and who are assigned to positions described in paragraph (2) receive training described in paragraph (1) prior to the beginning of service for such assignment or, if receiving such training at such time is not practical, within the first year of beginning such assignment.

22 USC 2451 note.

SEC. 7112. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

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

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) DECLARATION OF POLICY.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress declares that—

(1) the United States should commit to a long-term and sustainable investment in promoting engagement with people of all levels of society in countries with predominantly Muslim populations, particularly with youth and those who influence youth;

(2) such an investment should make use of the talents and resources in the private sector and should include programs to increase the number of people who can be exposed to the United States and its fundamental ideas and values in order to dispel misconceptions; and

(3) such programs should include youth exchange programs, young ambassadors programs, international visitor programs, academic and cultural exchange programs, American Corner programs, library programs, journalist exchange programs, sister city programs, and other programs related to people-to-people diplomacy.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States should significantly increase its investment in the people-to-people programs described in subsection (b).

(d) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Muslim world.

(e) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated in each of the fiscal years 2005 and 2006 for educational and cultural exchange programs, there shall be available to the Secretary of State such sums as may be necessary

to carry out programs under this section, unless otherwise authorized by Congress.

SEC. 7113. PILOT PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.

22 USC 2452 note.

(a) FINDINGS.—Congress makes the following findings:

(1) During the 2003–2004 school year, the Office of Overseas Schools of the Department of State is financially assisting 189 elementary and secondary schools in foreign countries.

(2) United States-sponsored elementary and secondary schools are located in more than 20 countries with predominantly Muslim populations in the Near East, Africa, South Asia, Central Asia, and East Asia.

(3) United States-sponsored elementary and secondary schools provide an American-style education in English, with curricula that typically include an emphasis on the development of critical thinking and analytical skills.

(b) STATEMENT OF POLICY.—The United States has an interest in increasing the level of financial support provided to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations in order to—

(1) increase the number of students in such countries who attend such schools;

(2) increase the number of young people who may thereby gain at any early age an appreciation for the culture, society, and history of the United States; and

(3) increase the number of young people who may thereby improve their proficiency in the English language.

(c) PILOT PROGRAM.—The Secretary of State, acting through the Director of the Office of Overseas Schools of the Department of State, may conduct a pilot program to make grants to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations for the purpose of providing full or partial merit-based scholarships to students from lower-income and middle-income families of such countries to attend such schools.

(d) DETERMINATION OF ELIGIBLE STUDENTS.—For purposes of the pilot program, a United States-sponsored elementary and secondary school that receives a grant under the pilot program may establish criteria to be implemented by such school to determine what constitutes lower-income and middle-income families in the country (or region of the country, if regional variations in income levels in the country are significant) in which such school is located.

(e) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to the Secretary of State pursuant to the authorization of appropriations in subsection (h) shall be used for the sole purpose of making grants under this section, and may not be used for the administration of the Office of Overseas Schools of the Department of State or for any other activity of the Office.

(f) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed to require participation in the pilot program by a United States-sponsored elementary or secondary school in a predominantly Muslim country.

(g) REPORT.—Not later than April 15, 2006, the Secretary of State shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign

Relations of the Senate a report on the pilot program. The report shall assess the success of the program, examine any obstacles encountered in its implementation, and address whether it should be continued, and if so, provide recommendations to increase its effectiveness.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of State for each of the fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as necessary to implement the pilot program under this section.

22 USC 2228.

SEC. 7114. INTERNATIONAL YOUTH OPPORTUNITY FUND.

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

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The Secretary of State is authorized to establish through an existing international organization, such as the United Nations Educational, Science and Cultural Organization (UNESCO) or other similar body, an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East and other countries of strategic interest with predominantly Muslim populations.

(2) INTERNATIONAL PARTICIPATION.—The Secretary should seek the cooperation of the international community in establishing and generously supporting the Fund.

SEC. 7115. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

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

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and countries with predominantly Muslim populations are drawing interest from other countries in the Middle East region, and countries with predominantly Muslim populations can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade.

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

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. 7116. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2005 and 2006, (unless otherwise authorized by Congress) such sums as may be necessary for the Middle East Partnership Initiative.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. 7117. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

22 USC 2656 note.

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

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach to counterterrorism.

(b) IN GENERAL.—The Secretary of State is authorized in consultation with relevant United States Government agencies, to negotiate on a bilateral or multilateral basis, as appropriate, international agreements under which parties to an agreement work in partnership to address and interdict acts of international terrorism.

(c) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

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

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive multilateral strategy to fight terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

President. Establishment.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for the following purposes:

(A) To meet annually, or more frequently as the President determines appropriate, to develop in common with such other governments important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, long-term issues that can contribute to strengthening stability and security in the Middle East.

SEC. 7118. FINANCING OF TERRORISM.

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

(1) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(2) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(3) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

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

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counterterrorism efforts.

SEC. 7119. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) PERIOD OF DESIGNATION.—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Subject to paragraphs (5) and (6), a" and inserting "A"; and

(B) by striking "for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B)" and inserting "until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c)";

(2) by striking subparagraph (B) and inserting the following:

"(B) REVIEW OF DESIGNATION UPON PETITION.—

"(i) IN GENERAL.—The Secretary shall review the designation of a foreign terrorist organization under the procedures set forth in clauses (iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

"(ii) PETITION PERIOD.—For purposes of clause (i)—

"(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

"(II) if the designated organization has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

"(iii) PROCEDURES.—Any foreign terrorist organization that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the organization is warranted.

"(iv) DETERMINATION.—

"(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Secretary shall make a determination as to such revocation. Deadline.

"(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

Federal Register, publication.

"(III) PUBLICATION OF DETERMINATION.—A determination made by the Secretary under this clause shall be published in the Federal Register.

"(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6)."; and

(3) by adding at the end the following:

"(C) OTHER REVIEW OF DESIGNATION.—

"(i) IN GENERAL.—If in a 5-year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist organization in order to determine whether such designation should be revoked pursuant to paragraph (6).

"(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

Federal Register, publication.

"(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.".

(b) ALIASES.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) AMENDMENTS TO A DESIGNATION.—

"(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.

Effective date. Federal Register, publication. Applicability.

"(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

"(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

"(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(B), by striking "subsection (b)" and inserting "subsection (c)";

(B) in paragraph (6)(A)—

(i) in the matter preceding clause (i), by striking "or a redesignation made under paragraph (4)(B)" and inserting "at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4)"; and

(ii) in clause (i), by striking "or redesignation";

(C) in paragraph (7), by striking ", or the revocation of a redesignation under paragraph (6),"; and

(D) in paragraph (8)—

(i) by striking ", or if a redesignation under this subsection has become effective under paragraph (4)(B),"; and

(ii) by striking "or redesignation"; and

(2) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking "of the designation in the Federal Register," and all that follows through "review of the designation" and inserting "in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated organization may seek judicial review";

(B) in paragraph (2), by inserting ", amended designation, or determination in response to a petition for revocation" after "designation";

(C) in paragraph (3), by inserting ", amended designation, or determination in response to a petition for revocation" after "designation"; and

(D) in paragraph (4), by inserting ", amended designation, or determination in response to a petition for revocation" after "designation" each place that term appears.

(d) SAVINGS PROVISION.—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term "designation", as used in that section, includes all redesignations made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)). Applicability. 8 USC 1189 note.

SEC. 7120. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this subtitle. President.

(b) CONTENTS.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of the terrorist sanctuaries that exist;

(B) an outline of strategies, tactics, and tools for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to elicit the cooperation needed to identify and address terrorist sanctuaries that may exist unknown to governments; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of a United States strategy to engage with Pakistan and to support it over the long term, including—

(A) recommendations on the composition and levels of assistance required in future years, with special consideration of the proper balance between security assistance and other forms of assistance;

(B) a description of the composition and levels of assistance, other than security assistance, at present and in the recent past, structured to permit a comparison of current and past practice with that recommended for the future;

(C) measures that could be taken to ensure that all forms of foreign assistance to Pakistan have the greatest possible long-term positive impact on the welfare of the Pakistani people and on the ability of Pakistan to cooperate in global efforts against terror; and

(D) measures that could be taken to alleviate difficulties, misunderstandings, and complications in the relationship between the United States and Pakistan.

(3) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance, including a description of—

(A) steps that could usefully be taken to institutionalize and make more transparent government to government relationships between the United States and Saudi Arabia, including the utility of undertaking periodic, formal, and visible high-level dialogues between government officials of both countries to address challenges in the relationship between the 2 governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to increase the contribution of Saudi Arabia to the stability of the Middle East and the Islamic world, particularly to the Middle East peace process, by eliminating support from or within Saudi Arabia for extremist groups or tendencies;

(D) political and economic reform in Saudi Arabia and throughout the Islamic world;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Islamic world; and

(F) ways to assist the Government of Saudi Arabia in reversing the impact of any financial, moral, intellectual, or other support provided in the past from Saudi sources to extremist groups in Saudi Arabia and other countries, and to prevent this support from continuing in the future.

(4) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(5) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with predominantly Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of the major themes of biased or false media coverage of the United States in foreign countries and the actions taken to address this type of media coverage.

(D) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the

Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(E) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(6) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in section 7111(b) without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(7) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with predominantly Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United States to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines might be eligible for assistance under the International Youth Opportunity Fund described in section 7114(b) and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with predominantly Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities that could be carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with predominantly Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth Opportunity Fund.

(8) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a predominantly Muslim population, including a description of—

(A) efforts to integrate countries with predominantly Muslim populations into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

(c) FORM OF REPORT.—Any report or other matter that is required to be submitted to Congress (including a committee of Congress) under this section may contain a classified annex.

SEC. 7121. CASE-ZABLOCKI ACT REQUIREMENTS.

(a) AVAILABILITY OF TREATIES AND INTERNATIONAL AGREEMENTS.—Section 112a of title 1, United States Code, is amended by adding at the end the following:

"(d) The Secretary of State shall make publicly available through the Internet website of the Department of State each treaty or international agreement proposed to be published in the compilation entitled 'United States Treaties and Other International Agreements' not later than 180 days after the date on which the treaty or agreement enters into force.". Public information. Deadline.

(b) TRANSMISSION TO CONGRESS.—Section 112b(a) of title 1, United States Code, is amended by striking "Committee on Foreign Affairs" and inserting "Committee on International Relations".

(c) REPORT.—Section 112b of title 1, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d)(1) The Secretary of State shall annually submit to Congress a report that contains an index of all international agreements, listed by country, date, title, and summary of each such agreement (including a description of the duration of activities under the agreement and the agreement itself), that the United States— Reports.

"(A) has signed, proclaimed, or with reference to which any other final formality has been executed, or that has been extended or otherwise modified, during the preceding calendar year; and

"(B) has not been published, or is not proposed to be published, in the compilation entitled 'United States Treaties and Other International Agreements'.

"(2) The report described in paragraph (1) may be submitted in classified form.".

(d) DETERMINATION OF INTERNATIONAL AGREEMENT.—Subsection (e) of section 112b of title 1, United States Code, as redesignated, is amended—

(1) by striking "(e) The Secretary of State" and inserting the following:

"(e)(1) Subject to paragraph (2), the Secretary of State"; and

(2) by adding at the end the following:

"(2)(A) An arrangement shall constitute an international agreement within the meaning of this section (other than subsection (c)) irrespective of the duration of activities under the arrangement or the arrangement itself.

"(B) Arrangements that constitute an international agreement within the meaning of this section (other than subsection (c)) include the following:

"(i) A bilateral or multilateral counterterrorism agreement.

"(ii) A bilateral agreement with a country that is subject to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).".

(e) ENFORCEMENT OF REQUIREMENTS.—Section 139(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 is amended to read as follows:

1 USC 112b note.

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of enactment of the 911 Commission Implementation Act of 2004 and shall apply during fiscal years 2005, 2006, and 2007.".

1 USC 112a note.

SEC. 7122. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

Subtitle B—Terrorist Travel and Effective Screening

SEC. 7201. COUNTERTERRORIST TRAVEL INTELLIGENCE.

8 USC 1776 note.

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

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been

systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) STRATEGY.—

50 USC 404*o* note. Deadline. Reports.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the National Counterterrorism Center shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy and an assessment regarding vulnerabilities within the United States and foreign travel systems that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators.

(2) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies.

(3) CONTENTS.—The strategy may address—

(A) a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods, and outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy;

(B) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel tactics, practices, patterns, and trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(C) the training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(D) the new technology and procedures required and actions to be taken to integrate existing counterterrorist travel document and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(E) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(F) the additional assistance to be given to the interagency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(G) the actions to be taken to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(H) the development and implementation of procedures to enable the National Counterterrorism Center, or its designee, to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(I) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(J) the feasibility of developing a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(K) the feasibility of digitally transmitting suspect passport information to a central cadre of specialists, either as an interim measure until such time as experts described under subparagraph (J) are available at consular, port of entry, and immigration benefits offices, or otherwise;

(L) the development of a mechanism to ensure the coordination and dissemination of terrorist travel intelligence and operational information among the Department of Homeland Security, the Department of State, the National Counterterrorism Center, and other appropriate agencies;

(M) granting consular officers and immigration adjudicators, as appropriate, the security clearances necessary to access law enforcement sensitive and intelligence databases; and

(N) how to integrate travel document screening for terrorism indicators into border screening, and how to integrate the intelligence community into a robust travel document screening process to intercept terrorists.

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

Deadline.

(1) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to the maximum

extent feasible, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents. To the extent possible, technologies acquired and deployed under this plan shall be compatible with systems used by the Department of Homeland Security to detect fraudulent documents and identify genuine documents.

(2) CONTENTS OF PLAN.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport or other documentation described in section 7209(b) submitted for identification purposes to a United States consular, border, or immigration official.

(d) TRAINING PROGRAM.— 8 USC 1776.

(1) REVIEW, EVALUATION, AND REVISION OF EXISTING TRAINING PROGRAMS.—The Secretary of Homeland Security shall—

(A) review and evaluate the training regarding travel and identity documents, and techniques, patterns, and trends associated with terrorist travel that is provided to personnel of the Department of Homeland Security;

(B) in coordination with the Secretary of State, review and evaluate the training described in subparagraph (A) that is provided to relevant personnel of the Department of State; and

(C) in coordination with the Secretary of State, develop and implement an initial training and periodic retraining program—

(i) to teach border, immigration, and consular officials (who inspect or review travel or identity documents as part of their official duties) how to effectively detect, intercept, and disrupt terrorist travel; and

(ii) to ensure that the officials described in clause (i) regularly receive the most current information on such matters and are periodically retrained on the matters described in paragraph (2).

(2) REQUIRED TOPICS OF REVISED PROGRAMS.—The training program developed under paragraph (1)(C) shall include training in—

(A) methods for identifying fraudulent and genuine travel documents;

(B) methods for detecting terrorist indicators on travel documents and other relevant identity documents;

(C) recognition of travel patterns, tactics, and behaviors exhibited by terrorists;

(D) effective utilization of information contained in databases and data systems available to the Department of Homeland Security; and

(E) other topics determined to be appropriate by the Secretary of Homeland Security, in consultation with the Secretary of State or the Director of National Intelligence.

(3) IMPLEMENTATION.—

(A) DEPARTMENT OF HOMELAND SECURITY.—

(i) IN GENERAL.—The Secretary of Homeland Security shall provide all border and immigration officials who inspect or review travel or identity documents as part of their official duties with the training described in paragraph (1)(C).

(ii) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, and annually thereafter for a period of 3 years, the Secretary of Homeland Security shall submit a report to Congress that—

(I) describes the number of border and immigration officials who inspect or review identity documents as part of their official duties, and the proportion of whom have received the revised training program described in paragraph (1)(C)(i);

(II) explains the reasons, if any, for not completing the requisite training described in paragraph (1)(C)(i);

(III) provides a timetable for completion of the training described in paragraph (1)(C)(i) for those who have not received such training; and

(IV) describes the status of periodic retraining of appropriate personnel described in paragraph (1)(C)(ii).

(B) DEPARTMENT OF STATE.—

(i) IN GENERAL.—The Secretary of State shall provide all consular officers who inspect or review travel or identity documents as part of their official duties with the training described in paragraph (1)(C).

(ii) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, and annually thereafter for a period of 3 years, the Secretary of State shall submit a report to Congress that—

(I) describes the number of consular officers who inspect or review travel or identity documents as part of their official duties, and the proportion of whom have received the revised training program described in paragraph (1)(C)(i);

(II) explains the reasons, if any, for not completing the requisite training described in paragraph (1)(C)(i);

(III) provides a timetable for completion of the training described in paragraph (1)(C)(i) for those who have not received such training; and

(IV) describes the status of periodic retraining of appropriate personnel described in paragraph (1)(C)(ii).

(4) ASSISTANCE TO OTHERS.—The Secretary of Homeland Security may assist States, Indian tribes, local governments, and private organizations to establish training programs related to terrorist travel intelligence.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for

each of the fiscal years 2005 through 2009 to carry out the provisions of this subsection.

(e) ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.— 50 USC 403–1 note.

(1) IN GENERAL.—The Director of National Intelligence shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

SEC. 7202. ESTABLISHMENT OF HUMAN SMUGGLING AND TRAFFICKING CENTER. 8 USC 1777.

(a) ESTABLISHMENT.—There is established a Human Smuggling and Trafficking Center (referred to in this section as the "Center").

(b) OPERATION.—The Secretary of State, the Secretary of Homeland Security, and the Attorney General shall operate the Center in accordance with the Memorandum of Understanding entitled, "Human Smuggling and Trafficking Center (HSTC), Charter".

(c) FUNCTIONS.—In addition to such other responsibilities as the President may assign, the Center shall—

(1) serve as the focal point for interagency efforts to address terrorist travel;

(2) serve as a clearinghouse with respect to all relevant information from all Federal Government agencies in support of the United States strategy to prevent separate, but related, issues of clandestine terrorist travel and facilitation of migrant smuggling and trafficking of persons;

(3) ensure cooperation among all relevant policy, law enforcement, diplomatic, and intelligence agencies of the Federal Government to improve effectiveness and to convert all information available to the Federal Government relating to clandestine terrorist travel and facilitation, migrant smuggling, and trafficking of persons into tactical, operational, and strategic intelligence that can be used to combat such illegal activities; and

(4) prepare and submit to Congress, on an annual basis, a strategic assessment regarding vulnerabilities in the United States and foreign travel system that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators. Reports.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.

(e) RELATIONSHIP TO THE NCTC.—As part of its mission to combat terrorist travel, the Center shall work to support the efforts of the National Counterterrorism Center.

SEC. 7203. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by adding at the end the following: "All immigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(2) NONIMMIGRANT VISAS.—Section 222(d) of the Immigration and Nationality Act (8 U.S.C. 1202(d)) is amended by adding at the end the following: "All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "In accordance with section 7201(d) of the 9/11 Commission Implementation Act of 2004, and as part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

Deadline.

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State, in coordination with the Secretary of Homeland Security, shall identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least 1 full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist under subparagraph (A) at a diplomatic or consular post if an employee of the Department of Homeland Security, who has sufficient training and experience in the detection of fraudulent documents, is assigned on a full-time basis to such post under section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

22 USC 2656 note.

SEC. 7204. INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.

(2) The international terrorists who planned and carried out the attack on the World Trade Center on February 26,

1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.

(3) The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.

(4) Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.

(5) Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than 1 passport.

(6) Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner.

(7) The National Commission on Terrorist Attacks Upon the United States, (commonly referred to as the 9/11 Commission), stated that "Targeting travel is at least as powerful a weapon against terrorists as targeting their money.".

(b) INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—

(1) INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS.—The President should lead efforts to track and curtail the travel of terrorists by supporting the drafting, adoption, and implementation of international agreements, and relevant United Nations Security Council resolutions to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment United Nations and other international anti-terrorism efforts.

(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President should seek, as appropriate, the adoption or full implementation of effective international measures to—

(A) share information on lost, stolen, and fraudulent passports and other travel documents for the purposes of preventing the undetected travel of persons using such passports and other travel documents that were obtained improperly;

(B) establish and implement a real-time verification system of passports and other travel documents with issuing authorities;

(C) share with officials at ports of entry in any such country information relating to lost, stolen, and fraudulent passports and other travel documents;

(D) encourage countries—

(i) to criminalize—

(I) the falsification or counterfeiting of travel documents or breeder documents for any purpose;

(II) the use or attempted use of false documents to obtain a visa or cross a border for any purpose;

(III) the possession of tools or implements used to falsify or counterfeit such documents;

(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

(V) the facilitation of travel by a terrorist; and

(VI) attempts to commit, including conspiracies to commit, the crimes specified in subclauses (I) through (V);

(ii) to impose significant penalties to appropriately punish violations and effectively deter the crimes specified in clause (i); and

(iii) to limit the issuance of citizenship papers, passports, identification documents, and similar documents to persons—

(I) whose identity is proven to the issuing authority;

(II) who have a bona fide entitlement to or need for such documents; and

(III) who are not issued such documents principally on account of a disproportional payment made by them or on their behalf to the issuing authority;

(E) provide technical assistance to countries to help them fully implement such measures; and

(F) permit immigration and border officials—

(i) to confiscate a lost, stolen, or falsified passport at ports of entry;

(ii) to permit the traveler to return to the sending country without being in possession of the lost, stolen, or falsified passport; and

(iii) to detain and investigate such traveler upon the return of the traveler to the sending country.

(3) INTERNATIONAL CIVIL AVIATION ORGANIZATION.—The United States shall lead efforts to track and curtail the travel of terrorists by supporting efforts at the International Civil Aviation Organization to continue to strengthen the security features of passports and other travel documents.

President.

(c) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and at least annually thereafter, the President shall submit to the appropriate congressional committees a report on progress toward achieving the goals described in subsection (b).

Certification.

(2) TERMINATION.—Paragraph (1) shall cease to be effective when the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved.

SEC. 7205. INTERNATIONAL STANDARDS FOR TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET FOR INTERNATIONAL TRAVEL DOCUMENTS AND NAME-BASED WATCHLIST SYSTEMS.

(a) FINDINGS.—Congress makes the following findings:

(1) The current lack of a single convention for translating Arabic names enabled some of the 19 hijackers of aircraft used in the terrorist attacks against the United States that occurred on September 11, 2001, to vary the spelling of their names to defeat name-based terrorist watchlist systems and to make more difficult any potential efforts to locate them.

(2) Although the development and utilization of terrorist watchlist systems using biometric identifiers will be helpful, the full development and utilization of such systems will take several years, and name-based terrorist watchlist systems will always be useful.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should seek to enter into an international agreement to modernize and improve standards for the transliteration of names into the Roman alphabet in order to ensure 1 common spelling for such names for international travel documents and name-based watchlist systems.

SEC. 7206. IMMIGRATION SECURITY INITIATIVE.

(a) IN GENERAL.—Section 235A(b) of the Immigration and Nationality Act (8 U.S.C. 1225a(b)) is amended—

(1) in the subsection heading, by inserting "AND IMMIGRATION SECURITY INITIATIVE" after "PROGRAM";

(2) by striking "Attorney General" and inserting "Secretary of Homeland Security"; and

(3) by adding at the end the following: "Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.". Deadline.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) $25,000,000 for fiscal year 2005;

(2) $40,000,000 for fiscal year 2006; and

(3) $40,000,000 for fiscal year 2007.

SEC. 7207. CERTIFICATION REGARDING TECHNOLOGY FOR VISA WAIVER PARTICIPANTS. Deadline.

Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

SEC. 7208. BIOMETRIC ENTRY AND EXIT DATA SYSTEM. 8 USC 1365b.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) DEFINITION.—In this section, the term "entry and exit data system" means the entry and exit system required by applicable sections of—

(1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(3) the Visa Waiver Permanent Program Act (Public Law 106–396);

(4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(c) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit data system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and

exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) COLLECTION OF BIOMETRIC EXIT DATA.—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) INTEGRATION AND INTEROPERABILITY.—

(1) INTEGRATION OF DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully integrate all databases and data systems that process or contain information on aliens, which are maintained by— Deadline.

(A) the Department of Homeland Security, at—

(i) the United States Immigration and Customs Enforcement;

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) INTEROPERABLE DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine— Deadline.

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) POLICIES AND PROCEDURES.—

(A) ESTABLISHMENT.—The Secretary of Homeland Security shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(B) TRAINING.—The Secretary shall develop training on the rules, guidelines, policies, and procedures established under subparagraph (A), and on immigration law and procedure. All personnel authorized to access information maintained in the databases and data system shall receive such training.

(2) DATA COLLECTED FROM FOREIGN NATIONALS.—The Secretary of Homeland Security, the Secretary of State, and the Attorney General, after consultation with directors of the relevant intelligence agencies, shall standardize the information and data collected from foreign nationals, and the procedures utilized to collect such data, to ensure that the information is consistent and valuable to officials accessing that data across multiple agencies.

(3) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data and for limiting access to the information in the databases or data systems to authorized personnel.

(4) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors in a timely and effective manner;

(ii) determining which government officer provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors;

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems;

(C) strictly limit the agency personnel authorized to enter data into the system;

(D) identify classes of information to be designated as temporary or permanent entries, with corresponding expiration dates for temporary entries; and

(E) identify classes of prejudicial information requiring additional authority of supervisory personnel before entry.

(5) CENTRALIZING AND STREAMLINING CORRECTION PROCESS.—

President. Establishment.

(A) IN GENERAL.—The President, or agency director designated by the President, shall establish a clearinghouse bureau in the Department of Homeland Security, to centralize and streamline the process through which members of the public can seek corrections to erroneous or inaccurate

information contained in agency databases, which is related to immigration status, or which otherwise impedes lawful admission to the United States.

(B) TIME SCHEDULES.—The process described in subparagraph (A) shall include specific time schedules for reviewing data correction requests, rendering decisions on such requests, and implementing appropriate corrective action in a timely manner.

(g) INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.—The biometric entry and exit data system shall facilitate efficient immigration benefits processing by—

(1) ensuring that the system's tracking capabilities encompass data related to all immigration benefits processing, including—

(A) visa applications with the Department of State;

(B) immigration related filings with the Department of Labor;

(C) cases pending before the Executive Office for Immigration Review; and

(D) matters pending or under investigation before the Department of Homeland Security;

(2) utilizing a biometric based identity number tied to an applicant's biometric algorithm established under the entry and exit data system to track all immigration related matters concerning the applicant;

(3) providing that—

(A) all information about an applicant's immigration related history, including entry and exit history, can be queried through electronic means; and

(B) database access and usage guidelines include stringent safeguards to prevent misuse of data;

(4) providing real-time updates to the information described in paragraph (3)(A), including pertinent data from all agencies referred to in paragraph (1); and

(5) providing continuing education in counterterrorism techniques, tools, and methods for all Federal personnel employed in the evaluation of immigration documents and immigration-related policy.

(h) ENTRY-EXIT SYSTEM GOALS.—The Department of Homeland Security shall operate the biometric entry and exit system so that it—

(1) serves as a vital counterterrorism tool;

(2) screens travelers efficiently and in a welcoming manner;

(3) provides inspectors and related personnel with adequate real-time information;

(4) ensures flexibility of training and security protocols to most effectively comply with security mandates;

(5) integrates relevant databases and plans for database modifications to address volume increase and database usage; and

(6) improves database search capacities by utilizing language algorithms to detect alternate names.

(i) DEDICATED SPECIALISTS AND FRONT LINE PERSONNEL TRAINING.—In implementing the provisions of subsections (g) and (h), the Department of Homeland Security and the Department of State shall—

(1) develop cross-training programs that focus on the scope and procedures of the entry and exit data system;

(2) provide extensive community outreach and education on the entry and exit data system's procedures;

(3) provide clear and consistent eligibility guidelines for applicants in low-risk traveler programs; and

(4) establish ongoing training modules on immigration law to improve adjudications at our ports of entry, consulates, and embassies.

(j) COMPLIANCE STATUS REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, the Secretary of State, the Attorney General, and the head of any other department or agency subject to the requirements of this section, shall issue individual status reports and a joint status report detailing the compliance of the department or agency with each requirement under this section.

(k) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

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

(A) Expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority.

(B) The process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—In this subsection, the term "registered traveler program" means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PROGRAM.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) PARTICIPATION.—The registered traveler program shall include as many participants as practicable by—

(i) minimizing the cost of enrollment;

(ii) making program enrollment convenient and easily accessible; and

(iii) providing applicants with clear and consistent eligibility guidelines.

(C) INTEGRATION.—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) REVIEW AND EVALUATION.—In developing the registered traveler program, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and

(iv) review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the registered traveler program.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 7209. TRAVEL DOCUMENTS. 8 USC 1185 note.

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

(1) Existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification.

(2) The planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities.

(3) Additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented not later than January 1, 2008, and shall seek to expedite the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k)). Deadline.

(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

(1) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

(A) where the Secretary of Homeland Security determines that the alternative documentation that is the basis for the waiver of the documentary requirement is sufficient to denote identity and citizenship;

(B) in the case of an unforeseen emergency in individual cases; or

(C) in the case of humanitarian or national interest reasons in individual cases.

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. 7210. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.

8 USC 1225a note.

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

(1) The exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits.

(2) The further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

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

(1) the Federal Government should exchange terrorist information with trusted allies;

(2) the Federal Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable, the Federal Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the Federal Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the Federal Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other Federal agencies, should implement the initiatives called for in this subsection.

(c) REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other Federal agencies, shall submit to the appropriate committees of Congress

a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) CONTENTS.—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

(d) PREINSPECTION AT FOREIGN AIRPORTS.—

(1) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

"(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established before September 30, 1996, or pursuant to paragraph (1).". Deadline. Establishment.

(2) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Foreign Relations of the Senate;

(D) the Committee on International Relations of the House of Representatives;

(E) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(F) the Select Committee on Homeland Security of the House of Representatives (or any successor committee).

SEC. 7211. MINIMUM STANDARDS FOR BIRTH CERTIFICATES. 5 USC 301 note.

(a) DEFINITION.—In this section, the term "birth certificate" means a certificate of birth—

(1) for an individual (regardless of where born)—

(A) who is a citizen or national of the United States at birth; and

(B) whose birth is registered in the United States; and

(2) that—

(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of

record, of an original certificate of birth issued by such agency or custodian of record.

(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

Effective date.

(1) IN GENERAL.—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

(2) STATE CERTIFICATION.—

(A) IN GENERAL.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

(B) FREQUENCY.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

(C) COMPLIANCE.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

(D) AUDITS.—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.

Deadline.
Regulations.

(3) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

(D) may not require a single design to which birth certificates issued by all States must conform; and

(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

(A) the Secretary of Homeland Security;

(B) the Commissioner of Social Security;

(C) State vital statistics offices; and

(D) other appropriate Federal agencies.

(5) EXTENSION OF EFFECTIVE DATE.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation. Effective date.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

(i) computerizing their birth and death records;

(ii) developing the capability to match birth and death records within each State and among the States; and

(iii) noting the fact of death on the birth certificates of deceased persons.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

SEC. 7212. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS. 49 USC 30301 note.

(a) DEFINITIONS.—In this section:

(1) DRIVER'S LICENSE.—The term "driver's license" means a motor vehicle operator's license as defined in section 30301(5) of title 49, United States Code.

(2) PERSONAL IDENTIFICATION CARD.—The term "personal identification card" means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

(B) DATE FOR CONFORMANCE.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

(C) STATE CERTIFICATION.—

(i) IN GENERAL.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

(ii) FREQUENCY.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

(iii) AUDITS.—The Secretary of Transportation may conduct periodic audits of each State's compliance with the requirements of this section.

Deadline. Regulations.

(2) MINIMUM STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall by regulation, establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

(D) standards for information to be included on each driver's license or personal identification card, including—

(i) the person's full legal name;

(ii) the person's date of birth;

(iii) the person's gender;

(iv) the person's driver's license or personal identification card number;

(v) a digital photograph of the person;

(vi) the person's address of principal residence; and

(vii) the person's signature;

(E) standards for common machine-readable identity information to be included on each driver's license or personal identification card, including defined minimum data elements;

(F) security standards to ensure that driver's licenses and personal identification cards are—

(i) resistant to tampering, alteration, or counterfeiting; and

(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(G) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and shall include an assessment of the benefits and costs of the recommendation; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

Effective date.

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

42 USC 405 note.

SEC. 7213. SOCIAL SECURITY CARDS AND NUMBERS.

Deadlines.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 1 year after the date of enactment of this Act—

(A) restrict the issuance of multiple replacement social security cards to any individual to 3 per year and 10 for the life of the individual, except that the Commissioner may allow for reasonable exceptions from the limits under this paragraph on a case-by-case basis in compelling circumstances;

(B) establish minimum standards for the verification of documents or records submitted by an individual to establish eligibility for an original or replacement social security card, other than for purposes of enumeration at birth; and

(C) require independent verification of any birth record submitted by an individual to establish eligibility for a social security account number, other than for purposes of enumeration at birth, except that the Commissioner

may allow for reasonable exceptions from the requirement for independent verification under this subparagraph on a case by case basis in compelling circumstances; and

(2) notwithstanding section 205(r) of the Social Security Act (42 U.S.C. 405(r)) and any agreement entered into thereunder, not later than 18 months after the date of enactment of this Act with respect to death indicators and not later than 36 months after the date of enactment of this Act with respect to fraud indicators, add death and fraud indicators to the social security number verification systems for employers, State agencies issuing driver's licenses and identity cards, and other verification routines that the Commissioner determines to be appropriate.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 18 months after the date of enactment of this Act, the task force shall establish, and the Commissioner shall provide for the implementation of, security requirements, including— Establishment. Deadline.

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

(c) ENUMERATION AT BIRTH.—

(1) IMPROVEMENT OF APPLICATION PROCESS.—As soon as practicable after the date of enactment of this Act, the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall transmit to each House of Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(d) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commissioner of Social Security shall conduct a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. This study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Commissioner shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study conducted under paragraph (1).

(B) CONTENTS.—The report submitted under subparagraph (A) shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. 7214. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.

(a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting "(I)" after "(vi)"; and

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

"(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).".

42 USC 405 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

6 USC 123.

SEC. 7215. TERRORIST TRAVEL PROGRAM.

The Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center, and consistent with the strategy developed under section 7201, shall establish a program to oversee the implementation of the Department's responsibilities with respect to terrorist travel, including the analysis, coordination, and dissemination of terrorist travel intelligence and operational information—

(1) among appropriate subdivisions of the Department of Homeland Security, including—

(A) the Bureau of Customs and Border Protection;

(B) United States Immigration and Customs Enforcement;

(C) United States Citizenship and Immigration Services;

(D) the Transportation Security Administration; and

(E) any other subdivision, as determined by the Secretary; and

(2) between the Department of Homeland Security and other appropriate Federal agencies.

SEC. 7216. INCREASE IN PENALTIES FOR FRAUD AND RELATED ACTIVITY.

Section 1028(b)(4) of title 18, United States Code, is amended by striking "25 years" and inserting "30 years".

SEC. 7217. STUDY ON ALLEGEDLY LOST OR STOLEN PASSPORTS.

(a) IN GENERAL.—Not later than May 31, 2005, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report, containing the results of a study on the subjects described in subsection (b), to— Deadline.

(1) the Committee on the Judiciary of the Senate;

(2) the Committee on the Judiciary of the House of Representatives;

(3) the Committee on Foreign Relations of the Senate;

(4) the Committee on International Relations of the House of Representatives;

(5) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(6) the Select Committee on Homeland Security of the House of Representatives (or any successor committee).

(b) CONTENTS.—The study referred to in subsection (a) shall examine the feasibility, cost, potential benefits, and relative importance to the objectives of tracking suspected terrorists' travel, and apprehending suspected terrorists, of establishing a system, in coordination with other countries, through which border and visa issuance officials have access in real-time to information on newly issued passports to persons whose previous passports were allegedly lost or stolen.

(c) INCENTIVES.—The study described in subsection (b) shall make recommendations on incentives that might be offered to encourage foreign nations to participate in the initiatives described in subsection (b).

SEC. 7218. ESTABLISHMENT OF VISA AND PASSPORT SECURITY PROGRAM IN THE DEPARTMENT OF STATE. 22 USC 4807.

(a) ESTABLISHMENT.—There is established, within the Bureau of Diplomatic Security of the Department of State, the Visa and Passport Security Program (in this section referred to as the "Program").

(b) PREPARATION OF STRATEGIC PLAN.—

(1) IN GENERAL.—The Assistant Secretary for Diplomatic Security, in coordination with the appropriate officials of the Bureau of Consular Affairs, the coordinator for counterterrorism, the National Counterterrorism Center, and the Department of Homeland Security, and consistent with the strategy mandated by section 7201, shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations, within the United States and in foreign countries, that are involved in the fraudulent production, distribution, use, or other similar activity—

(A) of a United States visa or United States passport;

(B) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(C) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(2) EMPHASIS.—The strategic plan shall—

(A) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

(B) require the development of a strategic training course under the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) to train participants in the identification of fraudulent documents and the forensic detection of such documents which may be used to obtain unlawful entry into the United States; and

(C) determine the benefits and costs of providing technical assistance to foreign governments to ensure the security of passports, visas, and related documents and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents to obtain such passports and visas, and other types of travel documents.

(c) PROGRAM.—

(1) INDIVIDUAL IN CHARGE.—

(A) DESIGNATION.—The Assistant Secretary for Diplomatic Security shall designate an individual to be in charge of the Program.

(B) QUALIFICATION.—The individual designated under subparagraph (A) shall have expertise and experience in the investigation and prosecution of visa and passport fraud.

(2) PROGRAM COMPONENTS.—The Program shall include the following:

(A) ANALYSIS OF METHODS.—Analyze, in coordination with other appropriate government agencies, methods used by terrorists to travel internationally, particularly the use of false or altered travel documents to illegally enter foreign countries and the United States, and consult with the Bureau of Consular Affairs and the Secretary of Homeland Security on recommended changes to the visa issuance process that could combat such methods, including the introduction of new technologies into such process.

(B) IDENTIFICATION OF INDIVIDUALS AND DOCUMENTS.—Identify, in cooperation with the Human Trafficking and Smuggling Center, individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents, and ensure that the appropriate agency is notified for further investigation and prosecution or, in the

case of such individuals abroad for which no further investigation or prosecution is initiated, ensure that all appropriate information is shared with foreign governments in order to facilitate investigation, arrest, and prosecution of such individuals.

(C) IDENTIFICATION OF FOREIGN COUNTRIES NEEDING ASSISTANCE.—Identify foreign countries that need technical assistance, such as law reform, administrative reform, prosecutorial training, or assistance to police and other investigative services, to ensure passport, visa, and related document security and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents.

(D) INSPECTION OF APPLICATIONS.—Randomly inspect visa and passport applications for accuracy, efficiency, and fraud, especially at high terrorist threat posts, in order to prevent a recurrence of the issuance of visas to those who submit incomplete, fraudulent, or otherwise irregular or incomplete applications.

(d) REPORT.—Not later than 90 days after the date on which the strategy required under section 7201 is submitted to Congress, the Assistant Secretary for Diplomatic Security shall submit to Congress a report containing—

(1) a description of the strategic plan prepared under subsection (b); and

(2) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

SEC. 7219. EFFECTIVE DATE.

8 USC 1202 note.

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

SEC. 7220. IDENTIFICATION STANDARDS.

49 USC 44901 note.

(a) PROPOSED STANDARDS.—

(1) IN GENERAL.—The Secretary of Homeland Security—

(A) shall propose minimum standards for identification documents required of domestic commercial airline passengers for boarding an aircraft; and

(B) may, from time to time, propose minimum standards amending or replacing standards previously proposed and transmitted to Congress and approved under this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit the standards under paragraph (1)(A) to the Senate and the House of Representatives on the same day while each House is in session.

(3) EFFECTIVE DATE.—Any proposed standards submitted to Congress under this subsection shall take effect when an approval resolution is passed by the House and the Senate under the procedures described in subsection (b) and becomes law.

(b) CONGRESSIONAL APPROVAL PROCEDURES.—

(1) RULEMAKING POWER.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of such approval resolutions; and it supersedes other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) APPROVAL RESOLUTION.—For the purpose of this subsection, the term "approval resolution" means a joint resolution of Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the proposed standards issued under section 7220 of the 9/11 Commission Implementation Act of 2004, transmitted by the President to the Congress on _____", the blank space being filled in with the appropriate date.

Deadline.

(3) INTRODUCTION.—Not later than the first day of session following the day on which proposed standards are transmitted to the House of Representatives and the Senate under subsection (a), an approval resolution—

(A) shall be introduced (by request) in the House by the Majority Leader of the House of Representatives, for himself or herself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House; and

(B) shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate.

(4) PROHIBITIONS.—

(A) AMENDMENTS.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate.

(B) MOTIONS TO SUSPEND.—No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

(5) REFERRAL.—

Deadline.

(A) IN GENERAL.—An approval resolution shall be referred to the committees of the House of Representatives and of the Senate with jurisdiction. Each committee shall make its recommendations to the House of Representatives or the Senate, as the case may be, within 45 days after its introduction. Except as provided in subparagraph (B), if a committee to which an approval resolution has been referred has not reported it at the close of the 45th day

after its introduction, such committee shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar.

(B) FINAL PASSAGE.—A vote on final passage of the resolution shall be taken in each House on or before the close of the 15th day after the resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

(C) COMPUTATION OF DAYS.—For purposes of this paragraph, in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(6) COORDINATION WITH ACTION OF OTHER HOUSE.—If prior to the passage by one House of an approval resolution of that House, that House receives the same approval resolution from the other House, then the procedure in that House shall be the same as if no approval resolution has been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

(7) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, not shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) DEBATE.—Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(C) MOTION TO POSTPONE.—Motions to postpone made in the House of Representatives with respect to the consideration of an approval resolution and motions to proceed to the consideration of other business shall be decided without debate.

(D) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(E) RULES OF THE HOUSE OF REPRESENTATIVES.—Except to the extent specifically provided in subparagraphs (A) through (D), consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

(8) FLOOR CONSIDERATION IN THE SENATE.—

(A) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order

to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) DEBATE ON RESOLUTION.—Debate in the Senate on an approval resolution, and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

(C) DEBATE ON MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) LIMIT ON DEBATE.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

(c) DEFAULT STANDARDS.—

Deadline.

(1) IN GENERAL.—If the standards proposed under subsection (a)(1)(A) are not approved pursuant to the procedures described in subsection (b), then not later than 1 year after rejection by a vote of either House of Congress, domestic commercial airline passengers seeking to board an aircraft shall present, for identification purposes—

(A) a valid, unexpired passport;

(B) domestically issued documents that the Secretary of Homeland Security designates as reliable for identification purposes;

(C) any document issued by the Attorney General or the Secretary of Homeland Security under the authority of 1 of the immigration laws (as defined under section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)); or

(D) a document issued by the country of nationality of any alien not required to possess a passport for admission to the United States that the Secretary designates as reliable for identifications purposes

(2) EXCEPTION.—The documentary requirements described in paragraph (1)—

(A) shall not apply to individuals below the age of 17, or such other age as determined by the Secretary of Homeland Security;

(B) may be waived by the Secretary of Homeland Security in the case of an unforeseen medical emergency.

Deadline.

(d) RECOMMENDATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall recommend to Congress—

(1) categories of Federal facilities that the Secretary determines to be at risk for terrorist attack and requiring minimum identification standards for access to such facilities; and

(2) appropriate minimum identification standards to gain access to those facilities.

Subtitle C—National Preparedness

SEC. 7301. THE INCIDENT COMMAND SYSTEM.

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

(1) The attacks on September 11, 2001, demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough.

(2) Teamwork, collaboration, and cooperation at an incident site are critical to a successful response to a terrorist attack.

(3) Key decisionmakers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety.

(4) The incident command system also enables emergency managers and first responders to manage, generate, receive, evaluate, share, and use information.

(5) Regular joint training at all levels is essential to ensuring close coordination during an actual incident.

(6) In Homeland Security Presidential Directive 5, the President directed the Secretary of Homeland Security to develop an incident command system, to be known as the National Incident Management System (NIMS), and directed all Federal agencies to make the adoption of NIMS a condition for the receipt of Federal emergency preparedness assistance by States, territories, tribes, and local governments beginning in fiscal year 2005.

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

(1) the United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States by adopting a unified incident command system and significantly enhancing communications connectivity between and among all levels of government agencies, emergency response providers (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), and other organizations with emergency response capabilities;

(2) the unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster;

(3) emergency response agencies nationwide should adopt the Incident Command System known as NIMS;

(4) when multiple agencies or multiple jurisdictions are involved, they should follow a unified command system based on NIMS;

(5) the regular use of, and training in, NIMS by States and, to the extent practicable, territories, tribes, and local governments, should be a condition for receiving Federal preparedness assistance; and

(6) the Secretary of Homeland Security should require, as a further condition of receiving homeland security preparedness funds from the Office of State and Local Government Coordination and Preparedness, that grant applicants document

measures taken to fully and aggressively implement the Incident Command System and unified command procedures.

42 USC 5196 note.

SEC. 7302. NATIONAL CAPITAL REGION MUTUAL AID.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.—The term "authorized representative of the Federal Government" means any individual or individuals designated by the President with respect to the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a mutual aid agreement for an emergency or public service event.

(2) CHIEF OPERATING OFFICER.—The term "chief operating officer" means the official designated by law to declare an emergency in and for the locality of that chief operating officer.

(3) EMERGENCY.—The term "emergency" means a major disaster or emergency declared by the President, or a state of emergency declared by the mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a mutual aid agreement.

(4) EMPLOYEE.—The term "employee" means the employees of the party, including its agents or authorized volunteers, who are committed in a mutual aid agreement to prepare for or who respond to an emergency or public service event.

(5) LOCALITY.—The term "locality" means a county, city, or town within the State of Maryland or the Commonwealth of Virginia and within the National Capital Region.

(6) MUTUAL AID AGREEMENT.—The term "mutual aid agreement" means an agreement, authorized under subsection (b), for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or pre-planned training event.

(7) NATIONAL CAPITAL REGION OR REGION.—The term "National Capital Region" or "Region" means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

(8) PARTY.—The term "party" means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

(9) PUBLIC SERVICE EVENT.—The term "public service event"—

(A) means any undeclared emergency, incident or situation in preparation for or response to which the mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

(10) STATE.—The term "State" means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(11) TRAINING.—The term "training" means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public service event periods.

(b) MUTUAL AID AUTHORIZED.—

(1) IN GENERAL.—The mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, in accordance with State law, enter into, request or provide assistance under mutual aid agreements with localities, the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority for—

(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

(C) training for any of the activities described under subparagraphs (A) and (B).

(2) FACILITATING LOCALITIES.—The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate mutual aid agreements in the National Capital Region under this section.

(3) APPLICATION AND EFFECT.—This section—

(A) does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;

(B) does not diminish any authorities, express or implied, of Federal agencies to enter into mutual aid agreements in furtherance of their Federal missions; and

(C) does not—

(i) preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or

(ii) affect any other agreement in effect before the date of enactment of this Act among the States

and localities, including the Emergency Management Assistance Compact.

(4) RIGHTS DESCRIBED.—Other than as described in this section, the rights and responsibilities of the parties to a mutual aid agreement entered into under this section shall be as described in the mutual aid agreement.

(c) DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a mutual aid agreement authorized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

(d) LIABILITY AND ACTIONS AT LAW.—

(1) IN GENERAL.—Any responding party or its officers or employees rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement authorized under this section, and any party or its officers or employees engaged in training activities with another party under such a mutual aid agreement, shall be liable on account of any act or omission of its officers or employees while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.

(2) ACTIONS.—Any action brought against a party or its officers or employees on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

(3) IMMUNITIES.—This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.

(e) WORKERS COMPENSATION.—

(1) COMPENSATION.—Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement, or engaged in training activities under a mutual aid agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

(2) OTHER STATE LAW.—No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured

members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement or engaged in training activities under a mutual aid agreement.

(f) LICENSES AND PERMITS.—If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events.

SEC. 7303. ENHANCEMENT OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY. 6 USC 194.

(a) COORDINATION OF PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS PROGRAMS.—

(1) PROGRAM.—The Secretary of Homeland Security, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall establish a program to enhance public safety interoperable communications at all levels of government. Such program shall—

(A) establish a comprehensive national approach to achieving public safety interoperable communications;

(B) coordinate with other Federal agencies in carrying out subparagraph (A);

(C) develop, in consultation with other appropriate Federal agencies and State and local authorities, appropriate minimum capabilities for communications interoperability for Federal, State, and local public safety agencies;

(D) accelerate, in consultation with other Federal agencies, including the National Institute of Standards and Technology, the private sector, and nationally recognized standards organizations as appropriate, the development of national voluntary consensus standards for public safety interoperable communications, recognizing—

(i) the value, life cycle, and technical capabilities of existing communications infrastructure;

(ii) the need for cross-border interoperability between States and nations;

(iii) the unique needs of small, rural communities; and

(iv) the interoperability needs for daily operations and catastrophic events;

(E) encourage the development and implementation of flexible and open architectures incorporating, where possible, technologies that currently are commercially available, with appropriate levels of security, for short-term and long-term solutions to public safety communications interoperability;

(F) assist other Federal agencies in identifying priorities for research, development, and testing and evaluation with regard to public safety interoperable communications;

(G) identify priorities within the Department of Homeland Security for research, development, and testing and

evaluation with regard to public safety interoperable communications;

(H) establish coordinated guidance for Federal grant programs for public safety interoperable communications;

(I) provide technical assistance to State and local public safety agencies regarding planning, acquisition strategies, interoperability architectures, training, and other functions necessary to achieve public safety communications interoperability;

(J) develop and disseminate best practices to improve public safety communications interoperability; and

(K) develop appropriate performance measures and milestones to systematically measure the Nation's progress toward achieving public safety communications interoperability, including the development of national voluntary consensus standards.

(2) OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.—

(A) ESTABLISHMENT OF OFFICE.—The Secretary may establish an Office for Interoperability and Compatibility within the Directorate of Science and Technology to carry out this subsection.

(B) FUNCTIONS.—If the Secretary establishes such office, the Secretary shall, through such office—

(i) carry out Department of Homeland Security responsibilities and authorities relating to the SAFECOM Program; and

(ii) carry out section 510 of the Homeland Security Act of 2002, as added by subsection (d).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection—

(A) $22,105,000 for fiscal year 2005;

(B) $22,768,000 for fiscal year 2006;

(C) $23,451,000 for fiscal year 2007;

(D) $24,155,000 for fiscal year 2008; and

(E) $24,879,000 for fiscal year 2009.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall report to the Congress on Department of Homeland Security plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development.

Deadline. President. Canada. Mexico.

(c) INTERNATIONAL INTEROPERABILITY.—Not later than 18 months after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(d) HIGH RISK AREA COMMUNICATIONS CAPABILITIES.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

6 USC 321.

"SEC. 510. URBAN AND OTHER HIGH RISK AREA COMMUNICATIONS CAPABILITIES.

"(a) IN GENERAL.—The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local

government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from terrorist attack.

"(b) MINIMUM CAPABILITIES.—The interoperable communications capabilities established under subsection (a) shall ensure the ability of all levels of government agencies, emergency response providers (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), and other organizations with emergency response capabilities—

"(1) to communicate with each other in the event of an emergency; and

"(2) to have appropriate and timely access to the Information Sharing Environment described in section 1016 of the National Security Intelligence Reform Act of 2004.".

(e) MULTIYEAR INTEROPERABILITY GRANTS.—

(1) MULTIYEAR COMMITMENTS.—In awarding grants to any State, region, local government, or Indian tribe for the purposes of enhancing interoperable communications capabilities for emergency response providers, the Secretary may commit to obligate Federal assistance beyond the current fiscal year, subject to the limitations and restrictions in this subsection.

(2) RESTRICTIONS.—

(A) TIME LIMIT.—No multiyear interoperability commitment may exceed 3 years in duration.

(B) AMOUNT OF COMMITTED FUNDS.—The total amount of assistance the Secretary has committed to obligate for any future fiscal year under paragraph (1) may not exceed $150,000,000.

(3) LETTERS OF INTENT.—

(A) ISSUANCE.—Pursuant to paragraph (1), the Secretary may issue a letter of intent to an applicant committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an interoperability communications project (including interest costs and costs of formulating the project).

(B) SCHEDULE.—A letter of intent under this paragraph shall establish a schedule under which the Secretary will reimburse the applicant for the Federal Government's share of the project's costs, as amounts become available, if the applicant, after the Secretary issues the letter, carries out the project before receiving amounts under a grant issued by the Secretary.

(C) NOTICE TO SECRETARY.—An applicant that is issued a letter of intent under this subsection shall notify the Secretary of the applicant's intent to carry out a project pursuant to the letter before the project begins.

(D) NOTICE TO CONGRESS.—The Secretary shall transmit a written notification to the Congress no later than 3 days before the issuance of a letter of intent under this section. Deadline.

(E) LIMITATIONS.—A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31, United States Code, and is not deemed

to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(F) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed—

(i) to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued; or

(ii) to apply to, or replace, Federal assistance intended for interoperable communications that is not provided pursuant to a commitment under this subsection.

(f) INTEROPERABLE COMMUNICATIONS PLANS.—Any applicant requesting funding assistance from the Secretary for interoperable communications for emergency response providers shall submit an Interoperable Communications Plan to the Secretary for approval. Such a plan shall—

(1) describe the current state of communications interoperability in the applicable jurisdictions among Federal, State, and local emergency response providers and other relevant private resources;

(2) describe the available and planned use of public safety frequency spectrum and resources for interoperable communications within such jurisdictions;

(3) describe how the planned use of spectrum and resources for interoperable communications is compatible with surrounding capabilities and interoperable communications plans of Federal, State, and local governmental entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(4) include a 5-year plan for the dedication of Federal, State, and local government and private resources to achieve a consistent, secure, and effective interoperable communications system, including planning, system design and engineering, testing and technology development, procurement and installation, training, and operations and maintenance; and

(5) describe how such 5-year plan meets or exceeds any applicable standards and grant requirements established by the Secretary.

(g) DEFINITIONS.—In this section:

(1) INTEROPERABLE COMMUNICATIONS.—The term "interoperable communications" means the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

(2) EMERGENCY RESPONSE PROVIDERS.—The term "emergency response providers" has the meaning that term has under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(h) CLARIFICATION OF RESPONSIBILITY FOR INTEROPERABLE COMMUNICATIONS.—

(1) UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—Section 502(7) of the Homeland Security Act of 2002 (6 U.S.C. 312(7)) is amended—

(A) by striking "developing comprehensive programs for developing interoperative communications technology, and"; and

(B) by striking "such" and inserting "interoperable communications".

(2) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430(c) of such Act (6 U.S.C. 238(c)) is amended—

(A) in paragraph (7) by striking "and" after the semicolon;

(B) in paragraph (8) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) helping to ensure the acquisition of interoperable communication technology by State and local governments and emergency response providers.".

(i) SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.—

(1) FINDING.—The Congress finds that—

(A) many first responders working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(B) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(2) SENSE OF CONGRESS.—It is the sense of Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the first responder community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

SEC. 7304. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

6 USC 194 note.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

Deadline.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Homeland Security shall consult with the Secretary of Defense as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

SEC. 7305. PRIVATE SECTOR PREPAREDNESS.

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

(1) Private sector organizations own 85 percent of the Nation's critical infrastructure and employ the vast majority of the Nation's workers.

(2) Preparedness in the private sector and public sector for rescue, restart and recovery of operations should include, as appropriate—

(A) a plan for evacuation;

(B) adequate communications capabilities; and

(C) a plan for continuity of operations.

(3) The American National Standards Institute recommends a voluntary national preparedness standard for the private sector based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), with appropriate modifications. This standard establishes a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs.

(4) The mandate of the Department of Homeland Security extends to working with the private sector, as well as government entities.

(b) SENSE OF CONGRESS ON PRIVATE SECTOR PREPAREDNESS.—It is the sense of Congress that the Secretary of Homeland Security should promote, where appropriate, the adoption of voluntary national preparedness standards such as the private sector preparedness standard developed by the American National Standards Institute and based on the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.

SEC. 7306. CRITICAL INFRASTRUCTURE AND READINESS ASSESSMENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Under section 201 of the Homeland Security Act of 2002 (6 U.S.C 121), the Department of Homeland Security, through the Under Secretary for Information Analysis and Infrastructure Protection, has the responsibility—

(A) to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;

(B) to identify priorities for protective and supportive measures; and

(C) to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(2) Under Homeland Security Presidential Directive 7, issued on December 17, 2003, the Secretary of Homeland Security was given 1 year to develop a comprehensive plan to identify, prioritize, and coordinate the protection of critical infrastructure and key resources.

(3) The report of the National Commission on Terrorist Attacks Upon the United States recommended that the Secretary of Homeland Security should—

(A) identify those elements of the United States' transportation, energy, communications, financial, and other institutions that need to be protected;

(B) develop plans to protect that infrastructure; and

(C) exercise mechanisms to enhance preparedness.

(b) REPORTS ON RISK ASSESSMENT AND READINESS.—Not later than 180 days after the date of enactment of this Act, and in conjunction with the reporting requirements of Public Law 108–330, the Secretary of Homeland Security shall submit a report to Congress on—

(1) the Department of Homeland Security's progress in completing vulnerability and risk assessments of the Nation's critical infrastructure;

(2) the adequacy of the Government's plans to protect such infrastructure; and

(3) the readiness of the Government to respond to threats against the United States.

SEC. 7307. NORTHERN COMMAND AND DEFENSE OF THE UNITED STATES HOMELAND.

It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of the plans and strategies of the United States Northern Command with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States, should it be called upon to do so by the President.

SEC. 7308. EFFECTIVE DATE.

6 USC 194 note.

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

Subtitle D—Homeland Security

SEC. 7401. SENSE OF CONGRESS ON FIRST RESPONDER FUNDING.

It is the sense of Congress that Congress must pass legislation in the first session of the 109th Congress to reform the system for distributing grants to enhance State and local government prevention of, preparedness for, and response to acts of terrorism.

SEC. 7402. COORDINATION OF INDUSTRY EFFORTS.

Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack;

"(9) coordinating with the Directorate of Border and Transportation Security and the Assistant Secretary for Trade Development of the Department of Commerce on issues related to the travel and tourism industries; and

"(10) consulting with the Office of State and Local Government Coordination and Preparedness on all matters of concern to the private sector, including the tourism industry.".

SEC. 7403. STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.

(a) STUDY.—The Secretary of Homeland Security, in coordination with the Chairman of the Federal Communications Commission, and in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost-effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that will—

(1) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and

(2) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(b) TECHNOLOGIES TO CONSIDER.—In conducting the study, the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to Congress a report regarding the conclusions of the study.

SEC. 7404. PILOT STUDY TO MOVE WARNING SYSTEMS INTO THE MODERN DIGITAL AGE.

(a) PILOT STUDY.—The Secretary of Homeland Security, from funds made available for improving the national system to notify the general public in the event of a terrorist attack, and in consultation with the Attorney General, the Secretary of Transportation, the heads of other appropriate Federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, shall conduct a pilot study under which the Secretary of Homeland Security may issue public warnings regarding threats to homeland security using a warning system that is similar to the AMBER Alert communications network.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report regarding the findings, conclusions, and recommendations of the pilot study.

(c) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—No funds derived from the Highway Trust Fund may be transferred to, made available to, or obligated by the Secretary of Homeland Security to carry out this section.

SEC. 7405. REQUIRED COORDINATION.

6 USC 112 note.

The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

SEC. 7406. EMERGENCY PREPAREDNESS COMPACTS.

Section 611(h) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by indenting paragraph (2) (as so redesignated); and

(3) by striking the subsection designation and heading and inserting the following:

"(h) EMERGENCY PREPAREDNESS COMPACTS.—(1) The Director shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

"(A) identifying and cataloging existing emergency preparedness compacts for acts of terrorism, disasters, and emergencies at the State and local levels of government;

"(B) disseminating to State and local governments examples of best practices in the development of emergency preparedness compacts and models of existing emergency preparedness compacts, including agreements involving interstate jurisdictions; and

"(C) completing an inventory of Federal response capabilities for acts of terrorism, disasters, and emergencies, making such inventory available to appropriate Federal, State, and local government officials, and ensuring that such inventory is as current and accurate as practicable.".

SEC. 7407. RESPONSIBILITIES OF COUNTERNARCOTICS OFFICE.

(a) AMENDMENT.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended to read as follows:

"SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

"(a) OFFICE.—There is established in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate.

Establishment. President. Congress.

"(b) ASSIGNMENT OF PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall assign permanent staff to the Office, consistent with effective management of Department resources.

"(2) LIAISONS.—The Secretary shall designate senior employees from each appropriate subdivision of the Department that has significant counternarcotics responsibilities to act as a liaison between that subdivision and the Office of Counternarcotics Enforcement.

"(c) LIMITATION ON CONCURRENT EMPLOYMENT.—Except as provided in subsection (d), the Director of the Office of Counternarcotics Enforcement shall not be employed by, assigned to, or serve as the head of, any other branch of the Federal Government, any State or local government, or any subdivision of the Department other than the Office of Counternarcotics Enforcement.

"(d) ELIGIBILITY TO SERVE AS THE UNITED STATES INTERDICTION COORDINATOR.—The Director of the Office of Counternarcotics Enforcement may be appointed as the United States Interdiction Coordinator by the Director of the Office of National Drug Control Policy, and shall be the only person at the Department eligible to be so appointed.

"(e) RESPONSIBILITIES.—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

"(1) to coordinate policy and operations within the Department, between the Department and other Federal departments and agencies, and between the Department and State and local agencies with respect to stopping the entry of illegal drugs into the United States;

"(2) to ensure the adequacy of resources within the Department for stopping the entry of illegal drugs into the United States;

"(3) to recommend the appropriate financial and personnel resources necessary to help the Department better fulfill its responsibility to stop the entry of illegal drugs into the United States;

"(4) within the Joint Terrorism Task Force construct to track and sever connections between illegal drug trafficking and terrorism; and

"(5) to be a representative of the Department on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of the Department and other Federal, State or local agencies.

"(f) SAVINGS CLAUSE.—Nothing in this section shall be construed to authorize direct control of the operations conducted by the Directorate of Border and Transportation Security, the Coast Guard, or joint terrorism task forces.

"(g) REPORTS TO CONGRESS.—

"(1) ANNUAL BUDGET REVIEW.—The Director of the Office of Counternarcotics Enforcement shall, not later than 30 days after the submission by the President to Congress of any request for expenditures for the Department, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of such request. The review and evaluation shall—

"(A) identify any request or subpart of any request that affects or may affect the counternarcotics activities of the Department or any of its subdivisions, or that affects the ability of the Department or any subdivision of the Department to meet its responsibility to stop the entry of illegal drugs into the United States;

"(B) describe with particularity how such requested funds would be or could be expended in furtherance of counternarcotics activities; and

"(C) compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year.

"(2) EVALUATION OF COUNTERNARCOTICS ACTIVITIES.—The Director of the Office of Counternarcotics Enforcement shall, not later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year. The review and evaluation shall— Deadline.

"(A) describe the counternarcotics activities of the Department and each subdivision of the Department (whether individually or in cooperation with other subdivisions of the Department, or in cooperation with other branches of the Federal Government or with State or local agencies), including the methods, procedures, and systems (including computer systems) for collecting, analyzing, sharing, and disseminating information concerning narcotics activity within the Department and between the Department and other Federal, State, and local agencies;

"(B) describe the results of those activities, using quantifiable data whenever possible;

"(C) state whether those activities were sufficient to meet the responsibility of the Department to stop the entry of illegal drugs into the United States, including a description of the performance measures of effectiveness that were used in making that determination; and

"(D) recommend, where appropriate, changes to those activities to improve the performance of the Department in meeting its responsibility to stop the entry of illegal drugs into the United States.

"(3) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of a review and evaluation described in the reports required in this subsection that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to Congress separately from the rest of the review and evaluation.".

(b) CONFORMING AMENDMENTS.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) A Director of the Office of Counternarcotics Enforcement.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts appropriated for the Department of Homeland Security for Departmental management and operations for fiscal year 2005, there is authorized up to $6,000,000 to carry out section 878 of the Department of Homeland Security Act of 2002.

SEC. 7408. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

(a) IN GENERAL.—Subtitle E of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 411 et seq.) is amended by adding at the end the following:

6 USC 413.

"SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

"(a) IN GENERAL.—Each subdivision of the Department that is a National Drug Control Program Agency shall include as one of the criteria in its performance appraisal system, for each employee directly or indirectly involved in the enforcement of Federal, State, or local narcotics laws, the performance of that employee with respect to the enforcement of Federal, State, or local narcotics laws, relying to the greatest extent practicable on objective performance measures, including—

"(1) the contribution of that employee to seizures of narcotics and arrests of violators of Federal, State, or local narcotics laws; and

"(2) the degree to which that employee cooperated with or contributed to the efforts of other employees, either within the Department or other Federal, State, or local agencies, in counternarcotics enforcement.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'National Drug Control Program Agency' means—

"(A) a National Drug Control Program Agency, as defined in section 702(7) of the Office of National Drug Control Policy Reauthorization Act of 1998 (as last in effect); and

"(B) any subdivision of the Department that has a significant counternarcotics responsibility, as determined by—

"(i) the counternarcotics officer, appointed under section 878; or

"(ii) if applicable, the counternarcotics officer's successor in function (as determined by the Secretary); and

"(2) the term 'performance appraisal system' means a system under which periodic appraisals of job performance of employees are made, whether under chapter 43 of title 5, United States Code, or otherwise.".

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 is amended by inserting after the item relating to section 842 the following:

"Sec. 843. Use of counternarcotics enforcement activities in certain employee performance appraisals.".

Subtitle E—Public Safety Spectrum

SEC. 7501. DIGITAL TELEVISION CONVERSION DEADLINE.

(a) FINDINGS.—Congress finds the following:

(1) Congress granted television broadcasters additional 6 megahertz blocks of spectrum to transmit digital broadcasts

simultaneously with the analog broadcasts they submit on their original 6 megahertz blocks of spectrum.

(2) Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) requires each television broadcaster to cease analog transmissions and return 6 megahertz of spectrum not later than—

(A) December 31, 2006; or

(B) the date on which more than 85 percent of the television households in the market of such broadcaster can view digital broadcast television channels using a digital television, a digital-to-analog converter box, cable service, or satellite service.

(3) Twenty-four megahertz of spectrum occupied by television broadcasters has been earmarked for use by first responders as soon as the television broadcasters return the spectrum broadcasters being used to provide analog transmissions. This spectrum would be ideal to provide first responders with interoperable communications channels.

(4) Large parts of the vacated spectrum could be auctioned for advanced commercial services, such as wireless broadband.

(5) The 85 percent penetration test described in paragraph (2)(B) could delay the termination of analog television broadcasts and the return of spectrum well beyond 2007, hindering the use of that spectrum for these important public safety and advanced commercial uses.

(6) While proposals to require broadcasters to return, on a date certain, the spectrum earmarked for future public safety use may improve the ability of public safety entities to begin planning for use of this spectrum, such proposals have certain deficiencies. The proposals would require the dislocation of up to 75 broadcast stations, which also serve a critical public safety function by broadcasting weather, traffic, disaster, and other safety alerts. Such disparate treatment of broadcasters would be unfair to the broadcasters and their respective viewers. Requiring the return of all analog broadcast spectrum by a date certain would have the benefit of addressing the digital television transition in a comprehensive fashion that treats all broadcasters and viewers equally, while freeing spectrum for advanced commercial services.

(7) The Federal Communications Commission should consider all regulatory means available to expedite the return of the analog spectrum.

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

(1) Congress must act to pass legislation in the first session of the 109th Congress that establishes a comprehensive approach to the timely return of analog broadcast spectrum as early as December 31, 2006; and

(2) any delay in the adoption of the legislation described in paragraph (1) will delay the ability of public safety entities to begin planning to use this needed spectrum.

SEC. 7502. STUDIES ON TELECOMMUNICATIONS CAPABILITIES AND REQUIREMENTS.

(a) ALLOCATIONS OF SPECTRUM FOR EMERGENCY RESPONSE PROVIDERS.—The Federal Communications Commission shall, in consultation with the Secretary of Homeland Security and the National Telecommunications and Information Administration, conduct a

study to assess short-term and long-term needs for allocations of additional portions of the electromagnetic spectrum for Federal, State, and local emergency response providers, including whether or not an additional allocation of spectrum in the 700 megahertz band should be granted by Congress to such emergency response providers.

(b) STRATEGIES TO MEET PUBLIC SAFETY TELECOMMUNICATIONS REQUIREMENTS.—The Secretary of Homeland Security shall, in consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, conduct a study to assess strategies that may be used to meet public safety telecommunications needs, including—

(1) the need and efficacy of deploying nationwide interoperable communications networks (including the potential technical and operational standards and protocols for nationwide interoperable broadband mobile communications networks that may be used by Federal, State, regional, and local governmental and nongovernmental public safety, homeland security, and other emergency response personnel);

(2) the capacity of public safety entities to utilize wireless broadband applications; and

(3) the communications capabilities of all emergency response providers, including hospitals and health care workers, and current efforts to promote communications coordination and training among emergency response providers.

(c) STUDY REQUIREMENTS.—In conducting the studies required by subsections (a) and (b), the Secretary of Homeland Security and the Federal Communications Commission shall—

(1) seek input from Federal, State, local, and regional emergency response providers regarding the operation and administration of a potential nationwide interoperable broadband mobile communications network; and

(2) consider the use of commercial wireless technologies to the greatest extent practicable.

(d) REPORTS.—(1) Not later than one year after the date of enactment of this Act, the Federal Communications Commission (in the case of the study required by subsection (a)) and the Secretary of Homeland Security (in the case of the study required by subsection (b)) shall submit to the appropriate committees of Congress a report on such study, including the findings of such study.

(2) In this subsection, the term "appropriate committees of Congress" means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Energy and Commerce and the Select Committee on Homeland Security of the House of Representatives.

Subtitle F—Presidential Transition

SEC. 7601. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

"(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

President.

"(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

"(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.".

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

50 USC 435b note.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term "major party" shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified

information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

3 USC 102 note.

(d) EFFECTIVE DATE.—Notwithstanding section 351, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

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

31 USC 5311 note.

SEC. 7701. IMPROVING INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING.

(a) FINDINGS.—Congress makes the following findings:

(1) The global war on terrorism and cutting off terrorist financing is a policy priority for the United States and its partners, working bilaterally and multilaterally through the United Nations, the United Nations Security Council and its committees, such as the 1267 and 1373 Committees, the Financial Action Task Force (FATF), and various international financial institutions, including the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the regional multilateral development banks, and other multilateral fora.

(2) The international financial community has become engaged in the global fight against terrorist financing. The Financial Action Task Force has focused on the new threat posed by terrorist financing to the international financial system, resulting in the establishment of the FATF's Eight Special Recommendations on Terrorist Financing as the international standard on combating terrorist financing. The Group of Seven and the Group of Twenty Finance Ministers are developing action plans to curb the financing of terror. In addition, other economic and regional fora, such as the Asia-Pacific Economic Cooperation (APEC) Forum, and the Western Hemisphere Financial Ministers, have been used to marshal political will and actions in support of combating the financing of terrorism (CFT) standards.

(3) FATF's Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing are the recognized global standards for fighting money laundering and terrorist financing. The FATF has engaged in an assessment process for jurisdictions based on their compliance with these standards.

(4) In March 2004, the IMF and IBRD Boards agreed to make permanent a pilot program of collaboration with the FATF to assess global compliance with the FATF Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing. As a result, anti-money laundering (AML) and combating the financing of terrorism (CFT) assessments are now a regular part of their Financial Sector Assessment Program (FSAP) and Offshore Financial Center assessments, which provide for a comprehensive analysis of the strength of a jurisdiction's financial system. These reviews assess potential systemic vulnerabilities, consider sectoral development needs and priorities, and review

the state of implementation of and compliance with key financial codes and regulatory standards, among them the AML and CFT standards.

(5) To date, 70 FSAPs have been conducted, with over 24 of those incorporating AML and CFT assessments. The international financial institutions (IFIs), the FATF, and the FATF-style regional bodies together are expected to assess AML and CFT regimes in up to 40 countries or jurisdictions per year. This will help countries and jurisdictions identify deficiencies in their AML and CFT regimes and help focus technical assistance efforts.

(6) Technical assistance programs from the United States and other nations, coordinated with the Department of State and other departments and agencies, are playing an important role in helping countries and jurisdictions address shortcomings in their AML and CFT regimes and bringing their regimes into conformity with international standards. Training is coordinated within the United States Government, which leverages multilateral organizations and bodies and international financial institutions to internationalize the conveyance of technical assistance.

(7) In fulfilling its duties in advancing incorporation of AML and CFT standards into the IFIs as part of the IFIs' work on protecting the integrity of the international monetary system, the Department of the Treasury, under the guidance of the Secretary of the Treasury, has effectively brought together all of the key United States Government agencies. In particular, United States Government agencies continue to work together to foster broad support for this important undertaking in various multilateral fora, and United States Government agencies recognize the need for close coordination and communication within our own Government.

(b) SENSE OF CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.—It is the sense of Congress that the Secretary of the Treasury should continue to promote the dissemination of international AML and CFT standards, and to press for full implementation of the FATF 40 + 8 Recommendations by all countries in order to curb financial risks and hinder terrorist financing around the globe. The efforts of the Secretary in this regard should include, where necessary or appropriate, multilateral action against countries whose counter-money laundering regimes and efforts against the financing of terrorism fall below recognized international standards.

SEC. 7702. DEFINITIONS.

31 USC 5311 note.

In this subtitle—

(1) the term "international financial institutions" has the same meaning as in section 1701(c)(2) of the International Financial Institutions Act;

(2) the term "Financial Action Task Force" means the international policy-making and standard-setting body dedicated to combating money laundering and terrorist financing that was created by the Group of Seven in 1989; and

(3) the terms "Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System" and "Interagency Paper" mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the

Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

SEC. 7703. EXPANDED REPORTING AND TESTIMONY REQUIREMENTS FOR THE SECRETARY OF THE TREASURY.

(a) REPORTING REQUIREMENTS.—Section 1503(a) of the International Financial Institutions Act (22 U.S.C. 262o–2(a)) is amended by adding at the end the following:

"(15) Work with the International Monetary Fund to—

"(A) foster strong global anti-money laundering (AML) and combat the financing of terrorism (CFT) regimes;

"(B) ensure that country performance under the Financial Action Task Force anti-money laundering and counterterrorist financing standards is effectively and comprehensively monitored;

"(C) ensure note is taken of AML and CFT issues in Article IV reports, International Monetary Fund programs, and other regular reviews of country progress;

"(D) ensure that effective AML and CFT regimes are considered to be indispensable elements of sound financial systems; and

"(E) emphasize the importance of sound AML and CFT regimes to global growth and development.".

(b) TESTIMONY.—Section 1705(b) of the International Financial Institutions Act (22 U.S.C. 262r–4(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) the status of implementation of international anti-money laundering and counterterrorist financing standards by the International Monetary Fund, the multilateral development banks, and other multilateral financial policymaking bodies.".

31 USC 5311 note.

SEC. 7704. COORDINATION OF UNITED STATES GOVERNMENT EFFORTS.

The Secretary of the Treasury, or the designee of the Secretary, as the lead United States Government official to the Financial Action Task Force (FATF), shall continue to convene the interagency United States Government FATF working group. This group, which includes representatives from all relevant Federal agencies, shall meet at least once a year to advise the Secretary on policies to be pursued by the United States regarding the development of common international AML and CFT standards, to assess the adequacy and implementation of such standards, and to recommend to the Secretary improved or new standards, as necessary.

Subtitle H—Emergency Financial Preparedness

SEC. 7801. DELEGATION AUTHORITY OF THE SECRETARY OF THE TREASURY.

Section 306(d) of title 31, United States Code, is amended by inserting "or employee" after "another officer".

SEC. 7802. TREASURY SUPPORT FOR FINANCIAL SERVICES INDUSTRY PREPAREDNESS AND RESPONSE AND CONSUMER EDUCATION.

(a) FINDINGS.—Congress finds that the Secretary of the Treasury—

(1) has successfully communicated and coordinated with the private-sector financial services industry about financial infrastructure preparedness and response issues;

(2) has successfully reached out to State and local governments and regional public-private partnerships, such as ChicagoFIRST, that protect employees and critical infrastructure by enhancing communication and coordinating plans for disaster preparedness and business continuity; and

(3) has set an example for the Department of Homeland Security and other Federal agency partners, whose active participation is vital to the overall success of the activities described in paragraphs (1) and (2).

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, other Federal agency partners, and private-sector financial organization partners, should—

(1) furnish sufficient personnel and technological and financial resources to educate consumers and employees of the financial services industry about domestic counterterrorist financing activities, particularly about—

(A) how the public and private sector organizations involved in such activities can combat terrorism while protecting and preserving the lives and civil liberties of consumers and employees of the financial services industry; and

(B) how the consumers and employees of the financial services industry can assist the public and private sector organizations involved in such activities; and

(2) submit annual reports to Congress on efforts to accomplish subparagraphs (A) and (B) of paragraph (1).

(c) REPORT ON PUBLIC-PRIVATE PARTNERSHIPS.—Before the end of the 6-month period beginning on the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

(1) information on the efforts that the Department of the Treasury has made to encourage the formation of public-private partnerships to protect critical financial infrastructure and the type of support that the Department has provided to such partnerships; and

(2) recommendations for administrative or legislative action regarding such partnerships, as the Secretary may determine to be appropriate.

SEC. 7803. EMERGENCY SECURITIES RESPONSE ACT OF 2004.

Emergency Securities Response Act of 2004.
15 USC 78a note.

(a) SHORT TITLE.—This section may be cited as the "Emergency Securities Response Act of 2004".

(b) EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION.—

(1) EXTENSION OF AUTHORITY.—Section 12(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(k)(2)) is amended to read as follows:

"(2) EMERGENCY ORDERS.—

"(A) IN GENERAL.—The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

"(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of—

"(I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such markets; or

"(II) the transmission or processing of securities transactions (other than transactions in exempted securities).

"(B) EFFECTIVE PERIOD.—An order of the Commission under this paragraph shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), an order of the Commission under this paragraph may not continue in effect for more than 10 business days, including extensions.

"(C) EXTENSION.—An order of the Commission under this paragraph may be extended to continue in effect for more than 10 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 10 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i), (ii), or (iii) of subparagraph (A). In no event shall an order of the Commission under this paragraph continue in effect for more than 30 calendar days.

"(D) SECURITY FUTURES.—If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission.

"(E) EXEMPTION.—In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of—

"(i) section 19(c); or

"(ii) section 553 of title 5, United States Code.".

(c) CONSULTATION; DEFINITION OF EMERGENCY.—Section 12(k)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(k)(6)) is amended to read as follows:

"(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and

consider the views of the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission, unless such consultation is impracticable in light of the emergency.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'emergency' means—

"(i) a major market disturbance characterized by or constituting—

"(I) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

"(II) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

"(ii) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

"(I) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

"(II) the transmission or processing of securities transactions; and

"(B) notwithstanding section 3(a)(47), the term 'securities laws' does not include the Public Utility Holding Company Act of 1935.".

(d) PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by adding at the end the following:

"(h) EMERGENCY AUTHORITY.—The Secretary may, by order, take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary under this section, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).".

(e) JOINT REPORT ON IMPLEMENTATION OF FINANCIAL SYSTEM RESILIENCE RECOMMENDATIONS.—

(1) REPORT REQUIRED.—Not later than April 30, 2006, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission shall prepare and submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a joint report on the efforts of the private sector to implement the Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall—

(A) examine the efforts to date of private sector financial services firms covered by the Interagency Paper to implement enhanced business continuity plans;

(B) examine the extent to which the implementation of such business continuity plans has been done in a geographically dispersed manner, including an analysis of the

extent to which such firms have located their main and backup facilities in separate electrical networks, in different watersheds, in independent transportation systems, and using separate telecommunications centers, and the cost and technological implications of further dispersal;

(C) examine the need to cover a larger range of private sector financial services firms that play significant roles in critical financial markets than those covered by the Interagency Paper; and

(D) recommend legislative and regulatory changes that will—

(i) expedite the effective implementation of the Interagency Paper by all covered financial services entities; and

(ii) optimize the effective implementation of business continuity planning by the financial services industry.

(3) CONFIDENTIALITY.—Any information provided to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the Securities and Exchange Commission for the purposes of the preparation and submission of the report required by paragraph (1) shall be treated as privileged and confidential. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section 552.

(4) DEFINITION.—As used in this subsection, the terms "Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System" and "Interagency Paper" mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

SEC. 7804. PRIVATE SECTOR PREPAREDNESS.

It is the sense of Congress that the insurance industry and credit-rating agencies, where relevant, should carefully consider a company's compliance with standards for private sector disaster and emergency preparedness in assessing insurability and creditworthiness, to ensure that private sector investment in disaster and emergency preparedness is appropriately encouraged.

TITLE VIII—OTHER MATTERS

Subtitle A—Intelligence Matters

50 USC 403–1 note.

SEC. 8101. INTELLIGENCE COMMUNITY USE OF NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.

(a) IN GENERAL.—The Director of National Intelligence shall establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.

(b) PURPOSE.—The purpose of the relationship under subsection (a) shall be to permit the intelligence community to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence

analysis, for real time response to reported threats and long term planning for projected threats.

Subtitle B—Department of Homeland Security Matters

SEC. 8201. HOMELAND SECURITY GEOSPATIAL INFORMATION. 6 USC 343 note.

(a) FINDINGS.—Congress makes the following findings:

(1) Geospatial technologies and geospatial data improve government capabilities to detect, plan for, prepare for, and respond to disasters in order to save lives and protect property.

(2) Geospatial data improves the ability of information technology applications and systems to enhance public security in a cost-effective manner.

(3) Geospatial information preparedness in the United States, and specifically in the Department of Homeland Security, is insufficient because of—

(A) inadequate geospatial data compatibility;

(B) insufficient geospatial data sharing; and

(C) technology interoperability barriers.

(b) HOMELAND SECURITY GEOSPATIAL INFORMATION.—Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Chief Information"; and

(2) by adding at the end the following:

"(b) GEOSPATIAL INFORMATION FUNCTIONS.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) GEOSPATIAL INFORMATION.—The term 'geospatial information' means graphical or digital data depicting natural or manmade physical features, phenomena, or boundaries of the earth and any information related thereto, including surveys, maps, charts, remote sensing data, and images.

"(B) GEOSPATIAL TECHNOLOGY.—The term 'geospatial technology' means any technology utilized by analysts, specialists, surveyors, photogrammetrists, hydrographers, geodesists, cartographers, architects, or engineers for the collection, storage, retrieval, or dissemination of geospatial information, including—

"(i) global satellite surveillance systems;

"(ii) global position systems;

"(iii) geographic information systems;

"(iv) mapping equipment;

"(v) geocoding technology; and

"(vi) remote sensing devices.

"(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

"(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

"(B) GEOSPATIAL INFORMATION OFFICER.—

"(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

"(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geospatial information needs of the Department.

"(C) COORDINATION OF GEOSPATIAL INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geospatial information, which shall include—

"(i) providing such geospatial information as may be necessary to implement the critical infrastructure protection programs;

"(ii) providing leadership and coordination in meeting the geospatial information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

"(iii) coordinating with users of geospatial information within the Department to assure interoperability and prevent unnecessary duplication.

"(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

"(i) coordinating the geospatial information needs and activities of the Department;

"(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), to facilitate the interoperability of geospatial information pertaining to homeland security among all users of such information within—

"(I) the Department;

"(II) State and local government; and

"(III) the private sector;

"(iii) coordinating with the Federal Geographic Data Committee and carrying out the responsibilities of the Department pursuant to Office of Management and Budget Circular A–16 and Executive Order 12906; and

"(iv) making recommendations to the Secretary and the Executive Director of the Office for State and Local Government Coordination and Preparedness on awarding grants to—

"(I) fund the creation of geospatial data; and

"(II) execute information sharing agreements regarding geospatial data with State, local, and tribal governments.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.".

Subtitle C—Homeland Security Civil Rights and Civil Liberties Protection

Homeland Security Civil Rights and Civil Liberties Protection Act of 2004.
6 USC 101 note.

SEC. 8301. SHORT TITLE.

This subtitle may be cited as the "Homeland Security Civil Rights and Civil Liberties Protection Act of 2004".

SEC. 8302. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking "and" after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

"(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and".

SEC. 8303. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(a) IN GENERAL.—The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—";

(2) by amending paragraph (1) to read as follows:

"(1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;";

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

"(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

"(5) coordinate with the Privacy Officer to ensure that—

"(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

"(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

"(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.".

SEC. 8304. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

"(2) The senior official designated under paragraph (1) shall—

"(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

"(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

"(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

"(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

"(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

"(i) alleged abuses of civil rights or civil liberties; and

"(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

"(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

"(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

"(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

"(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

"(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

"(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.".

SEC. 8305. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting ", who shall report directly to the Secretary," after "in the Department";

(2) in paragraph (4), by striking "and" at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

"(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

"(B) Congress receives appropriate reports on such programs, policies, and procedures; and".

SEC. 8306. PROTECTIONS FOR HUMAN RESEARCH SUBJECTS OF THE DEPARTMENT OF HOMELAND SECURITY.

6 USC 112 note.

The Secretary of Homeland Security shall ensure that the Department of Homeland Security complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by such Secretary, with respect to research that is conducted or supported by the Department.

Subtitle D—Other Matters

SEC. 8401. AMENDMENTS TO CLINGER-COHEN ACT PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting "security," after "use,";

(2) in section 11302(c), by inserting ", including information security risks," after "risks" both places it appears;

(3) in section 11312(b)(1), by striking "information technology investments" and inserting "investments in information technology (including information security needs)"; and

(4) in section 11315(b)(2), by inserting ", secure," after "sound".

SEC. 8402. ENTERPRISE ARCHITECTURE.

28 USC 531 note.

(a) ENTERPRISE ARCHITECTURE DEFINED.—In this section, the term "enterprise architecture" means a detailed outline or blueprint of the information technology of the Federal Bureau of Investigation that will satisfy the ongoing mission and goals of the Federal Bureau of Investigation and that sets forth specific and identifiable benchmarks.

(b) ENTERPRISE ARCHITECTURE.—The Federal Bureau of Investigation shall—

(1) continually maintain and update an enterprise architecture; and

(2) maintain a state of the art and up to date information technology infrastructure that is in compliance with the enterprise architecture of the Federal Bureau of Investigation.

(c) REPORT.—Subject to subsection (d), the Director of the Federal Bureau of Investigation shall, on an annual basis, submit to the Committees on the Judiciary of the Senate and House of Representatives a report on whether the major information technology investments of the Federal Bureau of Investigation are in compliance with the enterprise architecture of the Federal Bureau of Investigation and identify any inability or expectation of inability to meet the terms set forth in the enterprise architecture.

(d) FAILURE TO MEET TERMS.—If the Director of the Federal Bureau of Investigation identifies any inability or expectation of inability to meet the terms set forth in the enterprise architecture in a report under subsection (c), the report under subsection (c) shall—

(1) be twice a year until the inability is corrected;

(2) include a statement as to whether the inability or expectation of inability to meet the terms set forth in the enterprise architecture is substantially related to resources; and

(3) if the inability or expectation of inability is substantially related to resources, include a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

(e) ENTERPRISE ARCHITECTURE, AGENCY PLANS AND REPORTS.—This section shall be carried out in compliance with the requirements set forth in section 1016(e) and (h).

SEC. 8403. FINANCIAL DISCLOSURE AND RECORDS.

Deadline. Reports.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

5 USC 1101 note.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term "major party" has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

Deadline.

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to— Deadline.

(i) the President;

(ii) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to executive branch employment and submit a report to— Deadline. Reports.

(A) the President;

(B) the Committees on Homeland Security and Governmental Affairs and the Judiciary of the Senate;

(C) the Committees on Government Reform and the Judiciary of the House of Representatives.

(2) CONTENTS.—The report under this subsection shall examine sections 203, 205, 207, and 208 of title 18, United States Code.

SEC. 8404. EXTENSION OF REQUIREMENT FOR AIR CARRIERS TO HONOR TICKETS FOR SUSPENDED AIR PASSENGER SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows and inserting "after November 19, 2005.".

Approved December 17, 2004.

LEGISLATIVE HISTORY—S. 2845 (H.R. 10):

HOUSE REPORTS: Nos. 108–724, Pt. 1 (Permanent Select Comm. on Intelligence), Pt. 2 (Comm. on Armed Services), Pt. 3 (Comm. on Financial Services), Pt. 4 (Comm. on Government Reform), and Pt. 5 (Comm. on the Judiciary) all accompanying H.R. 10, and 108–796 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 150 (2004):
Sept. 27–30, Oct. 1, 4–6, considered and passed Senate.
Oct. 16, considered and passed House pursuant to H. Res. 827.
Dec. 7, House agreed to conference report.
Dec. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):
Dec. 17, Presidential remarks and statement.

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