

108TH CONGRESS  
2D SESSION

# H. R. 10

[Report No. 108- ]

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2004

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

OCTOBER , 2004

Reported from the Committee on the Judiciary with an amendment

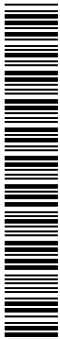
[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on September 24, 2004]

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## A BILL

To provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and



international cooperation and coordination, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

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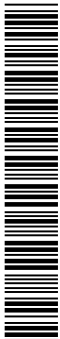
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1           **TITLE I—REFORM OF THE**  
2           **INTELLIGENCE COMMUNITY**

3   **SEC. 1001. SHORT TITLE.**

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

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

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

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

14                           *“NATIONAL INTELLIGENCE DIRECTOR*

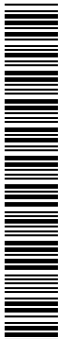
15                   *“SEC. 102. (a) NATIONAL INTELLIGENCE DIRECTOR.—*

16 *(1) There is a National Intelligence Director who shall be*  
17 *appointed by the President, by and with the advice and*  
18 *consent of the Senate.*

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

21                   *“(b) PRINCIPAL RESPONSIBILITY.—Subject to the au-*  
22 *thority, direction, and control of the President, the National*  
23 *Intelligence Director shall—*

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





1           “(D) where appropriate, to the Senate and  
2           House of Representatives and the committees thereof;  
3           and

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

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

10          “(b) ACCESS TO INTELLIGENCE.—To the extent ap-  
11          proved by the President, the National Intelligence Director  
12          shall have access to all national intelligence and intelligence  
13          related to the national security which is collected by any  
14          Federal department, agency, or other entity, except as other-  
15          wise provided by law or, as appropriate, under guidelines  
16          agreed upon by the Attorney General and the National In-  
17          telligence Director.

18          “(c) BUDGET AUTHORITIES.—(1)(A) The National In-  
19          telligence Director shall develop and present to the Presi-  
20          dent on an annual basis a budget for intelligence and intel-  
21          ligence-related activities of the United States.

22          “(B) In carrying out subparagraph (A) for any fiscal  
23          year for the components of the budget that comprise the Na-  
24          tional Intelligence Program, the National Intelligence Di-  
25          rector shall provide guidance to the heads of departments



1 *containing elements of the intelligence community, and to*  
2 *the heads of the elements of the intelligence community, for*  
3 *development of budget inputs to the National Intelligence*  
4 *Director.*

5       “(2)(A) *The National Intelligence Director shall par-*  
6 *ticipate in the development by the Secretary of Defense of*  
7 *the annual budgets for the Joint Military Intelligence Pro-*  
8 *gram and for Tactical Intelligence and Related Activities.*

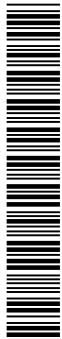
9       “(B) *The National Intelligence Director shall provide*  
10 *guidance for the development of the annual budget for each*  
11 *element of the intelligence community that is not within*  
12 *the National Intelligence Program.*

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

16       “(4) *The National Intelligence Director shall ensure*  
17 *the effective execution of the annual budget for intelligence*  
18 *and intelligence-related activities.*

19       “(5)(A) *The National Intelligence Director shall facili-*  
20 *tate the management and execution of funds appropriated*  
21 *for the National Intelligence Program.*

22       “(B) *Notwithstanding any other provision of law, in*  
23 *receiving funds pursuant to relevant appropriations Acts*  
24 *for the National Intelligence Program, the Office of Manage-*  
25 *ment and Budget shall apportion funds appropriated for*



1 *the National Intelligence Program to the National Intel-*  
2 *ligence Director for allocation to the elements of the intel-*  
3 *ligence community through the host executive departments*  
4 *that manage programs and activities that are part of the*  
5 *National Intelligence Program.*

6       “(C) *The National Intelligence Director shall monitor*  
7 *the implementation and execution of the National Intel-*  
8 *ligence Program by the heads of the elements of the intel-*  
9 *ligence community that manage programs and activities*  
10 *that are part of the National Intelligence Program, which*  
11 *may include audits and evaluations, as necessary and fea-*  
12 *sible.*

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

18       “(7)(A) *The National Intelligence Director shall pro-*  
19 *vide a quarterly report, beginning April 1, 2005, and end-*  
20 *ing April 1, 2007, to the President and the Congress regard-*  
21 *ing implementation of this section.*

22       “(B) *The National Intelligence Director shall report*  
23 *to the President and the Congress not later than 5 days*  
24 *after learning of any instance in which a departmental*  
25 *comptroller acts in a manner inconsistent with the law (in-*



1 *cluding permanent statutes, authorization Acts, and appro-*  
2 *priations Acts), or the direction of the National Intelligence*  
3 *Director, in carrying out the National Intelligence Pro-*  
4 *gram.*

5       “(d) *ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN*  
6 *REPROGRAMMING.—(1) No funds made available under the*  
7 *National Intelligence Program may be transferred or repro-*  
8 *grammed without the prior approval of the National Intel-*  
9 *ligence Director, except in accordance with procedures pre-*  
10 *scribed by the National Intelligence Director.*

11       “(2) *The Secretary of Defense shall consult with the*  
12 *National Intelligence Director before transferring or re-*  
13 *programming funds made available under the Joint Mili-*  
14 *tary Intelligence Program.*

15       “(e) *TRANSFER OF FUNDS OR PERSONNEL WITHIN*  
16 *NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to*  
17 *any other authorities available under law for such purposes,*  
18 *the National Intelligence Director, with the approval of the*  
19 *Director of the Office of Management and Budget—*

20               “(A) *may transfer funds appropriated for a pro-*  
21 *gram within the National Intelligence Program to an-*  
22 *other such program; and*

23               “(B) *in accordance with procedures to be devel-*  
24 *oped by the National Intelligence Director and the*  
25 *heads of the departments and agencies concerned, may*





1       *transfer personnel authorized for an element of the in-*  
2       *telligence community to another such element for pe-*  
3       *riods up to one year.*

4       “(2) *The amounts available for transfer in the Na-*  
5       *tional Intelligence Program in any given fiscal year, and*  
6       *the terms and conditions governing such transfers, are sub-*  
7       *ject to the provisions of annual appropriations Acts and*  
8       *this subsection.*

9       “(3)(A) *A transfer of funds or personnel may be made*  
10       *under this subsection only if—*

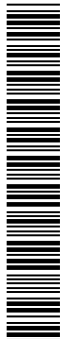
11               “(i) *the funds or personnel are being transferred*  
12               *to an activity that is a higher priority intelligence*  
13               *activity;*

14               “(ii) *the need for funds or personnel for such ac-*  
15               *tivity is based on unforeseen requirements;*

16               “(iii) *the transfer does not involve a transfer of*  
17               *funds to the Reserve for Contingencies of the Central*  
18               *Intelligence Agency;*

19               “(iv) *in the case of a transfer of funds, the trans-*  
20               *fer results in a cumulative transfer of funds out of*  
21               *any department or agency, as appropriate, funded in*  
22               *the National Intelligence Program in a single fiscal*  
23               *year—*

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



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

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

5                   “(B) A transfer may be made without regard to a limi-  
6                   tation set forth in clause (iv) or (v) of subparagraph (A)  
7                   if the transfer has the concurrence of the head of the depart-  
8                   ment or agency involved. The authority to provide such con-  
9                   currence may only be delegated by the head of the depart-  
10                  ment or agency involved to the deputy of such officer.

11                  “(4) Funds transferred under this subsection shall re-  
12                  main available for the same period as the appropriations  
13                  account to which transferred.

14                  “(5) Any transfer of funds under this subsection shall  
15                  be carried out in accordance with existing procedures appli-  
16                  cable to reprogramming notifications for the appropriate  
17                  congressional committees. Any proposed transfer for which  
18                  notice is given to the appropriate congressional committees  
19                  shall be accompanied by a report explaining the nature of  
20                  the proposed transfer and how it satisfies the requirements  
21                  of this subsection. In addition, the congressional intelligence  
22                  committees shall be promptly notified of any transfer of  
23                  funds made pursuant to this subsection in any case in  
24                  which the transfer would not have otherwise required re-



1 *programming notification under procedures in effect as of*  
2 *the date of the enactment of this subsection.*

3 “(6)(A) *The National Intelligence Director shall*  
4 *promptly submit to—*

5 “(i) *the congressional intelligence committees,*

6 “(ii) *in the case of the transfer of personnel to*  
7 *or from the Department of Defense, the Committee on*  
8 *Armed Services of the Senate and the Committee on*  
9 *Armed Services of the House of Representatives, and*

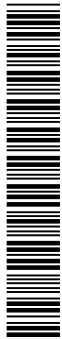
10 “(iii) *in the case of the transfer of personnel to*  
11 *or from the Department of Justice, to the Committees*  
12 *on the Judiciary of the Senate and the House of Rep-*  
13 *resentatives,*

14 *a report on any transfer of personnel made pursuant to*  
15 *this subsection.*

16 “(B) *The Director shall include in any such report an*  
17 *explanation of the nature of the transfer and how it satisfies*  
18 *the requirements of this subsection.*

19 “(f) *TASKING AND OTHER AUTHORITIES.—(1)(A) The*  
20 *National Intelligence Director shall—*

21 “(i) *develop collection objectives, priorities, and*  
22 *guidance for the intelligence community to ensure*  
23 *timely and effective collection, processing, analysis,*  
24 *and dissemination (including access by users to col-*  
25 *lected data consistent with applicable law and, as ap-*



1       *appropriate, the guidelines referred to in subsection (b)*  
2       *and analytic products generated by or within the in-*  
3       *telligence community) of national intelligence;*

4               *“(ii) determine and establish requirements and*  
5       *priorities for, and manage and direct the tasking of,*  
6       *collection, analysis, production, and dissemination of*  
7       *national intelligence by elements of the intelligence*  
8       *community, including—*

9               *“(I) approving requirements for collection*  
10       *and analysis, and*

11               *“(II) resolving conflicts in collection re-*  
12       *quirements and in the tasking of national collec-*  
13       *tion assets of the elements of the intelligence com-*  
14       *munity; and*

15               *“(iii) provide advisory tasking to intelligence*  
16       *elements of those agencies and departments not within*  
17       *the National Intelligence Program.*

18       *“(B) The authority of the National Intelligence Direc-*  
19       *tor under subparagraph (A) shall not apply—*

20               *“(i) insofar as the President so directs;*

21               *“(ii) with respect to clause (i) of subparagraph*  
22       *(A), insofar as the Secretary of Defense exercises*  
23       *tasking authority under plans or arrangements*  
24       *agreed upon by the Secretary of Defense and the Na-*  
25       *tional Intelligence Director; or*



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

6           “(2) The National Intelligence Director shall oversee  
7           the National Counterterrorism Center and may establish  
8           such other national intelligence centers as the Director de-  
9           termines necessary.

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

12                  “(i) facilitate assignments across community ele-  
13                  ments and to the intelligence centers;

14                  “(ii) establish overarching standards for intel-  
15                  ligence education and training; and

16                  “(iii) promote the most effective analysis and  
17                  collection of intelligence by ensuring a diverse work-  
18                  force, including the recruitment and training of  
19                  women, minorities, and individuals with diverse, eth-  
20                  nic, and linguistic backgrounds.

21          “(B) In developing the policies prescribed under sub-  
22          paragraph (A), the National Intelligence Director shall con-  
23          sult with the heads of the departments containing the ele-  
24          ments of the intelligence community.



1           “(C) *Policies prescribed under subparagraph (A) shall*  
2 *not be inconsistent with the personnel policies otherwise ap-*  
3 *plicable to members of the uniformed services.*

4           “(4) *The National Intelligence Director shall ensure*  
5 *compliance with the Constitution and laws of the United*  
6 *States by the Central Intelligence Agency and shall ensure*  
7 *such compliance by other elements of the intelligence com-*  
8 *munity through the host executive departments that manage*  
9 *the programs and activities that are part of the National*  
10 *Intelligence Program.*

11           “(5) *The National Intelligence Director shall ensure*  
12 *the elimination of waste and unnecessary duplication with-*  
13 *in the intelligence community.*

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

16 *Nothing in this Act shall be construed as affecting the role*  
17 *of the Department of Justice or the Attorney General with*  
18 *respect to applications under the Foreign Intelligence Sur-*  
19 *veillance Act of 1978.*

20           “(g) *INTELLIGENCE INFORMATION SHARING.—(1) The*  
21 *National Intelligence Director shall have principal author-*  
22 *ity to ensure maximum availability of and access to intel-*  
23 *ligence information within the intelligence community con-*  
24 *sistent with national security requirements. The National*  
25 *Intelligence Director shall—*



1           “(A) *establish uniform security standards and*  
2           *procedures;*

3           “(B) *establish common information technology*  
4           *standards, protocols, and interfaces;*

5           “(C) *ensure development of information tech-*  
6           *nology systems that include multi-level security and*  
7           *intelligence integration capabilities; and*

8           “(D) *establish policies and procedures to resolve*  
9           *conflicts between the need to share intelligence infor-*  
10          *mation and the need to protect intelligence sources*  
11          *and methods.*

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

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



1           “(4) Not later than February 1 of each year, the Na-  
2 tional Intelligence Director shall submit to the President  
3 and to the Congress an annual report that identifies any  
4 statute, regulation, policy, or practice that the Director be-  
5 lieves impedes the ability of the Director to fully and effec-  
6 tively implement paragraph (1).

7           “(h) ANALYSIS.—(1) The National Intelligence Direc-  
8 tor shall ensure that all elements of the intelligence commu-  
9 nity strive for the most accurate analysis of intelligence de-  
10 rived from all sources to support national security needs.

11           “(2) The National Intelligence Director shall ensure  
12 that intelligence analysis generally receives the highest pri-  
13 ority when distributing resources within the intelligence  
14 community and shall carry out duties under this subsection  
15 in a manner that—

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

17           “(B) ensures competitive analysis;

18           “(C) ensures that differences in judgment are  
19 fully considered and brought to the attention of pol-  
20 icymakers; and

21           “(D) builds relationships between intelligence  
22 collectors and analysts to facilitate greater under-  
23 standing of the needs of analysts.

24           “(i) PROTECTION OF INTELLIGENCE SOURCES AND  
25 METHODS.—(1) In order to protect intelligence sources and





1 *methods from unauthorized disclosure and, consistent with*  
2 *that protection, to maximize the dissemination of intel-*  
3 *ligence, the National Intelligence Director shall establish*  
4 *and implement guidelines for the intelligence community*  
5 *for the following purposes:*

6           “(A) *Classification of information.*

7           “(B) *Access to and dissemination of intelligence,*  
8 *both in final form and in the form when initially*  
9 *gathered.*

10           “(C) *Preparation of intelligence products in such*  
11 *a way that source information is removed to allow for*  
12 *dissemination at the lowest level of classification pos-*  
13 *sible or in unclassified form to the extent practicable.*

14           “(2) *The Director may only delegate a duty or author-*  
15 *ity given the Director under this subsection to the Deputy*  
16 *National Intelligence Director.*

17           “(j) *UNIFORM PROCEDURES FOR SENSITIVE COM-*  
18 *PARTMENTED INFORMATION.—The President, acting*  
19 *through the National Intelligence Director, shall—*

20           “(1) *establish uniform standards and procedures*  
21 *for the grant of access to sensitive compartmented in-*  
22 *formation to any officer or employee of any agency*  
23 *or department of the United States and to employees*  
24 *of contractors of those agencies or departments;*



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

4           “(3) ensure that security clearances granted by  
5 individual elements of the intelligence community are  
6 recognized by all elements of the intelligence commu-  
7 nity, and under contracts entered into by those agen-  
8 cies; and

9           “(4) ensure that the process for investigation and  
10 adjudication of an application for access to sensitive  
11 compartmented information is performed in the most  
12 expeditious manner possible consistent with applica-  
13 ble standards for national security.

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

23           “(l) ENHANCED PERSONNEL MANAGEMENT.—(1)(A)  
24 The National Intelligence Director shall, under regulations



1 *prescribed by the Director, provide incentives for personnel*  
2 *of elements of the intelligence community to serve—*

3 *“(i) on the staff of the National Intelligence Di-*  
4 *rector;*

5 *“(ii) on the staff of the national intelligence cen-*  
6 *ters;*

7 *“(iii) on the staff of the National*  
8 *Counterterrorism Center; and*

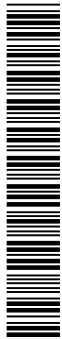
9 *“(iv) in other positions in support of the intel-*  
10 *ligence community management functions of the Di-*  
11 *rector.*

12 *“(B) Incentives under subparagraph (A) may include*  
13 *financial incentives, bonuses, and such other awards and*  
14 *incentives as the Director considers appropriate.*

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

21 *“(B) The Director may prescribe regulations to carry*  
22 *out this section.*

23 *“(3)(A) The National Intelligence Director shall pre-*  
24 *scribe mechanisms to facilitate the rotation of personnel of*  
25 *the intelligence community through various elements of the*



1 *intelligence community in the course of their careers in*  
2 *order to facilitate the widest possible understanding by such*  
3 *personnel of the variety of intelligence requirements, meth-*  
4 *ods, users, and capabilities.*

5       “(B) *The mechanisms prescribed under subparagraph*  
6 *(A) may include the following:*

7               “(i) *The establishment of special occupational*  
8 *categories involving service, over the course of a ca-*  
9 *reer, in more than one element of the intelligence com-*  
10 *munity.*

11               “(ii) *The provision of rewards for service in po-*  
12 *sitions undertaking analysis and planning of oper-*  
13 *ations involving two or more elements of the intel-*  
14 *ligence community.*

15               “(iii) *The establishment of requirements for edu-*  
16 *cation, training, service, and evaluation that involve*  
17 *service in more than one element of the intelligence*  
18 *community.*

19       “(C) *It is the sense of Congress that the mechanisms*  
20 *prescribed under this subsection should, to the extent prac-*  
21 *tical, seek to duplicate for civilian personnel within the in-*  
22 *telligence community the joint officer management policies*  
23 *established by chapter 38 of title 10, United States Code,*  
24 *and the other amendments made by title IV of the Gold-*



1 *water-Nichols Department of Defense Reorganization Act*  
2 *of 1986 (Public Law 99-433).*

3 “(4)(A) *This subsection shall not apply with respect*  
4 *to personnel of the elements of the intelligence community*  
5 *who are members of the uniformed services or law enforce-*  
6 *ment officers (as that term is defined in section 5541(3)*  
7 *of title 5, United States Code).*

8 “(B) *Assignment to the Office of the National Intel-*  
9 *ligence Director of commissioned officers of the Armed*  
10 *Forces shall be considered a joint-duty assignment for pur-*  
11 *poses of the joint officer management policies prescribed by*  
12 *chapter 38 of title 10, United States Code, and other provi-*  
13 *sions of that title.*

14 “(m) *ADDITIONAL AUTHORITY WITH RESPECT TO*  
15 *PERSONNEL.—(1) In addition to the authorities under sub-*  
16 *section (f)(3), the National Intelligence Director may exer-*  
17 *cise with respect to the personnel of the Office of the Na-*  
18 *tional Intelligence Director any authority of the Director*  
19 *of the Central Intelligence Agency with respect to the per-*  
20 *sonnel of the Central Intelligence Agency under the Central*  
21 *Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.),*  
22 *and other applicable provisions of law, as of the date of*  
23 *the enactment of this subsection to the same extent, and sub-*  
24 *ject to the same conditions and limitations, that the Direc-*  
25 *tor of the Central Intelligence Agency may exercise such au-*



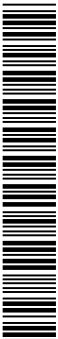
1 *thority with respect to personnel of the Central Intelligence*  
2 *Agency.*

3       “(2) *Employees and applicants for employment of the*  
4 *Office of the National Intelligence Director shall have the*  
5 *same rights and protections under the Office of the National*  
6 *Intelligence Director as employees of the Central Intel-*  
7 *ligence Agency have under the Central Intelligence Agency*  
8 *Act of 1949, and other applicable provisions of law, as of*  
9 *the date of the enactment of this subsection.*

10       “(n) *ACQUISITION AUTHORITIES.—(1) In carrying out*  
11 *the responsibilities and authorities under this section, the*  
12 *National Intelligence Director may exercise the acquisition*  
13 *authorities referred to in the Central Intelligence Agency*  
14 *Act of 1949 (50 U.S.C. 403a et seq.).*

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

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



1           “(B) *Except as provided in subparagraph (C), the Na-*  
2 *tional Intelligence Director or the Deputy National Intel-*  
3 *ligence Director may, in such official’s discretion, delegate*  
4 *to any officer or other official of the Office of the National*  
5 *Intelligence Director any authority to make a determina-*  
6 *tion or decision as the head of the agency under an author-*  
7 *ity referred to in paragraph (1).*

8           “(C) *The limitations and conditions set forth in sec-*  
9 *tion 3(d) of the Central Intelligence Agency Act of 1949 (50*  
10 *U.S.C. 403c(d)) shall apply to the exercise by the National*  
11 *Intelligence Director of an authority referred to in para-*  
12 *graph (1).*

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

21           “(o) *CONSIDERATION OF VIEWS OF ELEMENTS OF THE*  
22 *INTELLIGENCE COMMUNITY.—In carrying out the duties*  
23 *and responsibilities under this section, the National Intel-*  
24 *ligence Director shall take into account the views of a head*  
25 *of a department containing an element of the intelligence*



1 *community and of the Director of the Central Intelligence*  
2 *Agency.*

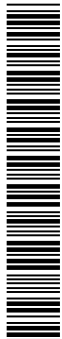
3       “OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

4       “SEC. 103. (a) *ESTABLISHMENT OF OFFICE; FUNC-*  
5 *TION.—(1) There is an Office of the National Intelligence*  
6 *Director. The Office of the National Intelligence Director*  
7 *shall not be located within the Executive Office of the Presi-*  
8 *dent.*

9       “(2) *The function of the Office is to assist the National*  
10 *Intelligence Director in carrying out the duties and respon-*  
11 *sibilities of the Director under this Act and to carry out*  
12 *such other duties as may be prescribed by the President or*  
13 *by law.*

14       “(3) *Any authority, power, or function vested by law*  
15 *in any officer, employee, or part of the Office of the Na-*  
16 *tional Intelligence Director is vested in, or may be exercised*  
17 *by, the National Intelligence Director.*

18       “(4) *Exemptions, exceptions, and exclusions for the*  
19 *Central Intelligence Agency or for personnel, resources, or*  
20 *activities of such Agency from otherwise applicable laws,*  
21 *other than the exception contained in section 104A(c)(1)*  
22 *shall apply in the same manner to the Office of the National*  
23 *Intelligence Director and the personnel, resources, or activi-*  
24 *ties of such Office.*





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

4           “(A) The National Intelligence Director.

5           “(B) The Deputy National Intelligence Director.

6           “(C) The Deputy National Intelligence Director  
7 for Operations.

8           “(D) The Deputy National Intelligence Director  
9 for Community Management and Resources.

10          “(E) The Associate National Intelligence Direc-  
11 tor for Military Support.

12          “(F) The Associate National Intelligence Director  
13 for Domestic Security.

14          “(G) The Associate National Intelligence Direc-  
15 tor for Diplomatic Affairs.

16          “(H) The National Intelligence Council.

17          “(I) The General Counsel to the National Intel-  
18 ligence Director.

19          “(J) Such other offices and officials as may be  
20 established by law or the National Intelligence Direc-  
21 tor may establish or designate in the Office.

22          “(2) To assist the National Intelligence Director in ful-  
23 filling the duties and responsibilities of the Director, the  
24 Director shall employ and utilize in the Office of the Na-  
25 tional Intelligence Director a staff having expertise in mat-



1 *ters relating to such duties and responsibilities and may*  
2 *establish permanent positions and appropriate rates of pay*  
3 *with respect to such staff.*

4       “(c) *DEPUTY NATIONAL INTELLIGENCE DIRECTOR.—*

5 *(1) There is a Deputy National Intelligence Director who*  
6 *shall be appointed by the President, by and with the advice*  
7 *and consent of the Senate.*

8       “(2) *The Deputy National Intelligence Director shall*  
9 *assist the National Intelligence Director in carrying out the*  
10 *responsibilities of the National Intelligence Director under*  
11 *this Act.*

12       “(3) *The Deputy National Intelligence Director shall*  
13 *act for, and exercise the powers of, the National Intelligence*  
14 *Director during the absence or disability of the National*  
15 *Intelligence Director or during a vacancy in the position*  
16 *of the National Intelligence Director.*

17       “(4) *The Deputy National Intelligence Director takes*  
18 *precedence in the Office of the National Intelligence Direc-*  
19 *tor immediately after the National Intelligence Director.*

20       “(d) *DEPUTY NATIONAL INTELLIGENCE DIRECTOR*

21 *FOR OPERATIONS.—(1) There is a Deputy National Intel-*  
22 *ligence Director for Operations.*

23       “(2) *The Deputy National Intelligence Director for*  
24 *Operations shall—*



1           “(A) assist the National Intelligence Director in  
2 all aspects of intelligence operations, including intel-  
3 ligence tasking, requirements, collection, and analysis;

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

6           “(C) perform such other duties and exercise such  
7 powers as National Intelligence Director may pre-  
8 scribe.

9           “(e) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR  
10 COMMUNITY MANAGEMENT AND RESOURCES.—(1) There is  
11 a Deputy National Intelligence Director for Community  
12 Management and Resources.

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

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

19           “(B) perform such other duties and exercise such  
20 powers as the National Intelligence Director may pre-  
21 scribe.

22           “(f) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR  
23 FOR MILITARY SUPPORT.—(1) There is an Associate Na-  
24 tional Intelligence Director for Military Support who shall



1 *be appointed by the National Intelligence Director, in con-*  
2 *sultation with the Secretary of Defense.*

3       “(2) *The Associate National Intelligence Director for*  
4 *Military Support shall—*

5               “(A) *ensure that the intelligence needs of the De-*  
6 *partment of Defense are met; and*

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

10       “(g) *ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR*  
11 *FOR DOMESTIC SECURITY.—(1) There is an Associate Na-*  
12 *tional Intelligence Director for Domestic Security who shall*  
13 *be appointed by the National Intelligence Director in con-*  
14 *sultation with the Attorney General and the Secretary of*  
15 *Homeland Security.*

16       “(2) *The Associate National Intelligence Director for*  
17 *Domestic Security shall—*

18               “(A) *ensure that the intelligence needs of the De-*  
19 *partment of Justice, the Department of Homeland Se-*  
20 *curity, and other relevant executive departments and*  
21 *agencies are met; and*

22               “(B) *perform such other duties and exercise such*  
23 *powers as the National Intelligence Director may pre-*  
24 *scribe, except that the National Intelligence Director*  
25 *may not make such officer responsible for dissemi-*



1        *nating any domestic or homeland security informa-*  
2        *tion to State government or local government officials*  
3        *or any private sector entity.*

4        *“(h) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR*  
5        *FOR DIPLOMATIC AFFAIRS.—(1) There is an Associate Na-*  
6        *tional Intelligence Director for Diplomatic Affairs who*  
7        *shall be appointed by the National Intelligence Director in*  
8        *consultation with the Secretary of State.*

9        *“(2) The Associate National Intelligence Director for*  
10       *Diplomatic Affairs shall—*

11                *“(A) ensure that the intelligence needs of the De-*  
12                *partment of State are met; and*

13                *“(B) perform such other duties and exercise such*  
14                *powers as the National Intelligence Director may pre-*  
15                *scribe.*

16        *“(i) MILITARY STATUS OF DIRECTOR AND DEPUTY DI-*  
17        *RECTORS.—(1) Not more than one of the individuals serv-*  
18        *ing in the positions specified in paragraph (2) may be a*  
19        *commissioned officer of the Armed Forces in active status.*

20        *“(2) The positions referred to in this paragraph are*  
21        *the following:*

22                *“(A) The National Intelligence Director.*

23                *“(B) The Deputy National Intelligence Director.*



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

4             “(A) *be a commissioned officer of the Armed*  
5 *Forces, in active status; or*

6             “(B) *have, by training or experience, an appre-*  
7 *ciation of military intelligence activities and require-*  
8 *ments.*

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

11            “(A) *shall not be subject to supervision or control*  
12 *by the Secretary of Defense or by any officer or em-*  
13 *ployee of the Department of Defense;*

14            “(B) *shall not exercise, by reason of the officer’s*  
15 *status as a commissioned officer, any supervision or*  
16 *control with respect to any of the military or civilian*  
17 *personnel of the Department of Defense except as oth-*  
18 *erwise authorized by law; and*

19            “(C) *shall not be counted against the numbers*  
20 *and percentages of commissioned officers of the rank*  
21 *and grade of such officer authorized for the military*  
22 *department of that officer.*

23       “(5) *Except as provided in subparagraph (A) or (B)*  
24 *of paragraph (4), the appointment of an officer of the*  
25 *Armed Forces to a position specified in paragraph (2) shall*



1 *not affect the status, position, rank, or grade of such officer*  
2 *in the Armed Forces, or any emolument, perquisite, right,*  
3 *privilege, or benefit incident to or arising out of such status,*  
4 *position, rank, or grade.*

5       “(6) *A commissioned officer of the Armed Forces on*  
6 *active duty who is appointed to a position specified in*  
7 *paragraph (2), while serving in such position and while*  
8 *remaining on active duty, shall continue to receive military*  
9 *pay and allowances and shall not receive the pay prescribed*  
10 *for such position. Funds from which such pay and allow-*  
11 *ances are paid shall be reimbursed from funds available to*  
12 *the National Intelligence Director.*

13       “(j) *NATIONAL INTELLIGENCE COUNCIL.—(1) Within*  
14 *the Office of the Deputy National Intelligence Director for*  
15 *Operations, there is a National Intelligence Council.*

16       “(2)(A) *The National Intelligence Council shall be*  
17 *composed of senior analysts within the intelligence commu-*  
18 *nity and substantive experts from the public and private*  
19 *sector, who shall be appointed by and report to the Deputy*  
20 *National Intelligence Director for Operations.*

21       “(B) *The Director shall prescribe appropriate security*  
22 *requirements for personnel appointed from the private sec-*  
23 *tor as a condition of service on the Council, or as contrac-*  
24 *tors of the Council or employees of such contractors, to en-*  
25 *sure the protection of intelligence sources and methods while*



1 *avoiding, wherever possible, unduly intrusive requirements*  
2 *which the Director considers to be unnecessary for this pur-*  
3 *pose.*

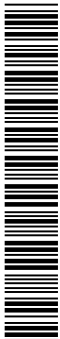
4 *“(3) The National Intelligence Council shall—*

5 *“(A) produce national intelligence estimates for*  
6 *the United States Government, which shall include as*  
7 *a part of such estimates in their entirety, alternative*  
8 *views, if any, held by elements of the intelligence com-*  
9 *munity;*

10 *“(B) evaluate community-wide collection and*  
11 *production of intelligence by the intelligence commu-*  
12 *nity and the requirements and resources of such col-*  
13 *lection and production; and*

14 *“(C) otherwise assist the National Intelligence*  
15 *Director in carrying out the responsibility of the Na-*  
16 *tional Intelligence Director to provide national intel-*  
17 *ligence.*

18 *“(4) Within their respective areas of expertise and*  
19 *under the direction of the Deputy National Intelligence Di-*  
20 *rector for Operations, the members of the National Intel-*  
21 *ligence Council shall constitute the senior intelligence advis-*  
22 *ers of the intelligence community for purposes of rep-*  
23 *resenting the views of the intelligence community within the*  
24 *United States Government.*





1           “(5) *Subject to the direction and control of the Deputy*  
2 *National Intelligence Director for Operations, the National*  
3 *Intelligence Council may carry out its responsibilities*  
4 *under this section by contract, including contracts for sub-*  
5 *stantive experts necessary to assist the Council with par-*  
6 *ticular assessments under this subsection.*

7           “(6) *The Deputy National Intelligence Director for*  
8 *Operations shall make available to the National Intelligence*  
9 *Council such personnel as may be necessary to permit the*  
10 *Council to carry out its responsibilities under this section.*

11           “(7) *The heads of the elements of the intelligence com-*  
12 *munity shall, as appropriate, furnish such support to the*  
13 *National Intelligence Council, including the preparation of*  
14 *intelligence analyses, as may be required by the National*  
15 *Intelligence Director.*

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

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

23           “(3) *The General Counsel to the National Intelligence*  
24 *Director is the chief legal officer for the National Intel-*  
25 *ligence Director.*



1           “(4) *The General Counsel to the National Intelligence*  
2 *Director shall perform such functions as the National Intel-*  
3 *ligence Director may prescribe.*

4           “(1) *INTELLIGENCE COMMUNITY INFORMATION TECH-*  
5 *NOLOGY OFFICER.—(1) There is an Intelligence Commu-*  
6 *nity Information Technology Officer who shall be appointed*  
7 *by the National Intelligence Director.*

8           “(2) *The mission of the Intelligence Community Infor-*  
9 *mation Technology Officer is to assist the National Intel-*  
10 *ligence Director in ensuring the sharing of information in*  
11 *the fullest and most prompt manner between and among*  
12 *elements of the intelligence community consistent with sec-*  
13 *tion 102A(g).*

14           “(3) *The Intelligence Community Information Tech-*  
15 *nology Officer shall—*

16                   “(A) *assist the Deputy National Intelligence Di-*  
17 *rector for Community Management and Resources in*  
18 *developing and implementing an integrated informa-*  
19 *tion technology network;*

20                   “(B) *develop an enterprise architecture for the*  
21 *intelligence community and assist the Deputy Na-*  
22 *tional Intelligence Director for Community Manage-*  
23 *ment and Resources in ensuring that elements of the*  
24 *intelligence community comply with such architec-*  
25 *ture;*



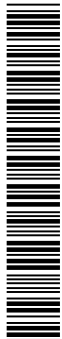
1           “(C) have procurement approval authority over  
2 all enterprise architecture-related information tech-  
3 nology items funded in the National Intelligence Pro-  
4 gram;

5           “(D) ensure that all such elements have the most  
6 direct and continuous electronic access to all informa-  
7 tion (including unevaluated intelligence consistent  
8 with existing laws and the guidelines referred to in  
9 section 102A(b)) necessary for appropriately cleared  
10 analysts to conduct comprehensive all-source analysis  
11 and for appropriately cleared policymakers to per-  
12 form their duties—

13           “(i) directly, in the case of the elements of  
14 the intelligence community within the National  
15 Intelligence Program, and

16           “(ii) in conjunction with the Secretary of  
17 Defense and other applicable heads of depart-  
18 ments with intelligence elements outside the Na-  
19 tional Intelligence Program;

20           “(E) review and provide recommendations to the  
21 Deputy National Intelligence Director for Community  
22 Management and Resources on National Intelligence  
23 Program budget requests for information technology  
24 and national security systems;



1           “(F) assist the Deputy National Intelligence Di-  
2           rector for Community Management and Resources in  
3           promulgating and enforcing standards on informa-  
4           tion technology and national security systems that  
5           apply throughout the elements of the intelligence com-  
6           munity;

7           “(G) ensure that within and between the ele-  
8           ments of the National Intelligence Program, duplica-  
9           tive and unnecessary information technology and na-  
10          tional security systems are eliminated; and

11          “(H) pursuant to the direction of the National  
12          Intelligence Director, consult with the Director of the  
13          Office of Management and Budget to ensure that the  
14          Office of the National Intelligence Director coordi-  
15          nates and complies with national security require-  
16          ments consistent with applicable law, Executive or-  
17          ders, and guidance; and

18          “(I) perform such other duties with respect to the  
19          information systems and information technology of  
20          the Office of the National Intelligence Director as  
21          may be prescribed by the Deputy National Intel-  
22          ligence Director for Community Management and Re-  
23          sources or specified by law.

24                   “CENTRAL INTELLIGENCE AGENCY

25           “SEC. 104. (a) CENTRAL INTELLIGENCE AGENCY.—

26   *There is a Central Intelligence Agency.*



1           “(b) *FUNCTION.*—*The function of the Central Intel-*  
2 *ligence Agency is to assist the Director of the Central Intel-*  
3 *ligence Agency in carrying out the responsibilities specified*  
4 *in section 104A(c).*

5           “*DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY*

6           “*SEC. 104A. (a) DIRECTOR OF CENTRAL INTEL-*  
7 *LIGENCE AGENCY.*—*There is a Director of the Central Intel-*  
8 *ligence Agency who shall be appointed by the President, by*  
9 *and with the advice and consent of the Senate. The Director*  
10 *shall be under the authority, direction, and control of the*  
11 *National Intelligence Director, except as otherwise deter-*  
12 *mined by the President.*

13           “(b) *DUTIES.*—*In the capacity as Director of the Cen-*  
14 *tral Intelligence Agency, the Director of the Central Intel-*  
15 *ligence Agency shall—*

16                   “(1) *carry out the responsibilities specified in*  
17 *subsection (c); and*

18                   “(2) *serve as the head of the Central Intelligence*  
19 *Agency.*

20           “(c) *RESPONSIBILITIES.*—*The Director of the Central*  
21 *Intelligence Agency shall—*

22                   “(1) *collect intelligence through human sources*  
23 *and by other appropriate means, except that the Di-*  
24 *rector of the Central Intelligence Agency shall have no*  
25 *police, subpoena, or law enforcement powers or inter-*  
26 *nal security functions;*



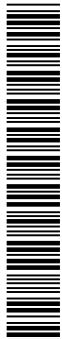
1           “(2) provide overall direction for the collection of  
2           national intelligence overseas or outside of the United  
3           States through human sources by elements of the in-  
4           telligence community authorized to undertake such  
5           collection and, in coordination with other agencies of  
6           the Government which are authorized to undertake  
7           such collection, ensure that the most effective use is  
8           made of resources and that the risks to the United  
9           States and those involved in such collection are mini-  
10          mized;

11           “(3) correlate and evaluate intelligence related to  
12          the national security and provide appropriate dis-  
13          semination of such intelligence;

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

19           “(5) perform such other functions and duties re-  
20          lated to intelligence affecting the national security as  
21          the President or the National Intelligence Director  
22          may direct.

23           “(d) DEPUTY DIRECTOR OF THE CENTRAL INTEL-  
24          LIGENCE AGENCY.—There is a Deputy Director of the Cen-  
25          tral Intelligence Agency who shall be appointed by the

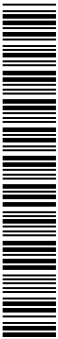


1 *President. The Deputy Director shall perform such func-*  
2 *tions as the Director may prescribe and shall perform the*  
3 *duties of the Director during the Director's absence or dis-*  
4 *ability or during a vacancy in the position of the Director*  
5 *of the Central Intelligence Agency.*

6       “(e) *TERMINATION OF EMPLOYMENT OF CIA EMPLOY-*  
7 *EES.—(1) Notwithstanding the provisions of any other law,*  
8 *the Director of the Central Intelligence Agency may, in the*  
9 *discretion of the Director, terminate the employment of any*  
10 *officer or employee of the Central Intelligence Agency when-*  
11 *ever the Director considers the termination of employment*  
12 *of such officer or employee necessary or advisable in the*  
13 *interests of the United States.*

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

20       “(b) *FIRST DIRECTOR.—(1) When the Senate receives*  
21 *the nomination of a person for the initial appointment by*  
22 *the President for the position of National Intelligence Direc-*  
23 *tor, it shall consider and dispose of such nomination within*  
24 *a period of 30 legislative days.*



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

3                   (A) *Senate confirmation is not required; and*

4                   (B) *the appointment of such nominee as Na-*  
5 *tional Intelligence Director takes effect upon adminis-*  
6 *tration of the oath of office.*

7           (3) *For the purposes of this subsection, the term “legis-*  
8 *lative day” means a day on which the Senate is in session.*

9 **SEC. 1012. REVISED DEFINITION OF NATIONAL INTEL-**  
10 **LIGENCE.**

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

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

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

21                           “(B) *that involves—*

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

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





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

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

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

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

24                           (A) *information exchange between senior of-*  
25 *ficials of the Central Intelligence Agency and*

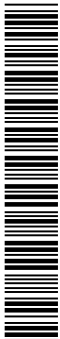


1           *senior officers and officials of the Department of*  
2           *Defense when planning for such an operation*  
3           *commences by either organization; and*

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

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

18          *(b) IMPLEMENTATION REPORT.—Not later than 180*  
19          *days after the date of the enactment of the Act, the National*  
20          *Intelligence Director shall submit to the congressional de-*  
21          *fense committees (as defined in section 101 of title 10,*  
22          *United States Code) and the congressional intelligence com-*  
23          *mittees (as defined in section 3(7) of the National Security*  
24          *Act of 1947 (50 U.S.C. 401a(7))) a report describing the*



1 *procedures established pursuant to subsection (a) and the*  
2 *status of the implementation of those procedures.*

3 **SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN**  
4 **APPOINTMENT OF CERTAIN OFFICIALS RE-**  
5 **SPONSIBLE FOR INTELLIGENCE-RELATED AC-**  
6 **TIVITIES.**

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

10 *“(a) RECOMMENDATION OF NID IN CERTAIN APPOINT-*  
11 *MENTS.—(1) In the event of a vacancy in a position re-*  
12 *ferred to in paragraph (2), the National Intelligence Direc-*  
13 *tor shall recommend to the President an individual for*  
14 *nomination to fill the vacancy.*

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

16 *“(A) The Deputy National Intelligence Director.*

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

19 *“(b) CONCURRENCE OF NID IN APPOINTMENTS TO PO-*  
20 *SITIONS IN THE INTELLIGENCE COMMUNITY.—(1) In the*  
21 *event of a vacancy in a position referred to in paragraph*  
22 *(2), the head of the department or agency having jurisdic-*  
23 *tion over the position shall obtain the concurrence of the*  
24 *National Intelligence Director before appointing an indi-*  
25 *vidual to fill the vacancy or recommending to the President*



1 *an individual to be nominated to fill the vacancy. If the*  
2 *Director does not concur in the recommendation, the head*  
3 *of the department or agency concerned may not fill the va-*  
4 *cancy or make the recommendation to the President (as the*  
5 *case may be).*

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

7 “(A) *The Director of the National Security Agen-*  
8 *cy.*

9 “(B) *The Director of the National Reconnois-*  
10 *sance Office.*

11 “(C) *The Director of the National Geospatial-In-*  
12 *telligence Agency.*

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

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

22 “(A) *The Director of the Defense Intelligence*  
23 *Agency.*

24 “(B) *The Assistant Secretary of State for Intel-*  
25 *ligence and Research.*



1           “(C) *The Director of the Office of Intelligence of*  
2           *the Department of Energy.*

3           “(D) *The Director of the Office of Counterintel-*  
4           *ligence of the Department of Energy.*

5           “(E) *The Assistant Secretary for Intelligence and*  
6           *Analysis of the Department of the Treasury.*

7           “(F) *The Executive Assistant Director for Intel-*  
8           *ligence of the Federal Bureau of Investigation or that*  
9           *officer’s successor.*

10           “(G) *The Under Secretary of Homeland Security*  
11           *for Information Analysis and Infrastructure Protec-*  
12           *tion.*

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

15   **SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL INTEL-**  
16                                    **LIGENCE DIRECTOR.**

17           (a) *INITIAL APPOINTMENT OF THE NATIONAL INTEL-*  
18           *LIGENCE DIRECTOR.—Notwithstanding section 102(a)(1) of*  
19           *the National Security Act of 1947, as added by section*  
20           *1011(a), the individual serving as the Director of Central*  
21           *Intelligence on the date immediately preceding the date of*  
22           *the enactment of this Act may, at the discretion of the Presi-*  
23           *dent, become the National Intelligence Director as of the*  
24           *date of the enactment of this Act.*



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

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

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

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



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

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

5 “National Intelligence Director.”.

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

9 “Deputy National Intelligence Director.

10 “Director of the National Counterterrorism Cen-  
11 ter.”.

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

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

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

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

23 “NATIONAL COUNTERTERRORISM CENTER

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



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

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

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

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

14                   “(3) *the conduct of intelligence operations imple-*  
15 *mented by other elements of the intelligence commu-*  
16 *nity; and*

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

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

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





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

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

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

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

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



1 *exclusively to domestic counterterrorism from any Federal,*  
2 *State, or local government or other source necessary to ful-*  
3 *fill its responsibilities and retain and disseminate such in-*  
4 *telligence.*

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

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

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

16 “(2) *provide strategic guidance and plans for the*  
17 *civilian and military counterterrorism efforts of the*  
18 *United States Government and for the effective inte-*  
19 *gration of counterterrorism intelligence and oper-*  
20 *ations across agency boundaries, both inside and out-*  
21 *side the United States;*

22 “(3) *advise the National Intelligence Director on*  
23 *the extent to which the counterterrorism program rec-*  
24 *ommendations and budget proposals of the depart-*  
25 *ments, agencies, and elements of the United States*



1        *Government conform to the priorities established by*  
2        *the President;*

3            *“(4) disseminate terrorism information, includ-*  
4        *ing current terrorism threat analysis, to the Presi-*  
5        *dent, the Vice President, the Secretaries of State, De-*  
6        *fense, and Homeland Security, the Attorney General,*  
7        *the Director of the Central Intelligence Agency, and*  
8        *other officials of the executive branch as appropriate,*  
9        *and to the appropriate committees of Congress;*

10           *“(5) support the Department of Justice and the*  
11        *Department of Homeland Security, and other appro-*  
12        *priate agencies, in fulfillment of their responsibilities*  
13        *to disseminate terrorism information, consistent with*  
14        *applicable law, guidelines referred to in section*  
15        *102A(b), Executive Orders and other Presidential*  
16        *guidance, to State and local government officials, and*  
17        *other entities, and coordinate dissemination of ter-*  
18        *rorism information to foreign governments as ap-*  
19        *proved by the National Intelligence Director;*

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



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

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

7           “(h) *RESOLUTION OF DISPUTES.—The National Intel-*  
8           *ligence Director shall resolve disagreements between the Na-*  
9           *tional Counterterrorism Center and the head of a depart-*  
10          *ment, agency, or element of the United States Government*  
11          *on designations, assignments, plans, or responsibilities. The*  
12          *head of such a department, agency, or element may appeal*  
13          *the resolution of the disagreement by the National Intel-*  
14          *ligence Director to the President.*

15          “(i) *DIRECTORATE OF INTELLIGENCE.—The Director*  
16          *of the National Counterterrorism Center shall establish and*  
17          *maintain within the National Counterterrorism Center a*  
18          *Directorate of Intelligence which shall have primary re-*  
19          *sponsibility within the United States Government for anal-*  
20          *ysis of terrorism and terrorist organizations (except for*  
21          *purely domestic terrorism and domestic terrorist organiza-*  
22          *tions) from all sources of intelligence, whether collected in-*  
23          *side or outside the United States.*

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



1 *tablish and maintain within the National Counterterrorism*  
2 *Center a Directorate of Strategic Planning which shall pro-*  
3 *vide strategic guidance and plans for counterterrorism op-*  
4 *erations conducted by the United States Government.”.*

5 (b) *CLERICAL AMENDMENT.*—*The table of sections for*  
6 *the National Security Act of 1947 is amended by inserting*  
7 *after the item relating to section 118 the following new item:*  
8 *“Sec. 119. National Counterterrorism Center.”.*

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

9 (a) *CIVIL LIBERTIES PROTECTION OFFICER.*—(1)  
10 *Within the Office of the National Intelligence Director, there*  
11 *is a Civil Liberties Protection Officer who shall be ap-*  
12 *pointed by the National Intelligence Director.*

13 (2) *The Civil Liberties Protection Officer shall report*  
14 *directly to the National Intelligence Director.*

15 (b) *DUTIES.*—*The Civil Liberties Protection Officer*  
16 *shall—*

17 (1) *ensure that the protection of civil liberties*  
18 *and privacy is appropriately incorporated in the*  
19 *policies and procedures developed for and imple-*  
20 *mented by the Office of the National Intelligence Di-*  
21 *rector and the elements of the intelligence community*  
22 *within the National Intelligence Program;*

23 (2) *oversee compliance by the Office and the Na-*  
24 *tional Intelligence Director with requirements under*  
25 *the Constitution and all laws, regulations, Executive*



1        *orders, and implementing guidelines relating to civil*  
2        *liberties and privacy;*

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

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

12           *(5) ensure that personal information contained*  
13       *in a system of records subject to section 552a of title*  
14       *5, United States Code (popularly referred to as the*  
15       *'Privacy Act'), is handled in full compliance with fair*  
16       *information practices as set out in that section;*

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

19           *(7) perform such other duties as may be pre-*  
20       *scribed by the National Intelligence Director or speci-*  
21       *fied by law.*

22        *(c) USE OF AGENCY INSPECTORS GENERAL.—When*  
23       *appropriate, the Civil Liberties Protection Officer may refer*  
24       *complaints to the Office of Inspector General having respon-*  
25       *sibility for the affected element of the department or agency*



1 *of the intelligence community to conduct an investigation*  
2 *under paragraph (3) of subsection (b).*

3           ***Subtitle C—Joint Intelligence***  
4                           ***Community Council***

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

6           (a) *ESTABLISHMENT.*—(1) *There is hereby established*  
7 *a Joint Intelligence Community Council.*

8           (b) *FUNCTIONS.*—(1) *The Joint Intelligence Commu-*  
9 *nity Council shall provide advice to the National Intel-*  
10 *ligence Director as appropriate.*

11           (2) *The National Intelligence Director shall consult*  
12 *with the Joint Intelligence Community Council in devel-*  
13 *oping guidance for the development of the annual National*  
14 *Intelligence Program budget.*

15           (c) *MEMBERSHIP.*—*The Joint Intelligence Community*  
16 *Council shall consist of the following:*

17                   (1) *The National Intelligence Director, who shall*  
18 *chair the Council.*

19                   (2) *The Secretary of State.*

20                   (3) *The Secretary of the Treasury.*

21                   (4) *The Secretary of Defense.*

22                   (5) *The Attorney General.*

23                   (6) *The Secretary of Energy.*

24                   (7) *The Secretary of Homeland Security.*



1           (8) *Such other officials of the executive branch as*  
2           *the President may designate.*

3           ***Subtitle D—Improvement of Human***  
4           ***Intelligence (HUMINT)***

5           ***SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY***  
6                           ***CRITICAL COMPONENT OF THE INTEL-***  
7                           ***LIGENCE COMMUNITY.***

8           *It is a sense of Congress that—*

9                   (1) *the human intelligence officers of the intel-*  
10                  *ligence community have performed admirably and*  
11                  *honorably in the face of great personal dangers;*

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

17                  (3) *human intelligence is becoming an increas-*  
18                  *ingly important capability to provide information on*  
19                  *the asymmetric threats to the national security of the*  
20                  *United States;*

21                  (4) *the continued development and improvement*  
22                  *of a robust and empowered and flexible human intel-*  
23                  *ligence work force is critical to identifying, under-*  
24                  *standing, and countering the plans and intentions of*  
25                  *the adversaries of the United States; and*





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

6 **SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CA-**  
7   **PACITY.**

8           *Not later than 6 months after the date of the enactment*  
9           *of this Act, the National Intelligence Director shall submit*  
10          *to Congress a report on existing human intelligence*  
11          *(HUMINT) capacity which shall include a plan to imple-*  
12          *ment changes, as necessary, to accelerate improvements to,*  
13          *and increase the capacity of, HUMINT across the intel-*  
14          *ligence community.*

15 **Subtitle E—Improvement of Edu-**  
16   **cation for the Intelligence Com-**  
17   **munity**

18 **SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-**  
19   **QUIREMENTS UNDER NATIONAL SECURITY**  
20   **EDUCATION PROGRAM.**

21           *(a) IN GENERAL.—(1) Subsection (b)(2) of section 802*  
22           *of the David L. Boren National Security Education Act of*  
23           *1991 (50 U.S.C. 1902) is amended to read as follows:*

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



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

3           “(j) *REQUIREMENTS FOR OBLIGATED SERVICE IN THE*  
4 *GOVERNMENT.—(1) Each recipient of a scholarship or a fel-*  
5 *lowship under the program shall work in a specified na-*  
6 *tional security position. In this subsection, the term ‘speci-*  
7 *fied national security position’ means a position of a de-*  
8 *partment or agency of the United States that the Secretary*  
9 *certifies is appropriate to use the unique language and re-*  
10 *gion expertise acquired by the recipient pursuant to the*  
11 *study for which scholarship or fellowship assistance (as the*  
12 *case may be) was provided under the program.*

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

19           “(3) *Each such recipient shall work in a specified na-*  
20 *tional security position for a period specified by the Sec-*  
21 *retary, which period shall include—*

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



1           “(B) *in the case of a recipient of a fellowship,*  
2           *not less than one nor more than three years for each*  
3           *year, or portion thereof, for which such fellowship as-*  
4           *stance was provided.*

5           “(4) *Recipients shall seek specified national security*  
6           *positions as follows:*

7           “(A) *In the Department of Defense or in any ele-*  
8           *ment of the intelligence community.*

9           “(B) *In the Department of State or in the De-*  
10           *partment of Homeland Security, if the recipient dem-*  
11           *onstrates to the Secretary that no position is available*  
12           *in the Department of Defense or in any element of the*  
13           *intelligence community.*

14           “(C) *In any other Federal department or agency*  
15           *not referred to in subparagraphs (A) and (B), if the*  
16           *recipient demonstrates to the Secretary that no posi-*  
17           *tion is available in a Federal department or agency*  
18           *specified in such paragraphs.”.*

19           “(b) *REGULATIONS.—The Secretary of Defense shall*  
20           *prescribe regulations to carry out subsection (j) of section*  
21           *802 of the David L. Boren National Security Education*  
22           *Act of 1991, as added by subsection (a). In prescribing such*  
23           *regulations, the Secretary shall establish standards that re-*  
24           *cipients of scholarship and fellowship assistance under the*  
25           *program under section 802 of the David L. Boren National*



1 *Security Education Act of 1991 are required to demonstrate*  
2 *in order to satisfy the requirement of a good faith effort*  
3 *to gain employment as required under such subsection.*

4 (c) *APPLICABILITY.—(1) The amendments made by*  
5 *subsection (a) shall apply with respect to service agreements*  
6 *entered into under the David L. Boren National Security*  
7 *Education Act of 1991 on or after the date of the enactment*  
8 *of this Act.*

9 (2) *The amendments made by subsection (a) shall not*  
10 *affect the force, validity, or terms of any service agreement*  
11 *entered into under the David L. Boren National Security*  
12 *Education Act of 1991 before the date of the enactment of*  
13 *this Act that is in force as of that date.*

14 **SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP**  
15 **LANGUAGE INITIATIVE.**

16 (a) *INCREASE IN ANNUAL AUTHORIZATION OF APPRO-*  
17 *PRIATIONS.—(1) Title VIII of the Intelligence Authorization*  
18 *Act for Fiscal Year 1992 (Public Law 102–183; 105 Stat.*  
19 *1271), as amended by section 311(c) of the Intelligence Au-*  
20 *thorization Act for Fiscal Year 1994 (Public Law 103–178;*  
21 *107 Stat. 2037) and by section 333(b) of the Intelligence*  
22 *Authorization Act for Fiscal Year 2003 (Public Law 107–*  
23 *306; 116 Stat. 2397), is amended in subsection (a) of sec-*  
24 *tion 811 by striking “there is authorized to be appropriated*  
25 *to the Secretary for each fiscal year, beginning with fiscal*



1 *year 2003, \$10,000,000,” and inserting “there is authorized*  
2 *to be appropriated to the Secretary for each of fiscal years*  
3 *2003 and 2004, \$10,000,000, and for fiscal year 2005 and*  
4 *each subsequent fiscal year, \$12,000,000.”.*

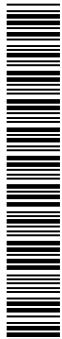
5 *(2) Subsection (b) of such section is amended by insert-*  
6 *ing “for fiscal years 2003 and 2004 only” after “authoriza-*  
7 *tion of appropriations under subsection (a)”.*

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

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

18 *“(B) In the case of an employee of an agency or de-*  
19 *partment of the Federal Government that participates in*  
20 *training in programs under paragraph (1), the employee*  
21 *shall agree in writing—*

22 *“(i) to continue in the service of the agency or*  
23 *department of the Federal Government employing the*  
24 *employee for the period of such training;*



1           “(ii) to continue in the service of such agency or  
2           department employing the employee following comple-  
3           tion of such training for a period of two years for  
4           each year, or part of the year, of such training;

5           “(iii) to reimburse the United States for the total  
6           cost of such training (excluding the employee’s pay  
7           and allowances) provided to the employee if, before  
8           the completion by the employee of the training, the  
9           employment of the employee by the agency or depart-  
10          ment is terminated due to misconduct by the em-  
11          ployee or by the employee voluntarily; and

12          “(iv) to reimburse the United States if, after  
13          completing such training, the employment of the em-  
14          ployee by the agency or department is terminated ei-  
15          ther by the agency or department due to misconduct  
16          by the employee or by the employee voluntarily, before  
17          the completion by the employee of the period of service  
18          required in clause (ii), in an amount that bears the  
19          same ratio to the total cost of the training (excluding  
20          the employee’s pay and allowances) provided to the  
21          employee as the unserved portion of such period of  
22          service bears to the total period of service under clause  
23          (ii).

24          “(C) Subject to subparagraph (D), the obligation to re-  
25          imburse the United States under an agreement under sub-



1 *paragraph (A) is for all purposes a debt owing the United*  
2 *States.*

3       “(D) *The head of an element of the intelligence commu-*  
4 *nity may release an employee, in whole or in part, from*  
5 *the obligation to reimburse the United States under an*  
6 *agreement under subparagraph (A) when, in the discretion*  
7 *of the head of the element, the head of the element determines*  
8 *that equity or the interests of the United States so require.”.*

9       (2) *The amendment made by paragraph (1) shall*  
10 *apply to training that begins on or after the date that is*  
11 *90 days after the date of the enactment of this Act.*

12       (c) *INCREASE IN THE NUMBER OF PARTICIPATING*  
13 *EDUCATIONAL INSTITUTIONS.—The Secretary of Defense*  
14 *shall take such steps as the Secretary determines will in-*  
15 *crease the number of qualified educational institutions that*  
16 *receive grants under the National Flagship Language Ini-*  
17 *tiative to establish, operate, or improve activities designed*  
18 *to train students in programs in a range of disciplines to*  
19 *achieve advanced levels of proficiency in those foreign lan-*  
20 *guages that the Secretary identifies as being the most crit-*  
21 *ical in the interests of the national security of the United*  
22 *States.*

23       (d) *CLARIFICATION OF AUTHORITY TO SUPPORT*  
24 *STUDIES ABROAD.—Educational institutions that receive*  
25 *grants under the National Flagship Language Initiative*



1 *may support students who pursue total immersion foreign*  
2 *language studies overseas of foreign languages that are crit-*  
3 *ical to the national security of the United States.*

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

9 *(a) SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE*  
10 *STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE*  
11 *UNITED STATES.—(1) Subsection (a)(1) of section 802 of*  
12 *the David L. Boren National Security Education Act of*  
13 *1991 (50 U.S.C. 1902) is amended—*

14 *(A) by striking “and” at the end of subpara-*  
15 *graph (C);*

16 *(B) by striking the period at the end of subpara-*  
17 *graph (D) and inserting “; and”; and*

18 *(C) by adding at the end the following new sub-*  
19 *paragraph:*

20 *“(E) awarding scholarships to students*  
21 *who—*

22 *“(i) are United States citizens who—*

23 *“(I) are native speakers (com-*  
24 *monly referred to as heritage commu-*  
25 *nity residents) of a foreign language*





1                   *that is identified as critical to the na-*  
2                   *tional security interests of the United*  
3                   *States who should be actively recruited*  
4                   *for employment by Federal security*  
5                   *agencies with a need for linguists; and*

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

13                  *to enable such students to pursue English*  
14                  *language studies at an institution of higher*  
15                  *education of the United States to attain*  
16                  *proficiency in those skills; and*

17                  *“(ii) enter into an agreement to work*  
18                  *in a national security position or work in*  
19                  *the field of education in the area of study*  
20                  *for which the scholarship was awarded in a*  
21                  *similar manner (as determined by the Sec-*  
22                  *retary) as agreements entered into pursuant*  
23                  *to subsection (b)(2)(A).”.*

24                  *(2) The matter following subsection (a)(2) of such sec-*  
25                  *tion is amended—*





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

4 (a) *SENSE OF CONGRESS.*—*It is the sense of Congress*  
5 *that there should be within the Office of the National Intel-*  
6 *ligence Director a senior official responsible to assist the*  
7 *National Intelligence Director in carrying out the Direc-*  
8 *tor's responsibilities for establishing policies and procedure*  
9 *for foreign language education and training of the intel-*  
10 *ligence community. The duties of such official should in-*  
11 *clude the following:*

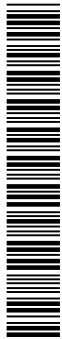
12 (1) *Overseeing and coordinating requirements for*  
13 *foreign language education and training of the intel-*  
14 *ligence community.*

15 (2) *Establishing policy, standards, and priorities*  
16 *relating to such requirements.*

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

20 (4) *Monitoring the allocation of resources for for-*  
21 *oreign language education and training in order to en-*  
22 *sure the requirements of the intelligence community*  
23 *with respect to foreign language proficiency are met.*

24 (b) *REPORTS.*—*Not later than one year after the date*  
25 *of the enactment of this Act, the National Intelligence Direc-*  
26 *tor shall submit to Congress the following reports:*



1           (1) *A report that identifies—*

2                   (A) *skills and processes involved in learning*  
3           *a foreign language; and*

4                   (B) *characteristics and teaching techniques*  
5           *that are most effective in teaching foreign lan-*  
6           *guages.*

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

11           (B) *For purposes of subparagraph (A), the term*  
12          *“foreign language heritage community” means a com-*  
13          *munity of residents or citizens of the United States—*

14                   (i) *who are native speakers of, or who have*  
15          *fluency in, a foreign language; and*

16                   (ii) *who should be actively recruited for em-*  
17          *ployment by Federal security agencies with a*  
18          *need for linguists.*

19          (3) *A report on—*

20                   (A) *the estimated cost of establishing a pro-*  
21          *gram under which the heads of elements of the*  
22          *intelligence community agree to repay employees*  
23          *of the intelligence community for any student*  
24          *loan taken out by that employee for the study of*



1           *foreign languages critical for the national secu-*  
2           *rity of the United States; and*

3                   *(B) the effectiveness of such a program in*  
4           *recruiting and retaining highly qualified per-*  
5           *sonnel in the intelligence community.*

6   **SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRIT-**  
7                   **ICAL TO THE INTELLIGENCE COMMUNITY.**

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

10                   *(1) by inserting before section 1001 (50 U.S.C.*  
11           *441g) the following:*

12                           **“Subtitle A—Science and**  
13                                   **Technology”;**

14           *and*

15                   *(2) by adding at the end the following new sub-*  
16           *titles:*

17                           **“Subtitle B—Foreign Languages**  
18                                   **Program**

19           *“PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES*  
20                   *CRITICAL TO THE INTELLIGENCE COMMUNITY*

21                   *“SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—The*  
22   *Secretary of Defense and the National Intelligence Director*  
23   *may jointly establish a program to advance foreign lan-*  
24   *guages skills in languages that are critical to the capability*  
25   *of the intelligence community to carry out national security*



1 *activities of the United States (hereinafter in this subtitle*  
2 *referred to as the ‘Foreign Languages Program’).*

3       “(b) *IDENTIFICATION OF REQUISITE ACTIONS.—In*  
4 *order to carry out the Foreign Languages Program, the Sec-*  
5 *retary of Defense and the National Intelligence Director*  
6 *shall jointly determine actions required to improve the edu-*  
7 *cation of personnel in the intelligence community in foreign*  
8 *languages that are critical to the capability of the intel-*  
9 *ligence community to carry out national security activities*  
10 *of the United States to meet the long-term intelligence needs*  
11 *of the United States.*

12                               “*EDUCATION PARTNERSHIPS*

13       “*SEC. 1012. (a) IN GENERAL.—In carrying out the*  
14 *Foreign Languages Program, the head of a department or*  
15 *agency containing an element of an intelligence community*  
16 *entity may enter into one or more education partnership*  
17 *agreements with educational institutions in the United*  
18 *States in order to encourage and enhance the study of for-*  
19 *eign languages that are critical to the capability of the in-*  
20 *telligence community to carry out national security activi-*  
21 *ties of the United States in educational institutions.*

22       “(b) *ASSISTANCE PROVIDED UNDER EDUCATIONAL*  
23 *PARTNERSHIP AGREEMENTS.—Under an educational part-*  
24 *nership agreement entered into with an educational institu-*  
25 *tion pursuant to this section, the head of an element of an*



1 *intelligence community entity may provide the following*  
2 *assistance to the educational institution:*

3           “(1) *The loan of equipment and instructional*  
4 *materials of the element of the intelligence community*  
5 *entity to the educational institution for any purpose*  
6 *and duration that the head determines to be appro-*  
7 *priate.*

8           “(2) *Notwithstanding any other provision of law*  
9 *relating to transfers of surplus property, the transfer*  
10 *to the educational institution of any computer equip-*  
11 *ment, or other equipment, that is—*

12                   “(A) *commonly used by educational institu-*  
13 *tions;*

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

15                   “(C) *determined by the head of the element*  
16 *to be appropriate for support of such agreement.*

17           “(3) *The provision of dedicated personnel to the*  
18 *educational institution—*

19                   “(A) *to teach courses in foreign languages*  
20 *that are critical to the capability of the intel-*  
21 *ligence community to carry out national security*  
22 *activities of the United States; or*

23                   “(B) *to assist in the development of such*  
24 *courses and materials for the institution.*







1           “(A) supervise the individual to the same extent  
2           as the head of the element would supervise a com-  
3           pensated employee of that element providing similar  
4           services; and

5           “(B) ensure that the individual is licensed, priv-  
6           ileged, has appropriate educational or experiential  
7           credentials, or is otherwise qualified under applicable  
8           law or regulations to provide such services.

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

12           “(A) place the individual in a policymaking po-  
13           sition, or other position performing inherently gov-  
14           ernment functions; or

15           “(B) compensate the individual for the provision  
16           of such services.

17          “(c) *AUTHORITY TO RECRUIT AND TRAIN INDIVID-*  
18          *UALS PROVIDING SERVICES.*—The head of an element of an  
19          intelligence community entity may recruit and train indi-  
20          viduals to provide voluntary services accepted under sub-  
21          section (a).

22          “(d) *STATUS OF INDIVIDUALS PROVIDING SERV-*  
23          *ICES.*—(1) Subject to paragraph (2), while providing vol-  
24          untary services accepted under subsection (a) or receiving  
25          training under subsection (c), an individual shall be consid-



1 *ered to be an employee of the Federal Government only for*  
2 *purposes of the following provisions of law:*

3           “(A) *Section 552a of title 5, United States Code*  
4           *(relating to maintenance of records on individuals).*

5           “(B) *Chapter 11 of title 18, United States Code*  
6           *(relating to conflicts of interest).*

7           “(2)(A) *With respect to voluntary services accepted*  
8 *under paragraph (1) provided by an individual that are*  
9 *within the scope of the services so accepted, the individual*  
10 *is deemed to be a volunteer of a governmental entity or non-*  
11 *profit institution for purposes of the Volunteer Protection*  
12 *Act of 1997 (42 U.S.C. 14501 et seq.).*

13           “(B) *In the case of any claim against such an indi-*  
14 *vidual with respect to the provision of such services, section*  
15 *4(d) of such Act (42 U.S.C. 14503(d)) shall not apply.*

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

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



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

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

8           “(2) *The head of an element of the intelligence commu-*  
9 *nity may pay the charges incurred for the use of equipment*  
10 *installed under paragraph (1) for authorized purposes.*

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

16   “REGULATIONS

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

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



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

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

5                               “DEFINITIONS

6           “SEC. 1015. *In this subtitle:*

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

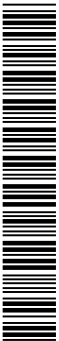
10          “(2) *The term ‘educational institution’ means—*

11                       “(A) *a local educational agency (as that*  
12 *term is defined in section 9101(26) of the Ele-*  
13 *mentary and Secondary Education Act of 1965*  
14 *(20 U.S.C. 7801(26))),*

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

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

25          “(3) *The term ‘dedicated personnel’ means em-*  
26 *ployees of the intelligence community and private*



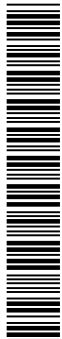
1       *citizens (including former civilian employees of the*  
2       *Federal Government who have been voluntarily sepa-*  
3       *rated, and members of the United States Armed*  
4       *Forces who have been honorably discharged or gen-*  
5       *erally discharged under honorable circumstances, and*  
6       *rehired on a voluntary basis specifically to perform*  
7       *the activities authorized under this subtitle).*

8       **“Subtitle C—Additional Education**  
9                                    **Provisions**

10      “ASSIGNMENT OF INTELLIGENCE COMMUNITY PERSONNEL  
11                                    AS LANGUAGE STUDENTS

12           “SEC. 1021. (a) IN GENERAL.—(1) *The National In-*  
13      *telligence Director, acting through the heads of the elements*  
14      *of the intelligence community, may provide for the assign-*  
15      *ment of military and civilian personnel described in para-*  
16      *graph (2) as students at accredited professional, technical,*  
17      *or other institutions of higher education for training at the*  
18      *graduate or undergraduate level in foreign languages re-*  
19      *quired for the conduct of duties and responsibilities of such*  
20      *positions.*

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



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

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

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

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

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

  “*Subtitle A—Science and Technology*

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

  “*Subtitle B—Foreign Languages Program*

  “*Sec. 1011. Program on advancement of foreign languages critical to the intel-*  
  *ligence community.*

  “*Sec. 1012. Education partnerships.*

  “*Sec. 1013. Voluntary services.*

  “*Sec. 1014. Regulations.*

  “*Sec. 1015. Definitions.*



*“Subtitle C—Additional Education Provisions*

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

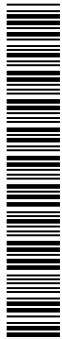
1 **SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-**  
2 **SERVE CORPS.**

3 (a) *PILOT PROJECT.*—*The National Intelligence Direc-*  
4 *tor shall conduct a pilot project to establish a Civilian Lin-*  
5 *guist Reserve Corps comprised of United States citizens*  
6 *with advanced levels of proficiency in foreign languages*  
7 *who would be available upon a call of the President to per-*  
8 *form such service or duties with respect to such foreign lan-*  
9 *guages in the Federal Government as the President may*  
10 *specify.*

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

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

19 (2) *identify United States citizens with advanced*  
20 *levels of proficiency in those foreign languages who*  
21 *would be available to perform the services and duties*  
22 *referred to in subsection (a); and*



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

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

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

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

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

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

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





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

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

7 “*NATIONAL VIRTUAL TRANSLATION CENTER*

8 “*SEC. 120. (a) IN GENERAL.*—*There is an element of*  
9 *the intelligence community known as the National Virtual*  
10 *Translation Center under the direction of the National In-*  
11 *telligence Director.*

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

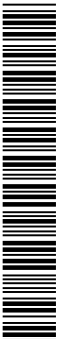
16 “(c) *FACILITATING ACCESS TO TRANSLATIONS.*—*In*  
17 *order to minimize the need for a central facility for the*  
18 *National Virtual Translation Center, the Center shall—*

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

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

23 “(3) *use remote-connection capacities.*

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



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

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

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

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

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

12           **(a) STUDY.**—*The Secretary of Defense shall conduct a*  
13           *study on methods to improve the recruitment and retention*  
14           *of qualified foreign language instructors at the Foreign*  
15           *Language Center of the Defense Language Institute. In con-*  
16           *ducting the study, the Secretary shall consider, in the case*  
17           *of a foreign language instructor who is an alien, to expedi-*  
18           *tiously adjust the status of the alien from a temporary sta-*  
19           *tus to that of an alien lawfully admitted for permanent res-*  
20           *idence.*

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



1 *changes in legislation and regulation as the Secretary deter-*  
2 *mines to be appropriate.*

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

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

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

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

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

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

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

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

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

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



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

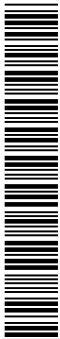
4 **SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECH-**  
5 **NOLOGIES PANEL.**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



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



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

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

3           *(GG) Section 702(a)(6)(B)(viii) (50 U.S.C.*  
4           *432(a)(6)(B)(viii)).*

5           *(HH) Section 702(b)(1) (50 U.S.C. 432(b)(1)),*  
6           *both places it appears.*

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

8           *(JJ) Section 703(a)(6)(B)(viii) (50 U.S.C.*  
9           *432a(a)(6)(B)(viii)).*

10           *(KK) Section 703(b)(1) (50 U.S.C. 432a(b)(1)),*  
11           *both places it appears.*

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

13           *(MM) Section 704(f)(2)(H) (50 U.S.C.*  
14           *432b(f)(2)(H)).*

15           *(NN) Section 704(g)(1) (50 U.S.C. 432b(g)(1)),*  
16           *both places it appears.*

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

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

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

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

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

22           *(2) That Act is further amended by striking “of Cen-*  
23           *tral Intelligence” each place it appears in the following pro-*  
24           *visions:*

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



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

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

5           (3) That Act is further amended by striking “Director”  
6 each place it appears in the following provisions and insert-  
7 ing “National Intelligence Director”:

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

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

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

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

13          (D) Section 1001(d)(1)(B) (50 U.S.C.  
14 441g(d)(1)(B)).

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

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

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

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





1           (A) in subsection (a), by striking “Operational  
2       files of the Central Intelligence Agency may be ex-  
3       empted by the Director of Central Intelligence” and  
4       inserting “The Director of the Central Intelligence  
5       Agency, with the coordination of the National Intel-  
6       ligence Director, may exempt operational files of the  
7       Central Intelligence Agency”; and

8           (B) in subsection (g)(1), by striking “Director of  
9       Central Intelligence” and inserting “Director of the  
10      Central Intelligence Agency and the National Intel-  
11      ligence Director”.

12      (7) The heading for section 114 of that Act (50 U.S.C.  
13      404i) is amended to read as follows:

14      “ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL  
15                                   INTELLIGENCE DIRECTOR”.

16      (b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—

17      (1) The Central Intelligence Agency Act of 1949 (50 U.S.C.  
18      403a et seq.) is amended by striking “Director of Central  
19      Intelligence” each place it appears in the following provi-  
20      sions and inserting “National Intelligence Director”:

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

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

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

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



1           (A)    Section    16(c)(1)(B)    (50    U.S.C.  
2           403p(c)(1)(B)).

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

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

5           (3) That Act is further amended by striking “Director  
6 of Central Intelligence” each place it appears in the fol-  
7 lowing provisions and inserting “Director of the Central  
8 Intelligence Agency”:

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

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

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

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

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

15          (c) *CENTRAL INTELLIGENCE AGENCY RETIREMENT*  
16 *ACT.*—Section 101 of the Central Intelligence Agency Re-  
17 tirement Act (50 U.S.C. 2001) is amended by striking para-  
18 graph (2) and inserting the following new paragraph (2):

19               “(2) *DIRECTOR.*—The term ‘Director’ means the  
20 *Director of the Central Intelligence Agency.*”.

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



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

3           (e) *FOREIGN INTELLIGENCE SURVEILLANCE ACT OF*  
4           1978.—(1) *The Foreign Intelligence Surveillance Act of*  
5           1978 (50 U.S.C. 1801 et seq.) is amended by striking “Di-  
6           rector of Central Intelligence” each place it appears and  
7           inserting “National Intelligence Director”.

8           (f) *CLASSIFIED INFORMATION PROCEDURES ACT.*—  
9           Section 9(a) of the *Classified Information Procedures Act*  
10          (5 U.S.C. App.) is amended by striking “Director of Central  
11          Intelligence” and inserting “National Intelligence Direc-  
12          tor”.

13          (g) *INTELLIGENCE AUTHORIZATION ACTS.*—

14                 (1) *PUBLIC LAW 103-359.*—Section 811(c)(6)(C)  
15                 of the *Counterintelligence and Security Enhancements*  
16                 Act of 1994 (title VIII of Public Law 103-359) is  
17                 amended by striking “Director of Central Intel-  
18                 ligence” and inserting “National Intelligence Direc-  
19                 tor”.

20                 (2) *PUBLIC LAW 107-306.*—(A) *The Intelligence*  
21                 Authorization Act for Fiscal Year 2003 (Public Law  
22                 107-306) is amended by striking “Director of Central  
23                 Intelligence, acting as the head of the intelligence  
24                 community,” each place it appears in the following



1        *provisions and inserting “National Intelligence Direc-*  
2        *tor”:*

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

4                    *(ii) Section 343(a)(1) (50 U.S.C. 404n-*  
5        *2(a)(1))*

6                    *(B) That Act is further amended by striking*  
7        *“Director of Central Intelligence” each place it ap-*  
8        *pears in the following provisions and inserting “Na-*  
9        *tional Intelligence Director”:*

10                    *(i) Section 902(a)(2) (50 U.S.C.*  
11        *402b(a)(2)).*

12                    *(ii) Section 904(e)(4) (50 U.S.C.*  
13        *402c(e)(4)).*

14                    *(iii) Section 904(e)(5) (50 U.S.C.*  
15        *402c(e)(5)).*

16                    *(iv) Section 904(h) (50 U.S.C. 402c(h)),*  
17        *each place it appears.*

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

19                    *(C) Section 341 of that Act (50 U.S.C. 404n-1)*  
20        *is amended by striking “Director of Central Intel-*  
21        *ligence, acting as the head of the intelligence commu-*  
22        *nity, shall establish in the Central Intelligence Agen-*  
23        *cy” and inserting “National Intelligence Director*  
24        *shall establish within the Central Intelligence Agen-*  
25        *cy”.*



1           (D) Section 352(b) of that Act (50 U.S.C. 404–  
2           3 note) is amended by striking “Director” and insert-  
3           ing “National Intelligence Director”.

4           (3) PUBLIC LAW 108–177.—(A) The Intelligence  
5           Authorization Act for Fiscal Year 2004 (Public Law  
6           108–177) is amended by striking “Director of Central  
7           Intelligence” each place it appears in the following  
8           provisions and inserting “National Intelligence Direc-  
9           tor”:

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

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

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

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

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

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

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

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

22           (C) Section 404 of that Act (18 U.S.C. 4124  
23           note) is amended by striking “Director of Central In-  
24           telligence” and inserting “Director of the Central In-  
25           telligence Agency”.



1 **SEC. 1072. OTHER CONFORMING AMENDMENTS**

2 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section  
3 101(j) of the National Security Act of 1947 (50 U.S.C.  
4 402(j)) is amended by striking “Deputy Director of Central  
5 Intelligence” and inserting “Deputy National Intelligence  
6 Director”.

7 (2) Section 112(d)(1) of that Act (50 U.S.C.  
8 404g(d)(1)) is amended by striking “section 103(c)(6) of  
9 this Act” and inserting “section 102A(g) of this Act”.

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

18 (4) Section 506A(b)(1) of that Act (50 U.S.C. 415a-  
19 1(b)(1)) is amended by striking “Office of the Deputy Direc-  
20 tor of Central Intelligence” and inserting “Office of the Na-  
21 tional Intelligence Director”.

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



1           (6) *Section 1001(b) of that Act (50 U.S.C. 441g(b))*  
2 *is amended by striking “Assistant Director of Central Intel-*  
3 *ligence for Administration” and inserting “Office of the Na-*  
4 *tional Intelligence Director”.*

5           (b) *CENTRAL INTELLIGENCE ACT OF 1949.—Section*  
6 *6 of the Central Intelligence Agency Act of 1949 (50 U.S.C.*  
7 *403g) is amended by striking “section 103(c)(7) of the Na-*  
8 *tional Security Act of 1947 (50 U.S.C. 403–3(c)(7))” and*  
9 *inserting “section 102A(g) of the National Security Act of*  
10 *1947”.*

11          (c) *CENTRAL INTELLIGENCE AGENCY RETIREMENT*  
12 *ACT.—Section 201(c) of the Central Intelligence Agency Re-*  
13 *tirement Act (50 U.S.C. 2011(c)) is amended by striking*  
14 *“paragraph (6) of section 103(c) of the National Security*  
15 *Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Cen-*  
16 *tral Intelligence” and inserting “section 102A(g) of the Na-*  
17 *tional Security Act of 1947 (50 U.S.C. 403–3(c)(1)) that*  
18 *the National Intelligence Director”.*

19          (d) *INTELLIGENCE AUTHORIZATION ACTS.—*

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



1       *and inserting “section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(1))”.*

2  
3           *(B) Section 904 of that Act (50 U.S.C. 402c) is*  
4       *amended—*

5           *(i) in subsection (c), by striking “Office of*  
6       *the Director of Central Intelligence” and insert-*  
7       *ing “Office of the National Intelligence Direc-*  
8       *tor”;* *and*

9           *(ii) in subsection (l), by striking “Office of*  
10       *the Director of Central Intelligence” and insert-*  
11       *ing “Office of the National Intelligence Direc-*  
12       *tor”.*

13           *(2) PUBLIC LAW 108–177.—Section 317 of the In-*  
14       *telligence Authorization Act for Fiscal Year 2004*  
15       *(Public Law 108–177; 50 U.S.C. 403–3 note) is*  
16       *amended—*

17           *(A) in subsection (g), by striking “Assistant*  
18       *Director of Central Intelligence for Analysis and*  
19       *Production” and inserting “Deputy National In-*  
20       *telligence Director”;* *and*

21           *(B) in subsection (h)(2)(C), by striking “As-*  
22       *stant Director” and inserting “Deputy Na-*  
23       *tional Intelligence Director”.*





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

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

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

7 *“(A) The Office of the National Intelligence*  
8 *Director.*

9 *“(B) The Central Intelligence Agency.*

10 *“(C) The National Security Agency.*

11 *“(D) The Defense Intelligence Agency.*

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

14 *“(F) The National Reconnaissance Office.*

15 *“(G) Other offices within the Department of*  
16 *Defense for the collection of specialized national*  
17 *intelligence through reconnaissance programs.*

18 *“(H) The intelligence elements of the Army,*  
19 *the Navy, the Air Force, the Marine Corps, the*  
20 *Federal Bureau of Investigation, and the De-*  
21 *partment of Energy.*

22 *“(I) The Bureau of Intelligence and Re-*  
23 *search of the Department of State.*

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



1           “(K) *The elements of the Department of*  
2           *Homeland Security concerned with the analysis*  
3           *of intelligence information, including the Office*  
4           *of Intelligence of the Coast Guard.*

5           “(L) *Such other elements of any other de-*  
6           *partment or agency as may be designated by the*  
7           *President, or designated jointly by the National*  
8           *Intelligence Director and the head of the depart-*  
9           *ment or agency concerned, as an element of the*  
10          *intelligence community.”.*

11 **SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN INTEL-**  
12                           **LIGENCE PROGRAM AS NATIONAL INTEL-**  
13                           **LIGENCE PROGRAM.**

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

17          (b) *CONFORMING AMENDMENTS.*—(1) *Section 506(a)*  
18 *of the National Security Act of 1947 (50 U.S.C. 415a(a))*  
19 *is amended by striking “National Foreign Intelligence Pro-*  
20 *gram” and inserting “National Intelligence Program”.*

21          (2) *Section 17(f) of the Central Intelligence Agency Act*  
22 *of 1949 (50 U.S.C. 403q(f)) is amended by striking “Na-*  
23 *tional Foreign Intelligence Program” and inserting “Na-*  
24 *tional Intelligence Program”.*



1           (c) *HEADING AMENDMENT.*—*The heading of section*  
2 *506 of that Act is amended by striking “FOREIGN”.*

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

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

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

10 **SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECU-**  
11 **RITY ACT OF 1947.**

12           *The table of contents for the National Security Act of*  
13 *1947 is amended—*

14                   (1) *by striking the items relating to sections 102*  
15 *through 104 and inserting the following new items:*

“Sec. 102. *National Intelligence Director.*

“Sec. 102A. *Responsibilities and authorities of National Intelligence Director.*

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

“Sec. 104. *Central Intelligence Agency.*

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

16                   (2) *by striking the item relating to section 114*  
17 *and inserting the following new item:*

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

18                   and

19                   (3) *by striking the item relating to section 506*  
20 *and inserting the following new item:*

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



1 **SEC. 1077. CONFORMING AMENDMENTS RELATING TO PRO-**  
2 **HIBITING DUAL SERVICE OF THE DIRECTOR**  
3 **OF THE CENTRAL INTELLIGENCE AGENCY.**

4 *Section 1 of the Central Intelligence Agency Act of*  
5 *1949 (50 U.S.C. 403a) is amended—*

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

8 *(2) by striking paragraph (2), as so redesign-*  
9 *ated, and inserting the following new paragraph (2):*  
10 *“(2) ‘Director’ means the Director of the Central Intel-*  
11 *ligence Agency; and”.*

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

13 *Section 17(a)(1) of the Central Intelligence Agency Act*  
14 *of 1949 (50 U.S.C. 403q(a)(1)) is amended by inserting be-*  
15 *fore the semicolon at the end the following: “and to pro-*  
16 *grams and operations of the Office of the National Intel-*  
17 *ligence Director”.*

18 **SEC. 1079. GENERAL REFERENCES.**

19 *(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD*  
20 *OF INTELLIGENCE COMMUNITY.—Any reference to the Di-*  
21 *rector of Central Intelligence or the Director of the Central*  
22 *Intelligence Agency in the Director’s capacity as the head*  
23 *of the intelligence community in any law, regulation, docu-*  
24 *ment, paper, or other record of the United States shall be*  
25 *deemed to be a reference to the National Intelligence Direc-*  
26 *tor.*



1           (b) *DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD*  
2 *OF CIA.*—Any reference to the Director of Central Intel-  
3 ligence or the Director of the Central Intelligence Agency  
4 in the Director’s capacity as the head of the Central Intel-  
5 ligence Agency in any law, regulation, document, paper,  
6 or other record of the United States shall be deemed to be  
7 a reference to the Director of the Central Intelligence Agen-  
8 cy.

9           (c) *COMMUNITY MANAGEMENT STAFF.*—Any reference  
10 to the Community Management Staff in any law, regula-  
11 tion, document, paper, or other record of the United States  
12 shall be deemed to be a reference to the staff of the Office  
13 of the National Intelligence Director.

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

15           (a) *POLITICAL SERVICE OF PERSONNEL.*—Section  
16 7323(b)(2)(B)(i) of title 5, United States Code, is  
17 amended—

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

20           (2) by inserting after subclause (XIII) the fol-  
21 lowing new subclause:

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



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

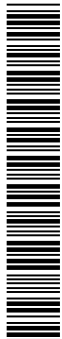
4           (1) *by inserting “(A)” after “(4)”;*

5           (2) *in subparagraph (A), as so designated, by*  
6 *striking “the Director of Central Intelligence” and in-*  
7 *serting “the Director of the Central Intelligence Agen-*  
8 *cy”;* and

9           (3) *by adding at the end the following new sub-*  
10 *paragraph:*

11           *“(B) In transmitting such listings for the Office of the*  
12 *National Intelligence Director, the National Intelligence Di-*  
13 *rector may delete the information described in subpara-*  
14 *graphs (A) and (C) of paragraphs (2) and (3) if the Direc-*  
15 *tor certifies in writing to the Secretary of State that the*  
16 *publication of such information could adversely affect*  
17 *United States intelligence sources.”.*

18           (c) *EXEMPTION FROM FINANCIAL DISCLOSURES.*—Sec-  
19 *tion 105(a)(1) of the Ethics in Government Act (5 U.S.C.*  
20 *App.) is amended by inserting “the Office of the National*  
21 *Intelligence Director,” before “the Central Intelligence*  
22 *Agency”.*



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

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

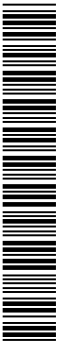
4 (a) *TRANSFER.*—*There shall be transferred to the Of-*  
5 *fice of the National Intelligence Director the staff of the*  
6 *Community Management Staff as of the date of the enact-*  
7 *ment of this Act, including all functions and activities dis-*  
8 *charged by the Community Management Staff as of that*  
9 *date.*

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

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

18 (a) *TRANSFER.*—*There shall be transferred to the Na-*  
19 *tional Counterterrorism Center the Terrorist Threat Inte-*  
20 *gration Center (TTIC), including all functions and activi-*  
21 *ties discharged by the Terrorist Threat Integration Center*  
22 *as of the date of the enactment of this Act.*

23 (b) *ADMINISTRATION.*—*The Director of the National*  
24 *Counterterrorism Center shall administer the Terrorist*  
25 *Threat Integration Center after the date of the enactment*



1 *of this Act as a component of the Directorate of Intelligence*  
2 *of the National Counterterrorism Center under section*  
3 *119(i) of the National Security Act of 1947, as added by*  
4 *section 1021(a).*

5 **SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DI-**  
6 **RECTORS OF CENTRAL INTELLIGENCE.**

7 (a) *TERMINATION.*—*The positions within the Central*  
8 *Intelligence Agency referred to in subsection (b) are hereby*  
9 *abolished.*

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

13 (1) *The Assistant Director of Central Intelligence*  
14 *for Collection.*

15 (2) *The Assistant Director of Central Intelligence*  
16 *for Analysis and Production.*

17 (3) *The Assistant Director of Central Intelligence*  
18 *for Administration.*

19 **SEC. 1094. IMPLEMENTATION PLAN.**

20 (a) *SUBMISSION OF PLAN.*—*The President shall trans-*  
21 *mit to Congress a plan for the implementation of this title*  
22 *and the amendments made by this title. The plan shall ad-*  
23 *dress, at a minimum, the following:*





1           (1) *The transfer of personnel, assets, and obliga-*  
2           *tions to the National Intelligence Director pursuant*  
3           *to this title.*

4           (2) *Any consolidation, reorganization, or stream-*  
5           *lining of activities transferred to the National Intel-*  
6           *ligence Director pursuant to this title.*

7           (3) *The establishment of offices within the Office*  
8           *of the National Intelligence Director to implement the*  
9           *duties and responsibilities of the National Intelligence*  
10          *Director as described in this title.*

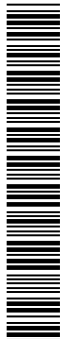
11          (4) *Specification of any proposed disposition of*  
12          *property, facilities, contracts, records, and other assets*  
13          *and obligations to be transferred to the National In-*  
14          *telligence Director.*

15          (5) *Recommendations for additional legislative*  
16          *or administrative action as the Director considers ap-*  
17          *propriate.*

18          (b) *SENSE OF CONGRESS.—It is the sense of Congress*  
19          *that the permanent location for the headquarters for the Of-*  
20          *fice of the National Intelligence Director, should be at a lo-*  
21          *cation other than the George Bush Center for Intelligence*  
22          *in Langley, Virginia.*

23          **SEC. 1095. TRANSITIONAL AUTHORITIES.**

24          *Upon the request of the National Intelligence Director,*  
25          *the head of any executive agency may, on a reimbursable*



1 *basis, provide services or detail personnel to the National*  
2 *Intelligence Director.*

3 **SEC. 1096. EFFECTIVE DATES.**

4 (a) *IN GENERAL.*—*Except as otherwise expressly pro-*  
5 *vided in this Act, this title and the amendments made by*  
6 *this title shall take effect on the date of the enactment of*  
7 *this Act.*

8 (b) *SPECIFIC EFFECTIVE DATES.*—(1)(A) *Not later*  
9 *than 60 days after the date of the enactment of this Act,*  
10 *the National Intelligence Director shall first appoint indi-*  
11 *viduals to positions within the Office of the National Intel-*  
12 *ligence Director.*

13 (B) *Subparagraph (A) shall not apply with respect to*  
14 *the Deputy National Intelligence Director.*

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

18 (3) *Not later than one year after the date of the enact-*  
19 *ment of this Act, the National Intelligence Director shall*  
20 *prescribe regulations, policies, procedures, standards, and*  
21 *guidelines required under section 102A of the National Se-*  
22 *curity Act of 1947, as amended by section 1011(a).*



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

5 **SEC. 2001. PRESUMPTION THAT CERTAIN NON-UNITED**  
6 **STATES PERSONS ENGAGING IN INTER-**  
7 **NATIONAL TERRORISM ARE AGENTS OF FOR-**  
8 **EIGN POWERS FOR PURPOSES OF THE FOR-**  
9 **EIGN INTELLIGENCE SURVEILLANCE ACT OF**  
10 **1978.**

11 *(a) PRESUMPTION.—(1) The Foreign Intelligence Sur-*  
12 *veillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended*  
13 *by inserting after section 101 the following new section:*

14 *“PRESUMPTION OF TREATMENT OF CERTAIN NON-UNITED*  
15 *STATES PERSONS ENGAGED IN INTERNATIONAL TER-*  
16 *RORISM AS AGENTS OF FOREIGN POWERS*

17 *“SEC. 101A. Upon application by the Federal official*  
18 *applying for an order under this Act, the court may pre-*  
19 *sume that a non-United States person who is knowingly*  
20 *engaged in sabotage or international terrorism, or activities*  
21 *that are in preparation therefor, is an agent of a foreign*  
22 *power under section 101(b)(2)(C).”.*

23 *(2) The table of contents for that Act is amended by*  
24 *inserting after the item relating to section 101 the following*  
25 *new item:*



*“Sec. 101A. Presumption of treatment of certain non-United States persons engaged in international terrorism as agents of foreign powers.”.*

1           **(b) SUNSET.**—*The amendments made by subsection (a)*  
2 *shall be subject to the sunset provision in section 224 of*  
3 *the USA PATRIOT Act of 2001 (Public Law 107–56; 115*  
4 *Stat. 295), including the exception provided in subsection*  
5 *(b) of such section 224.*

6           **Subtitle B—Stop Terrorist and**  
7           **Military Hoaxes Act of 2004**

8           **SEC. 2021. SHORT TITLE.**

9           *This subtitle may be cited as the “Stop Terrorist and*  
10 *Military Hoaxes Act of 2004”.*

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

12           **(a) PROHIBITION ON HOAXES.**—*Chapter 47 of title 18,*  
13 *United States Code, is amended by inserting after section*  
14 *1037 the following:*

15           **“§ 1038. False information and hoaxes**

16           **“(a) CRIMINAL VIOLATION.—**

17                   **“(1) IN GENERAL.—***Whoever engages in any con-*  
18 *duct with intent to convey false or misleading infor-*  
19 *mation under circumstances where such information*  
20 *may reasonably be believed and where such informa-*  
21 *tion indicates that an activity has taken, is taking,*  
22 *or will take place that would constitute a violation of*  
23 *chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this*  
24 *title, section 236 of the Atomic Energy Act of 1954*



1       *(42 U.S.C. 2284), or section 46502, the second sen-*  
2       *tence of section 46504, section 46505 (b)(3) or (c), sec-*  
3       *tion 46506 if homicide or attempted homicide is in-*  
4       *volved, or section 60123(b) of title 49 shall—*

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

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

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

13              *“(2) ARMED FORCES.—Whoever, without lawful*  
14              *authority, makes a false statement, with intent to*  
15              *convey false or misleading information, about the*  
16              *death, injury, capture, or disappearance of a member*  
17              *of the Armed Forces of the United States during a*  
18              *war or armed conflict in which the United States is*  
19              *engaged, shall—*

20              *“(A) be fined under this title or imprisoned*  
21              *not more than 5 years, or both;*

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



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

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

18           “(c) REIMBURSEMENT.—

19           “(1) IN GENERAL.—The court, in imposing a  
20 sentence on a defendant who has been convicted of an  
21 offense under subsection (a), shall order the defendant  
22 to reimburse any state or local government, or private  
23 not-for-profit organization that provides fire or rescue  
24 service incurring expenses incident to any emergency



1 *or investigative response to that conduct, for those ex-*  
2 *penses.*

3 “(2) *LIABILITY.*—*A person ordered to make re-*  
4 *imbursement under this subsection shall be jointly*  
5 *and severally liable for such expenses with each other*  
6 *person, if any, who is ordered to make reimbursement*  
7 *under this subsection for the same expenses.*

8 “(3) *CIVIL JUDGMENT.*—*An order of reimburse-*  
9 *ment under this subsection shall, for the purposes of*  
10 *enforcement, be treated as a civil judgment.*

11 “(d) *ACTIVITIES OF LAW ENFORCEMENT.*—*This sec-*  
12 *tion does not prohibit any lawfully authorized investigative,*  
13 *protective, or intelligence activity of a law enforcement*  
14 *agency of the United States, a State, or political subdivi-*  
15 *sion of a State, or of an intelligence agency of the United*  
16 *States.”*

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

*“1038. False information and hoaxes.”*

21 **SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATE-**  
22 **MENTS IN TERRORISM CASES.**

23 (a) *ENHANCED PENALTY.*—*Section 1001(a) and the*  
24 *third undesignated paragraph of section 1505 of title 18,*  
25 *United States Code, are amended by striking “be fined*



1 *under this title or imprisoned not more than 5 years, or*  
2 *both” and inserting “be fined under this title, imprisoned*  
3 *not more than 5 years or, if the matter relates to inter-*  
4 *national or domestic terrorism (as defined in section 2331),*  
5 *imprisoned not more than 10 years, or both”.*

6 (b) *SENTENCING GUIDELINES.—Not later than 30*  
7 *days of the enactment of this section, the United States Sen-*  
8 *tencing Commission shall amend the Sentencing Guidelines*  
9 *to provide for an increased offense level for an offense under*  
10 *sections 1001(a) and 1505 of title 18, United States Code,*  
11 *if the offense involves a matter relating to international or*  
12 *domestic terrorism, as defined in section 2331 of such title.*

13 **SEC. 2024. CLARIFICATION OF DEFINITION.**

14 *Section 1958 of title 18, United States Code, is*  
15 *amended—*

16 (1) *in subsection (a), by striking “facility in”*  
17 *and inserting “facility of”; and*

18 (2) *in subsection (b)(2), by inserting “or foreign”*  
19 *after “interstate”.*

20 ***Subtitle C—Material Support to***  
21 ***Terrorism Prohibition Enhance-***  
22 ***ment Act of 2004***

23 **SEC. 2041. SHORT TITLE.**

24 *This subtitle may be cited as the “Material Support*  
25 *to Terrorism Prohibition Enhancement Act of 2004”.*





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

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

6 **“§2339D. Receiving military-type training from a for-**  
7 **eign terrorist organization**

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

22 *“(b) EXTRATERRITORIAL JURISDICTION.—There is*  
23 *extraterritorial Federal jurisdiction over an offense under*  
24 *this section. There is jurisdiction over an offense under sub-*  
25 *section (a) if—*



1           “(1) an offender is a national of the United  
2 States (as defined in 101(a)(22) of the Immigration  
3 and Nationality Act) or an alien lawfully admitted  
4 for permanent residence in the United States (as de-  
5 fined in section 101(a)(20) of the Immigration and  
6 Nationality Act);

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

9           “(3) after the conduct required for the offense oc-  
10 curs an offender is brought into or found in the  
11 United States, even if the conduct required for the of-  
12 fense occurs outside the United States;

13           “(4) the offense occurs in whole or in part within  
14 the United States;

15           “(5) the offense occurs in or affects interstate or  
16 foreign commerce;

17           “(6) an offender aids or abets any person over  
18 whom jurisdiction exists under this paragraph in  
19 committing an offense under subsection (a) or con-  
20 spires with any person over whom jurisdiction exists  
21 under this paragraph to commit an offense under sub-  
22 section (a).

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

24           “(1) the term ‘military-type training’ includes  
25 training in means or methods that can cause death



1        *or serious bodily injury, destroy or damage property,*  
2        *or disrupt services to critical infrastructure, or train-*  
3        *ing on the use, storage, production, or assembly of*  
4        *any explosive, firearm or other weapon, including*  
5        *any weapon of mass destruction (as defined in section*  
6        *2232a(c)(2));*

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

9            *“(3) the term ‘critical infrastructure’ means sys-*  
10        *tems and assets vital to national defense, national se-*  
11        *curity, economic security, public health or safety in-*  
12        *cluding both regional and national infrastructure.*  
13        *Critical infrastructure may be publicly or privately*  
14        *owned; examples of critical infrastructure include gas*  
15        *and oil production, storage, or delivery systems, water*  
16        *supply systems, telecommunications networks, elec-*  
17        *trical power generation or delivery systems, financing*  
18        *and banking systems, emergency services (including*  
19        *medical, police, fire, and rescue services), and trans-*  
20        *portation systems and services (including highways,*  
21        *mass transit, airlines, and airports); and*

22            *“(4) the term ‘foreign terrorist organization’*  
23        *means an organization designated as a terrorist orga-*  
24        *nization under section 219(a)(1) of the Immigration*  
25        *and Nationality Act.”.*



1 **SEC. 2043. PROVIDING MATERIAL SUPPORT TO TERRORISM.**

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

5 (1) *by designating the first sentence as para-*  
6 *graph (1);*

7 (2) *by designating the second sentence as para-*  
8 *graph (3);*

9 (3) *by inserting after paragraph (1) as so des-*  
10 *ignated by this subsection the following:*

11 “(2) (A) *Whoever in a circumstance described in*  
12 *subparagraph (B) provides material support or re-*  
13 *sources or conceals or disguises the nature, location,*  
14 *source, or ownership of material support or resources,*  
15 *knowing or intending that they are to be used in*  
16 *preparation for, or in carrying out, an act of inter-*  
17 *national or domestic terrorism (as defined in section*  
18 *2331), or in preparation for, or in carrying out, the*  
19 *concealment or escape from the commission of any*  
20 *such act, or attempts or conspires to do so, shall be*  
21 *punished as provided under paragraph (1) for an of-*  
22 *fense under that paragraph.*

23 “(B) *The circumstances referred to in subpara-*  
24 *graph (A) are any of the following:*

25 “(i) *The offense occurs in or affects inter-*  
26 *state or foreign commerce.*



1           “(ii) *The act of terrorism is an act of inter-*  
2           *national or domestic terrorism that violates the*  
3           *criminal law of the United States.*

4           “(iii) *The act of terrorism is an act of do-*  
5           *mestic terrorism that appears to be intended to*  
6           *influence the policy, or affect the conduct, of the*  
7           *Government of the United States or a foreign*  
8           *government.*

9           “(iv) *An offender, acting within the United*  
10          *States or outside the territorial jurisdiction of*  
11          *the United States, is a national of the United*  
12          *States (as defined in section 101(a)(22) of the*  
13          *Immigration and Nationality Act, an alien law-*  
14          *fully admitted for permanent residence in the*  
15          *United States (as defined in section 101(a)(20)*  
16          *of the Immigration and Nationality Act , or a*  
17          *stateless person whose habitual residence is in*  
18          *the United States, and the act of terrorism is an*  
19          *act of international terrorism that appears to be*  
20          *intended to influence the policy, or affect the con-*  
21          *duct, of the Government of the United States or*  
22          *a foreign government.*

23          “(v) *An offender, acting within the United*  
24          *States, is an alien, and the act of terrorism is*  
25          *an act of international terrorism that appears to*



1           *be intended to influence the policy, or affect the*  
2           *conduct, of the Government of the United States*  
3           *or a foreign government.*

4           “(vi) *An offender, acting outside the terri-*  
5           *torial jurisdiction of the United States, is an*  
6           *alien and the act of terrorism is an act of inter-*  
7           *national terrorism that appears to be intended to*  
8           *influence the policy of, or affect the conduct of,*  
9           *the Government of the United States.*

10           “(vii) *An offender aids or abets any person*  
11           *over whom jurisdiction exists under this para-*  
12           *graph in committing an offense under this para-*  
13           *graph or conspires with any person over whom*  
14           *jurisdiction exists under this paragraph to com-*  
15           *mit an offense under this paragraph.”; and*

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

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

19           (1) *by striking “In this” and inserting “(1) In*  
20           *this”;*

21           (2) *by inserting “any property, tangible or in-*  
22           *tangible, or service, including” after “means”;*

23           (3) *by inserting “(one or more individuals who*  
24           *may be or include oneself)” after “personnel”;*

25           (4) *by inserting “and” before “transportation”;*



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

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

3           “(2) As used in this subsection, the term ‘training’  
4 means instruction or teaching designed to impart a specific  
5 skill, as opposed to general knowledge, and the term ‘expert  
6 advice or assistance’ means advice or assistance derived  
7 from scientific, technical or other specialized knowledge.”.

8           (c) ADDITION TO OFFENSE OF PROVIDING MATERIAL  
9 SUPPORT TO TERRORIST ORGANIZATIONS.—Section  
10 2339B(a)(1) of title 18, United States Code, is amended—

11           (1) by striking “, within the United States or  
12 subject to the jurisdiction of the United States,” and  
13 inserting “in a circumstance described in paragraph  
14 (2)” ; and

15           (2) by adding at the end the following: “To vio-  
16 late this paragraph, a person must have knowledge  
17 that the organization is a designated terrorist organi-  
18 zation (as defined in subsection (g)(6)), that the orga-  
19 nization has engaged or engages in terrorist activity  
20 (as defined in section 212(a)(3)(B) of the Immigra-  
21 tion and Nationality Act, or that the organization  
22 has engaged or engages in terrorism (as defined in  
23 section 140(d)(2) of the Foreign Relations Authoriza-  
24 tion Act, Fiscal Years 1988 and 1989.”.



1           (d) *FEDERAL AUTHORITY*.—Section 2339B(d) of title  
2 18 is amended—

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

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

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

7           “(A) An offender is a national of the United  
8 States (as defined in section 101(a)(22) of the *Immigra-*  
9 *tion and Nationality Act* (8 U.S.C. 1101(a)(22))  
10 or an alien lawfully admitted for permanent resi-  
11 dence in the United States (as defined in section  
12 101(a)(20) of the *Immigration and Nationality Act*.

13           “(B) An offender is a stateless person whose ha-  
14 bitual residence is in the United States.

15           “(C) After the conduct required for the offense oc-  
16 curs an offender is brought into or found in the  
17 United States, even if the conduct required for the of-  
18 fense occurs outside the United States.

19           “(D) The offense occurs in whole or in part with-  
20 in the United States.

21           “(E) The offense occurs in or affects interstate or  
22 foreign commerce.

23           “(F) An offender aids or abets any person over  
24 whom jurisdiction exists under this paragraph in  
25 committing an offense under subsection (a) or con-





1       *spires with any person over whom jurisdiction exists*  
2       *under this paragraph to commit an offense under sub-*  
3       *section (a).”.*

4       *(e) DEFINITION.—Paragraph (4) of section 2339B(g)*  
5       *of title 18, United States Code, is amended to read as fol-*  
6       *lows:*

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

9       *(f) ADDITIONAL PROVISIONS.—Section 2339B of title*  
10       *18, United States Code, is amended by adding at the end*  
11       *the following:*

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

24               *“(i) RULE OF CONSTRUCTION.—Nothing in this sec-*  
25       *tion shall be construed or applied so as to abridge the exer-*



1 *cise of rights guaranteed under the First Amendment to the*  
2 *Constitution of the United States.”.*

3 **SEC. 2044. FINANCING OF TERRORISM.**

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

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

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

12 (3) *in subparagraph (B)—*

13 (A) *by striking “or any proceeds of such*  
14 *funds”;* and

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

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

21 (1) *by striking “and” at the end of paragraph*  
22 *(12);*

23 (2) *by redesignating paragraph (13) as para-*  
24 *graph (14); and*



1           (3) by inserting after paragraph (12) the fol-  
2           lowing:

3           “(13) the term ‘material support or resources’  
4           has the same meaning given that term in section  
5           2339B(g)(4) of this title; and”.

6           ***Subtitle D—Weapons of Mass De-***  
7           ***struction Prohibition Improve-***  
8           ***ment Act of 2004***

9           ***SEC. 2051. SHORT TITLE.***

10           *This subtitle may be cited as the “Weapons of Mass*  
11           *Destruction Prohibition Improvement Act of 2004”.*

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

13           (a) *EXPANSION OF JURISDICTIONAL BASES AND*  
14           *SCOPE.—Section 2332a of title 18, United States Code, is*  
15           *amended—*

16           (1) *so that paragraph (2) of subsection (a) reads*  
17           *as follows:*

18           “(2) *against any person or property within the*  
19           *United States, and*

20           “(A) *the mail or any facility of interstate*  
21           *or foreign commerce is used in furtherance of the*  
22           *offense;*

23           “(B) *such property is used in interstate or*  
24           *foreign commerce or in an activity that affects*  
25           *interstate or foreign commerce;*



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

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

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

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

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

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

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

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

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

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



1           (1) *in the section heading, by striking “certain”;*

2           (2) *in subsection (a), by striking “(other than a*  
3 *chemical weapon as that term is defined in section*  
4 *229F)”*; and

5           (3) *in subsection (b), by striking “(other than a*  
6 *chemical weapon (as that term is defined in section*  
7 *229F))”*.

8           (c) *EXPANSION OF CATEGORIES OF RESTRICTED PER-*  
9 *SONS SUBJECT TO PROHIBITIONS RELATING TO SELECT*  
10 *AGENTS.—Section 175b(d)(2) of title 18, United States*  
11 *Code, is amended—*

12           (1) *in subparagraph (G) by—*

13                   (A) *inserting “(i)” after “(G)”*;

14                   (B) *inserting “, or (ii) acts for or on behalf*  
15 *of, or operates subject to the direction or control*  
16 *of, a government or official of a country de-*  
17 *scribed in this subparagraph” after “terrorism”*;  
18 *and*

19                   (C) *striking “or” after the semicolon.*

20           (2) *in subparagraph (H) by striking the period*  
21 *and inserting “; or”*; and

22           (3) *by adding at the end the following new sub-*  
23 *paragraph:*

24                   “(I) *is a member of, acts for or on behalf of,*  
25 *or operates subject to the direction or control of,*



1           *a terrorist organization as defined in section*  
2           *212(a)(3)(B)(vi) of the Immigration and Nation-*  
3           *ality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.*

4           *(d) CONFORMING AMENDMENT TO REGULATIONS.—*

5           *(1) Section 175b(a)(1) of title 18, United States*  
6           *Code, is amended by striking “as a select agent in*  
7           *Appendix A” and all that follows and inserting the*  
8           *following: “as a non-overlap or overlap select biologi-*  
9           *cal agent or toxin in sections 73.4 and 73.5 of title*  
10           *42, Code of Federal Regulations, pursuant to section*  
11           *351A of the Public Health Service Act, and is not ex-*  
12           *cluded under sections 73.4 and 73.5 or exempted*  
13           *under section 73.6 of title 42, Code of Federal Regula-*  
14           *tions.”.*

15           *(2) The amendment made by paragraph (1) shall*  
16           *take effect at the same time that sections 73.4, 73.5,*  
17           *and 73.6 of title 42, Code of Federal Regulations, be-*  
18           *come effective.*

19           *(e) ENHANCING PROSECUTION OF WEAPONS OF MASS*  
20           *DESTRUCTION OFFENSES.—Section 1961(1)(B) of title 18,*  
21           *United States Code, is amended by adding at the end the*  
22           *following: “sections 175–178 (relating to biological weap-*  
23           *ons), sections 229–229F (relating to chemical weapons), sec-*  
24           *tion 831 (relating to nuclear materials),”.*



1 **SEC. 2053. PARTICIPATION IN NUCLEAR AND WEAPONS OF**  
2 **MASS DESTRUCTION THREATS TO THE**  
3 **UNITED STATES.**

4 (a) Section 57(b) of the Atomic Energy Act of 1954  
5 (42 U.S.C. 2077(b)) is amended by striking “in the produc-  
6 tion of any special nuclear material” and inserting “or  
7 participate in the development or production of any special  
8 nuclear material or atomic weapon”.

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

10 (1) in the table of sections at the beginning of  
11 chapter 39, by inserting after the item relating to sec-  
12 tion 831 the following:

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

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

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

16 “(a) Whoever, within the United States or subject to  
17 the jurisdiction of the United States, willfully participates  
18 in or provides material support or resources (as defined in  
19 section 2339A) to a nuclear weapons program or other  
20 weapons of mass destruction program of a foreign terrorist  
21 power, or attempts or conspires to do so, shall be imprisoned  
22 for not more than 20 years.

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



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

12       “(d) *As used in this section—*

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

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

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





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

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

8   **SEC. 2054. PROLIFERATION OF WEAPONS OF MASS DE-**  
9                                   **STRUCTION.**

10          (a) *FINDINGS.*—Consistent with the report of the Na-  
11          tional Commission on Terrorist Attacks Upon the United  
12          States, Congress makes the following findings:

13                 (1) *Al Qaeda has tried to acquire or make weap-*  
14                 *ons of mass destruction since 1994 or earlier.*

15                 (2) *The United States doubtless would be a*  
16                 *prime target for use of any such weapon by al Qaeda.*

17                 (3) *Although the United States Government has*  
18                 *redoubled its international commitments to sup-*  
19                 *porting the programs for Cooperative Threat Reduc-*  
20                 *tion and other nonproliferation assistance programs,*  
21                 *nonproliferation experts continue to express deep con-*  
22                 *cern about the United States Government’s commit-*  
23                 *ment and approach to securing the weapons of mass*  
24                 *destruction and related highly dangerous materials*



1       *that are still scattered among Russia and other coun-*  
2       *tries of the former Soviet Union.*

3             (4) *The cost of increased investment in the pre-*  
4       *vention of proliferation of weapons of mass destruc-*  
5       *tion and related dangerous materials is greatly out-*  
6       *weighed by the potentially catastrophic cost to the*  
7       *United States of use of weapons of mass destruction*  
8       *or related dangerous materials by the terrorists who*  
9       *are so eager to acquire them.*

10       (b) *SENSE OF CONGRESS.—It is the sense of Congress*  
11       *that—*

12             (1) *maximum effort to prevent the proliferation*  
13       *of weapons of mass destruction, wherever such pro-*  
14       *liferation may occur, is warranted; and*

15             (2) *the programs of the United States Govern-*  
16       *ment to prevent or counter the proliferation of weap-*  
17       *ons of mass destruction, including the Proliferation*  
18       *Security Initiative, the programs for Cooperative*  
19       *Threat Reduction, and other nonproliferation assist-*  
20       *ance programs, should be expanded, improved, and*  
21       *better funded to address the global dimensions of the*  
22       *proliferation threat.*

23       (c) *REQUIREMENT FOR STRATEGY.—Not later than*  
24       *180 days after the date of the enactment of this Act, the*  
25       *President shall submit to Congress—*



1           (1) *a strategy for expanding and strengthening*  
2           *the Proliferation Security Initiative, the programs for*  
3           *Cooperative Threat Reduction, and other non-*  
4           *proliferation assistance programs; and*

5           (2) *an estimate of the funding necessary to exe-*  
6           *cute that strategy.*

7           (d) *REPORT ON REFORMING THE COOPERATIVE*  
8           *THREAT REDUCTION PROGRAM AND OTHER NON-PRO-*  
9           *LIFERATION ASSISTANCE PROGRAMS.—Not later than 180*  
10          *days after the date of the enactment of this Act, the Presi-*  
11          *dent shall submit to Congress a report evaluating whether*  
12          *the United States could more effectively address the global*  
13          *threat of nuclear proliferation by—*

14               (1) *establishing a central coordinator for the pro-*  
15               *grams for Cooperative Threat Reduction;*

16               (2) *eliminating the requirement that the Presi-*  
17               *dent spend no more than \$50,000,000 annually on*  
18               *programs for Cooperative Threat Reduction and other*  
19               *non-proliferation assistance programs carried out*  
20               *outside the former Soviet Union; or*

21               (3) *repealing the provisions of the Soviet Nuclear*  
22               *Threat Reduction Act of 1991 (22 U.S.C. 2551 note)*  
23               *that place conditions on assistance to the former So-*  
24               *viet Union unrelated to bilateral cooperation on*  
25               *weapons dismantlement.*



1 **SEC. 2055. SENSE OF CONGRESS REGARDING INTER-**  
2 **NATIONAL COUNTERPROLIFERATION EF-**  
3 **FORTS.**

4 *It is the sense of Congress that the United States should*  
5 *work with the international community to develop laws and*  
6 *an international legal regime with universal jurisdiction*  
7 *to enable the interdiction of nuclear material and tech-*  
8 *nology, and the capture, interdiction, and prosecution of*  
9 *individuals or entities involved in the smuggling or transfer*  
10 *of nuclear material or technology to any state in the world*  
11 *where they do not fully disclose the nature of their nuclear*  
12 *program.*

13 **SEC. 2056. REMOVAL OF POTENTIAL NUCLEAR WEAPONS**  
14 **MATERIALS FROM VULNERABLE SITES**  
15 **WORLDWIDE.**

16 *(a) SENSE OF CONGRESS.—It is the sense of Congress*  
17 *that removing potential nuclear weapons materials from*  
18 *vulnerable sites around the world would reduce the possi-*  
19 *bility that such materials could fall into the hands of al*  
20 *Qaeda or other groups and states hostile to the United*  
21 *States, and should be a top priority for achieving the na-*  
22 *tional security of the United States. Several actions may*  
23 *be taken to reduce the risk that nuclear weapons materials*  
24 *may end up in terrorist hands, including—*

25 *(1) transporting such materials from such sites*  
26 *to secure facilities;*



1           (2) *providing interim security upgrades for such*  
2           *materials pending their removal from their current*  
3           *sites;*

4           (3) *managing such materials after their arrival*  
5           *at secure facilities;*

6           (4) *purchasing such materials;*

7           (5) *converting such sites to the use of low-en-*  
8           *riched uranium fuels;*

9           (6) *assisting in the closure and decommissioning*  
10          *of such sites;*

11          (7) *providing incentives to facilitate the removal*  
12          *of such materials from vulnerable facilities;*

13          (8) *arranging for the shipment of potential nu-*  
14          *clear weapons materials to the United States, or to*  
15          *other countries willing to accept such materials and*  
16          *able to provide high levels of security for such mate-*  
17          *rials, and dispose of such materials, in order to en-*  
18          *sure that United States national security objectives*  
19          *are accomplished as quickly and effectively as pos-*  
20          *sible; and*

21          (9) *providing funds to upgrade security and ac-*  
22          *counting at sites where potential nuclear weapons*  
23          *materials will remain for an extended period in order*  
24          *to ensure that such materials are secure against plau-*



1        *sible potential threats, and will remain so in the fu-*  
2        *ture.*

3        *(b) REPORT.—*

4            *(1) Not later than 30 days after the submittal to*  
5        *Congress of the budget of the President for fiscal year*  
6        *2006 pursuant to section 1105(a) of title 31, United*  
7        *States Code, the administration shall submit to Con-*  
8        *gress a report that includes the following:*

9            *(A) A list of the sites determined to be of the*  
10        *highest priorities for removal of potential nu-*  
11        *clear weapons materials, based on the quantity*  
12        *and attractiveness of such materials at such sites*  
13        *and the risk of theft or diversion of such mate-*  
14        *rials for weapons purposes.*

15           *(B) An inventory of all sites worldwide*  
16        *where highly-enriched uranium or separated plu-*  
17        *tonium is located, including, to the extent prac-*  
18        *ticable, a prioritized assessment of the terrorism*  
19        *and proliferation risk posed by such materials at*  
20        *each such site, based on the quantity of such ma-*  
21        *terials, the attractiveness of such materials for*  
22        *use in nuclear weapons, the current level of secu-*  
23        *rity and accounting for such materials, and the*  
24        *level of threat (including the effects of terrorist or*  
25        *criminal activity and the pay and morale of*



1           *personnel and guards) in the country or region*  
2           *where such sites are located.*

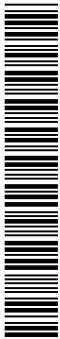
3           *(C) A strategic plan, including measurable*  
4           *milestones and metrics.*

5           *(D) An estimate of the funds required to se-*  
6           *cure these materials.*

7           *(E) The recommendations of the Adminis-*  
8           *tration on whether any further legislative actions*  
9           *or international agreements are necessary to fa-*  
10           *facilitate the accomplishment of the objective.*

11          *(2) The report shall be submitted in unclassified*  
12          *form, but may include a classified annex.*

13          *(c) POTENTIAL NUCLEAR WEAPONS MATERIAL DE-*  
14          *FINED.—In this section, the term “potential nuclear weap-*  
15          *ons material” means plutonium, highly-enriched uranium,*  
16          *or other material capable of sustaining an explosive nuclear*  
17          *chain reaction, including irradiated materials if the radi-*  
18          *ation field from such materials is not sufficient to prevent*  
19          *the theft and use of such materials for an explosive nuclear*  
20          *chain reaction.*



1 ***Subtitle E—Money Laundering and***  
2 ***Terrorist Financing***

3 ***CHAPTER 1—FUNDING TO COMBAT FINAN-***  
4 ***CIAL CRIMES INCLUDING TERRORIST***  
5 ***FINANCING***

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

7 *Subsection (d) of section 310 of title 31, United States*  
8 *Code, is amended—*

9 *(1) by striking “APPROPRIATIONS.—There are*  
10 *authorized” and inserting “APPROPRIATIONS.—*

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

12 *(2) by adding at the end the following new para-*  
13 *graph:*

14 *“(2) AUTHORIZATION FOR FUNDING KEY TECH-*  
15 *NOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL*  
16 *FINCEN SYSTEMS.—There are authorized to be appro-*  
17 *priated for fiscal year 2005 the following amounts,*  
18 *which are authorized to remain available until ex-*  
19 *pended:*

20 *“(A) BSA DIRECT.—For technological im-*  
21 *provements to provide authorized law enforce-*  
22 *ment and financial regulatory agencies with*  
23 *Web-based access to FinCEN data, to fully de-*  
24 *velop and implement the highly secure network*  
25 *required under section 362 of Public Law 107—*





1           56 to expedite the filing of, and reduce the filing  
2           costs for, financial institution reports, including  
3           suspicious activity reports, collected by FinCEN  
4           under chapter 53 and related provisions of law,  
5           and enable FinCEN to immediately alert finan-  
6           cial institutions about suspicious activities that  
7           warrant immediate and enhanced scrutiny, and  
8           to provide and upgrade advanced information-  
9           sharing technologies to materially improve the  
10          Government's ability to exploit the information  
11          in the FinCEN databanks \$16,500,000.

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

19           “(C)    DATA    NETWORKING    MODERNIZA-  
20          TION.—To improve the telecommunications in-  
21          frastructure to support the improved capabilities  
22          of the FinCEN systems, \$3,000,000.

23           “(D)    ENHANCED    COMPLIANCE    CAPA-  
24          BILITY.—To improve the effectiveness of the Of-  
25          fice of Compliance in FinCEN, \$3,000,000.



1                   “(E) *DETECTION AND PREVENTION OF FI-*  
2                   *NANCIAL CRIMES AND TERRORISM.—To provide*  
3                   *development of, and training in the use of, tech-*  
4                   *nology to detect and prevent financial crimes*  
5                   *and terrorism within and without the United*  
6                   *States, \$8,000,000.”.*

7   **SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES**  
8                   **STRATEGY REAUTHORIZATION.**

9           (a) *PROGRAM.—Section 5341(a)(2) of title 31, United*  
10   *States Code, is amended by striking “and 2003,” and in-*  
11   *serting “2003, and 2005,”.*

12           (b) *REAUTHORIZATION OF APPROPRIATIONS.—Section*  
13   *5355 of title 31, United States Code, is amended by adding*  
14   *at the end the following:*

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



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

4 **Subchapter A—Money Laundering Abatement**  
5 **and Financial Antiterrorism Technical**  
6 **Corrections**

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

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

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

12 **56.**

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

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

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

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

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



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

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

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

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

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

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

16           (1) *in paragraph (1)—*

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

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

21           (2) *in paragraph (2)(A)—*

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

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



1           (3) in paragraph (3)(A)—

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

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

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

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

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

13          (i) Subsections (a)(2) and (b)(2) of section 327 of Pub-  
14          lic Law 107–56 are each amended by inserting a period  
15          after “December 31, 2001” and striking all that follows  
16          through the period at the end of each such subsection.

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

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

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

23                   (2) by striking “is amended to read” and insert-  
24                   ing “that precedes paragraph (1) of such section is  
25                   amended to read”; and



1           (3) *by striking “.” at the end of such section*  
2 *and inserting “—”.*

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

4           (1) *in subsection (a), by inserting “the” after*  
5 *“utilization of the funds of”; and*

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

8           (m) *Section 362(a)(1) of Public Law 107–56 is amend-*  
9 *ed by striking “subchapter II or III” and inserting “sub-*  
10 *chapter II”.*

11          (n) *Section 365 of Public Law 107–56 is amended —*

12           (1) *by redesignating the 2nd of the 2 subsections*  
13 *designated as subsection (c) (relating to a clerical*  
14 *amendment) as subsection (d); and*

15           (2) *by redesignating subsection (f) as subsection*  
16 *(e).*

17          (o) *Section 365(d) of Public Law 107–56 (as so red-*  
18 *esignated by subsection (n) of this section) is amended by*  
19 *striking “section 5332 (as added by section 112 of this*  
20 *title)” and inserting “section 5330”.*

21 **SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVI-**  
22 **SIONS OF LAW.**

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



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

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

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

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

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

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

16 **“§5318A Special measures for jurisdictions, financial**  
17 **institutions, international transactions,**  
18 **or types of accounts of primary money**  
19 **laundering concern”.**

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

22           (1) in subsection (a)(4)(A), by striking “, as de-  
23 fined in section 3 of the Federal Deposit Insurance  
24 Act,” and inserting “ (as defined in section 3 of the  
25 Federal Deposit Insurance Act)”;



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

4           (3) *in subsection (b)(1)(A), by striking “or class*  
5           *of transactions to be” and inserting “class of trans-*  
6           *actions, or type of account to be”;* and

7           (4) *in subsection (e)(3), by inserting “or sub-*  
8           *section (i) or (j) of section 5318” after “identification*  
9           *of individuals under this section”.*

10          (g) *Section 5324(b) of title 31, United States Code, is*  
11          *amended by striking “5333” each place such term appears*  
12          *and inserting “5331”.*

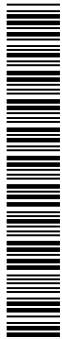
13          (h) *Section 5332 of title 31, United States Code, is*  
14          *amended—*

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

17                 (2) *in subsection (c)(1), by striking “, subject to*  
18                 *subsection (d) of this section,”.*

19          (i) *The table of sections for subchapter II of chapter*  
20          *53 of title 31, United States Code, is amended by striking*  
21          *the item relating to section 5318A and inserting the fol-*  
22          *lowing new item:*

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





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

4           (k) *Section 21(a)(2) of the Federal Deposit Insurance*  
5 *Act (12 U.S.C. 1829b(a)(2)) is amended by striking “recog-*  
6 *nizes that” and inserting “recognizing that”.*

7           (l) *Section 626(e) of the Fair Credit Reporting Act (15*  
8 *U.S.C. 1681v(e)) is amended by striking “governmental*  
9 *agency” and inserting “government agency”.*

10 **SEC. 2114. REPEAL OF REVIEW.**

11           *Title III of Public Law 107–56 is amended by striking*  
12 *section 303 (31 U.S.C. 5311 note).*

13 **SEC. 2115. EFFECTIVE DATE.**

14           *The amendments made by this subtitle to Public Law*  
15 *107–56, the United States Code, the Federal Deposit Insur-*  
16 *ance Act, and any other provision of law shall take effect*  
17 *as if such amendments had been included in Public Law*  
18 *107–56, as of the date of the enactment of such Public Law,*  
19 *and no amendment made by such Public Law that is incon-*  
20 *sistent with an amendment made by this subtitle shall be*  
21 *deemed to have taken effect.*



1 ***Subchapter B—Additional Enforcement Tools***

2 ***SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECUR-***  
3 ***ITY PRINTING.***

4 *(a) PRODUCTION OF DOCUMENTS.—Section 5114(a) of*  
5 *title 31, United States Code (relating to engraving and*  
6 *printing currency and security documents), is amended—*

7 *(1) by striking “(a) The Secretary of the Treas-*  
8 *ury” and inserting:*

9 *“(a) AUTHORITY TO ENGRAVE AND PRINT.—*

10 *“(1) IN GENERAL.—The Secretary of the Treas-*  
11 *ury”;* and

12 *(2) by adding at the end the following new para-*  
13 *graphs:*

14 *“(2) ENGRAVING AND PRINTING FOR OTHER GOV-*  
15 *ERNMENTS.—The Secretary of the Treasury may*  
16 *produce currency, postage stamps, and other security*  
17 *documents for foreign governments if—*

18 *“(A) the Secretary of the Treasury deter-*  
19 *mines that such production will not interfere*  
20 *with engraving and printing needs of the United*  
21 *States; and*

22 *“(B) the Secretary of State determines that*  
23 *such production would be consistent with the for-*  
24 *ign policy of the United States.*



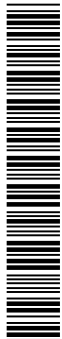
1           “(3) *PROCUREMENT GUIDELINES.*—*Articles, ma-*  
2           *terial, and supplies procured for use in the produc-*  
3           *tion of currency, postage stamps, and other security*  
4           *documents for foreign governments pursuant to para-*  
5           *graph (2) shall be treated in the same manner as ar-*  
6           *ticles, material, and supplies procured for public use*  
7           *within the United States for purposes of title III of*  
8           *the Act of March 3, 1933 (41 U.S.C. 10a et seq.; com-*  
9           *monly referred to as the Buy American Act).”.*

10          (b) *REIMBURSEMENT.*—*Section 5143 of title 31,*  
11          *United States Code (relating to payment for services of the*  
12          *Bureau of Engraving and Printing), is amended—*

13                 (1) *in the first sentence, by inserting “or to a*  
14                 *foreign government under section 5114” after “agen-*  
15                 *cy”;*

16                 (2) *in the second sentence, by inserting “and*  
17                 *other” after “including administrative”; and*

18                 (3) *in the last sentence, by inserting “, and the*  
19                 *Secretary shall take such action, in coordination with*  
20                 *the Secretary of State, as may be appropriate to en-*  
21                 *sure prompt payment by a foreign government of any*  
22                 *invoice or statement of account submitted by the Sec-*  
23                 *retary with respect to services rendered under section*  
24                 *5114” before the period at the end.*



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

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

6 “Whoever, with intent to defraud, has in his custody,  
7 control, or possession any material that can be used to  
8 make, alter, forge or counterfeit any obligations and other  
9 securities of the United States or any part of such securities  
10 and obligations, except under the authority of the Secretary  
11 of the Treasury; or”.

12 (b) *FOREIGN OBLIGATIONS AND SECURITIES.*—Section  
13 481 of title 18, United States Code, is amended by inserting  
14 after the paragraph beginning “Whoever, with intent to de-  
15 fraud” the following:

16 “Whoever, with intent to defraud, has in his custody,  
17 control, or possession any material that can be used to  
18 make, alter, forge or counterfeit any obligation or other se-  
19 curity of any foreign government, bank or corporation; or”.

20 (c) *COUNTERFEIT ACTS.*—Section 470 of title 18,  
21 United States Code, is amended by striking “or 474” and  
22 inserting “474, or 474A”.

23 (d) *MATERIALS USED IN COUNTERFEITING.*—Section  
24 474A(b) of title 18, United States Code, is amended by  
25 striking “any essentially identical” and inserting “any  
26 thing or material made after or in the similitude of any”.



1           ***Subtitle F—Criminal History***  
2                           ***Background Checks***

3   ***SEC. 2141. SHORT TITLE.***

4           *This subtitle may be cited as the “Criminal History*  
5 *Access Means Protection of Infrastructures and Our Nation*  
6 *Act”.*

7   ***SEC. 2142. CRIMINAL HISTORY BACKGROUND CHECKS.***

8           *(a) IN GENERAL.—Section 534 of title 28, United*  
9 *States Code, is amended by adding at the end the following:*

10           *“(f)(1) Under rules prescribed by the Attorney General,*  
11 *the Attorney General shall, within 60 days after the date*  
12 *of enactment, initiate a pilot program to establish and*  
13 *maintain a system for providing to an employer criminal*  
14 *history information that—*

15                   *“(A) is in the possession of the Attorney General;*  
16           *and*

17                   *“(B) is requested by an employer as part of an*  
18 *employee criminal history investigation that has been*  
19 *authorized by the State where the employee works or*  
20 *where the employer has their principal place of busi-*  
21 *ness;*

22 *in order to ensure that a prospective employee is suitable*  
23 *for certain employment positions.*

24           *“(2) The Attorney General shall require that an em-*  
25 *ployer seeking criminal history information of an employee*



1 *request such information and submit fingerprints or other*  
2 *biometric identifiers as approved by the Attorney General*  
3 *to provide a positive and reliable identification of such pro-*  
4 *spective employee.*

5       “(3) *The Director of the Federal Bureau of Investiga-*  
6 *tion may require an employer to pay a reasonable fee for*  
7 *such information.*

8       “(4) *Upon receipt of fingerprints or other biometric*  
9 *identifiers, the Attorney General shall conduct an Inte-*  
10 *grated Fingerprint Identification System of the Federal*  
11 *Bureau of Investigation (IAFIS) check and provide the re-*  
12 *sults of such check to the requester.*

13       “(5) *As used in this subsection,*

14               “(A) *the term ‘criminal history information’ and*  
15 *‘criminal history records’ includes—*

16                       “(i) *an identifying description of the indi-*  
17 *vidual to whom it pertains;*

18                       “(ii) *notations of arrests, detentions, indict-*  
19 *ments, or other formal criminal charges per-*  
20 *taining to such individual; and*

21                       “(iii) *any disposition to a notation revealed*  
22 *in subparagraph (B), including acquittal, sen-*  
23 *tencing, correctional supervision, or release.*

24               “(B) *the term ‘Integrated Automated Finger-*  
25 *print Identification System of the Federal Bureau of*



1        *Investigation (IAFIS)’ means the national depository*  
2        *for fingerprint, biometric, and criminal history infor-*  
3        *mation, through which fingerprints are processed elec-*  
4        *tronically.*

5        *“(6) Nothing in this subsection shall preclude the At-*  
6        *torney General from authorizing or requiring criminal his-*  
7        *tory record checks on individuals employed or seeking em-*  
8        *ployment in positions vital to the Nation’s critical infra-*  
9        *structure or key resources as those terms are defined in sec-*  
10       *tion 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e))*  
11       *and section 2(9) of the Homeland Security Act of 2002 (6*  
12       *U.S.C. 101(9)), if pursuant to a law or executive order.”.*

13       *(b) REPORT TO CONGRESS.—*

14            *(1) IN GENERAL.—Not later than 60 days after*  
15        *the conclusion of the pilot program, the Attorney Gen-*  
16        *eral shall report to the appropriate committees of*  
17        *Congress regarding all statutory requirements for*  
18        *criminal history record checks that are required to be*  
19        *conducted by the Department of Justice or any of its*  
20        *components.*

21            *(2) IDENTIFICATION OF INFORMATION.—The At-*  
22        *torney General shall identify the number of records*  
23        *requested, including the type of information requested,*  
24        *usage of different terms and definitions regarding*  
25        *criminal history information, and the variation in*



1        *fees charged for such information and who pays such*  
2        *fees.*

3            (3) *RECOMMENDATIONS.*—*The Attorney General*  
4        *shall make recommendations for consolidating the ex-*  
5        *isting procedures into a unified procedure consistent*  
6        *with that provided in section 534(f) of title 28,*  
7        *United States Code, as amended by this subtitle. In*  
8        *making the recommendations to Congress, the Attor-*  
9        *ney General shall consider—*

10            (A) *the effectiveness of utilizing commer-*  
11            *cially available databases as a supplement to*  
12            *IAFIS criminal history information checks;*

13            (B) *the effectiveness of utilizing State data-*  
14            *bases as a supplement to IAFIS criminal history*  
15            *information checks;*

16            (C) *any feasibility studies by the Depart-*  
17            *ment of Justice of the FBI's resources and struc-*  
18            *ture to establish a system to provide criminal*  
19            *history information; and*

20            (D) *privacy rights and other employee pro-*  
21            *tections to include employee consent, access to the*  
22            *records used if employment was denied, an ap-*  
23            *peal mechanism, and penalties for misuse of the*  
24            *information.*





1 **SEC. 2143. PROTECT ACT.**

2 *Public law 108–21 is amended—*

3 *(1) in section 108(a)(2)(A) by striking “an 18*  
4 *month” and inserting “a 30-month”; and*

5 *(2) in section 108(a)(3)(A) by striking “an 18-*  
6 *month” and inserting “a 30-month”.*

7 **SEC. 2144. REVIEWS OF CRIMINAL RECORDS OF APPLI-**  
8 **CANTS FOR PRIVATE SECURITY OFFICER EM-**  
9 **PLOYMENT.**

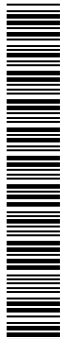
10 *(a) SHORT TITLE.—This section may be cited as the*  
11 *“Private Security Officer Employment Authorization Act*  
12 *of 2004”.*

13 *(b) FINDINGS.—Congress finds that—*

14 *(1) employment of private security officers in the*  
15 *United States is growing rapidly;*

16 *(2) private security officers function as an ad-*  
17  *adjunct to, but not a replacement for, public law en-*  
18 *forcement by helping to reduce and prevent crime;*

19 *(3) such private security officers protect individ-*  
20 *uals, property, and proprietary information, and*  
21 *provide protection to such diverse operations as*  
22 *banks, hospitals, research and development centers,*  
23 *manufacturing facilities, defense and aerospace con-*  
24 *tractors, high technology businesses, nuclear power*  
25 *plants, chemical companies, oil and gas refineries,*  
26 *airports, communication facilities and operations, of-*



1       *rice complexes, schools, residential properties, apart-*  
2       *ment complexes, gated communities, and others;*

3           (4) *sworn law enforcement officers provide sig-*  
4       *nificant services to the citizens of the United States*  
5       *in its public areas, and are supplemented by private*  
6       *security officers;*

7           (5) *the threat of additional terrorist attacks re-*  
8       *quires cooperation between public and private sectors*  
9       *and demands professional, reliable, and responsible*  
10       *security officers for the protection of people, facilities,*  
11       *and institutions;*

12           (6) *the trend in the Nation toward growth in*  
13       *such security services has accelerated rapidly;*

14           (7) *such growth makes available more public sec-*  
15       *tor law enforcement officers to combat serious and*  
16       *violent crimes, including terrorism;*

17           (8) *the American public deserves the employment*  
18       *of qualified, well-trained private security personnel as*  
19       *an adjunct to sworn law enforcement officers; and*

20           (9) *private security officers and applicants for*  
21       *private security officer positions should be thoroughly*  
22       *screen and trained.*

23       (c) *DEFINITIONS.—In this Act:*



1           (1) *EMPLOYEE*.—*The term “employee” includes*  
2           *both a current employee and an applicant for em-*  
3           *ployment as a private security officer.*

4           (2) *AUTHORIZED EMPLOYER*.—*The term “au-*  
5           *thorized employer” means any person that—*

6                   (A) *employs private security officers; and*

7                   (B) *is authorized by regulations promul-*  
8                   *gated by the Attorney General to request a crimi-*  
9                   *nal history record information search of an em-*  
10                   *ployee through a State identification bureau*  
11                   *pursuant to this section.*

12           (3) *PRIVATE SECURITY OFFICER*.—*The term*  
13           *“private security officer”—*

14                   (A) *means an individual other than an em-*  
15                   *ployee of a Federal, State, or local government,*  
16                   *whose primary duty is to perform security serv-*  
17                   *ices, full- or part-time, for consideration, whether*  
18                   *armed or unarmed and in uniform or plain*  
19                   *clothes (except for services excluded from coverage*  
20                   *under this Act if the Attorney General deter-*  
21                   *mines by regulation that such exclusion would*  
22                   *serve the public interest); but*

23                   (B) *does not include—*

24                           (i) *employees whose duties are pri-*  
25                           *marily internal audit or credit functions;*



1                   (ii) employees of electronic security  
2                   system companies acting as technicians or  
3                   monitors; or

4                   (iii) employees whose duties primarily  
5                   involve the secure movement of prisoners.

6                   (4) SECURITY SERVICES.—The term “security  
7                   services” means acts to protect people or property as  
8                   defined by regulations promulgated by the Attorney  
9                   General.

10                  (5) STATE IDENTIFICATION BUREAU.—The term  
11                  “State identification bureau” means the State entity  
12                  designated by the Attorney General for the submission  
13                  and receipt of criminal history record information.

14                  (d) CRIMINAL HISTORY RECORD INFORMATION  
15 SEARCH.—

16                  (1) IN GENERAL.—

17                  (A) SUBMISSION OF FINGERPRINTS.—An  
18                  authorized employer may submit to the State  
19                  identification bureau of a participating State,  
20                  fingerprints or other means of positive identi-  
21                  fication, as determined by the Attorney General,  
22                  of an employee of such employer for purposes of  
23                  a criminal history record information search  
24                  pursuant to this Act.

25                  (B) EMPLOYEE RIGHTS.—



1           (i) *PERMISSION.*—An authorized em-  
2           ployer shall obtain written consent from an  
3           employee to submit to the State identifica-  
4           tion bureau of a participating State the re-  
5           quest to search the criminal history record  
6           information of the employee under this Act.

7           (ii) *ACCESS.*—An authorized employer  
8           shall provide to the employee confidential  
9           access to any information relating to the  
10          employee received by the authorized em-  
11          ployer pursuant to this Act.

12          (C) *PROVIDING INFORMATION TO THE*  
13          *STATE IDENTIFICATION BUREAU.*—Upon receipt  
14          of a request for a criminal history record infor-  
15          mation search from an authorized employer pur-  
16          suant to this Act, submitted through the State  
17          identification bureau of a participating State,  
18          the Attorney General shall—

19               (i) search the appropriate records of  
20               the Criminal Justice Information Services  
21               Division of the Federal Bureau of Investiga-  
22               tion; and

23               (ii) promptly provide any resulting  
24               identification and criminal history record



1 *information to the submitting State identi-*  
2 *fication bureau requesting the information.*

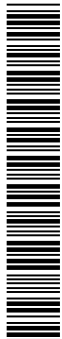
3 *(D) USE OF INFORMATION.—*

4 *(i) IN GENERAL.—Upon receipt of the*  
5 *criminal history record information from*  
6 *the Attorney General by the State identi-*  
7 *fication bureau, the information shall be*  
8 *used only as provided in clause (ii).*

9 *(ii) TERMS.—In the case of—*

10 *(I) a participating State that has*  
11 *no State standards for qualification to*  
12 *be a private security officer, the State*  
13 *shall notify an authorized employer as*  
14 *to the fact of whether an employee has*  
15 *been—*

16 *(aa) convicted of a felony, an*  
17 *offense involving dishonesty or a*  
18 *false statement if the conviction*  
19 *occurred during the previous 10*  
20 *years, or an offense involving the*  
21 *use or attempted use of physical*  
22 *force against the person of another*  
23 *if the conviction occurred during*  
24 *the previous 10 years; or*



1                    *(bb) charged with a criminal*  
2                    *felony for which there has been no*  
3                    *resolution during the preceding*  
4                    *365 days; or*

5                    *(II) a participating State that*  
6                    *has State standards for qualification to*  
7                    *be a private security officer, the State*  
8                    *shall use the information received pur-*  
9                    *suant to this Act in applying the State*  
10                   *standards and shall only notify the*  
11                   *employer of the results of the applica-*  
12                   *tion of the State standards.*

13                   *(E) FREQUENCY OF REQUESTS.—An au-*  
14                   *thorized employer may request a criminal his-*  
15                   *tory record information search for an employee*  
16                   *only once every 12 months of continuous employ-*  
17                   *ment by that employee unless the authorized em-*  
18                   *ployer has good cause to submit additional re-*  
19                   *quests.*

20                   *(2) REGULATIONS.—Not later than 180 days*  
21                   *after the date of enactment of this Act, the Attorney*  
22                   *General shall issue such final or interim final regula-*  
23                   *tions as may be necessary to carry out this Act,*  
24                   *including—*



1           (A) measures relating to the security, con-  
2           fidentiality, accuracy, use, submission, dissemi-  
3           nation, destruction of information and audits,  
4           and record keeping;

5           (B) standards for qualification as an au-  
6           thorized employer; and

7           (C) the imposition of reasonable fees nec-  
8           essary for conducting the background checks.

9           (3) *CRIMINAL PENALTIES FOR USE OF INFORMA-*  
10          *TION.—Whoever knowingly and intentionally uses*  
11          *any information obtained pursuant to this Act other*  
12          *than for the purpose of determining the suitability of*  
13          *an individual for employment as a private security*  
14          *officer shall be fined under title 18, United States*  
15          *Code, or imprisoned for not more than 2 years, or*  
16          *both.*

17          (4) *USER FEES.—*

18                (A) *IN GENERAL.—The Director of the Fed-*  
19                *eral Bureau of Investigation may—*

20                    (i) *collect fees to process background*  
21                    *checks provided for by this Act; and*

22                    (ii) *establish such fees at a level to in-*  
23                    *clude an additional amount to defray ex-*  
24                    *penses for the automation of fingerprint*





1                   *identification and criminal justice informa-*  
2                   *tion services and associated costs.*

3                   *(B) LIMITATIONS.—Any fee collected under*  
4                   *this subsection—*

5                                 *(i) shall, consistent with Public Law*  
6                                 *101–515 and Public Law 104–99, be cred-*  
7                                 *ited to the appropriation to be used for sal-*  
8                                 *aries and other expenses incurred through*  
9                                 *providing the services described in such*  
10                                *Public Laws and in subparagraph (A);*

11                                *(ii) shall be available for expenditure*  
12                                *only to pay the costs of such activities and*  
13                                *services; and*

14                                *(iii) shall remain available until ex-*  
15                                *pended.*

16                   *(C) STATE COSTS.—Nothing in this Act*  
17                   *shall be construed as restricting the right of a*  
18                   *State to assess a reasonable fee on an authorized*  
19                   *employer for the costs to the State of admin-*  
20                   *istering this Act.*

21                   *(5) STATE OPT OUT.—A State may decline to*  
22                   *participate in the background check system authorized*  
23                   *by this Act by enacting a law or issuing an order by*  
24                   *the Governor (if consistent with State law) providing*





1 ***Subtitle G—Protection of United***  
2 ***States Aviation System From***  
3 ***Terrorist Attacks***

4 ***SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR***  
5 ***OTHER TECHNOLOGY.***

6 *(a) USE OF BIOMETRIC TECHNOLOGY.—Section*  
7 *44903(h) of title 49, United States Code, is amended—*

8 *(1) in paragraph (4)(E) by striking “may pro-*  
9 *vide for” and inserting “shall issue, not later than*  
10 *120 days after the date of enactment of paragraph*  
11 *(5), guidance for”; and*

12 *(2) by adding at the end the following:*

13 *“(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-*  
14 *PORT ACCESS CONTROL SYSTEMS.—In issuing guid-*  
15 *ance under paragraph (4)(E), the Assistant Secretary*  
16 *of Homeland Security (Transportation Security Ad-*  
17 *ministration), in consultation with the Attorney Gen-*  
18 *eral, representatives of the aviation industry, the bio-*  
19 *metrics industry, and the National Institute of*  
20 *Standards and Technology, shall establish, at a*  
21 *minimum—*

22 *“(A) comprehensive technical and oper-*  
23 *ational system requirements and performance*  
24 *standards for the use of biometrics in airport ac-*  
25 *cess control systems (including airport perimeter*



1           *access control systems) to ensure that the biomet-*  
2           *ric systems are effective, reliable, and secure;*

3           “(B) *a list of products and vendors that*  
4           *meet such requirements and standards;*

5           “(C) *procedures for implementing biometric*  
6           *systems—*

7                   “(i) *to ensure that individuals do not*  
8                   *use an assumed identity to enroll in a bio-*  
9                   *metric system; and*

10                   “(ii) *to resolve failures to enroll, false*  
11                   *matches, and false non-matches; and*

12           “(D) *best practices for incorporating bio-*  
13           *metric technology into airport access control sys-*  
14           *tems in the most effective manner, including a*  
15           *process to best utilize existing airport access con-*  
16           *trol systems, facilities, and equipment and exist-*  
17           *ing data networks connecting airports.*

18           “(6) *USE OF BIOMETRIC TECHNOLOGY FOR LAW*  
19           *ENFORCEMENT OFFICER TRAVEL.—*

20                   “(A) *IN GENERAL.—Not later than 120*  
21                   *days after the date of enactment of this para-*  
22                   *graph, the Assistant Secretary in consultation*  
23                   *with the Attorney General shall—*

24                   “(i) *establish a law enforcement officer*  
25                   *travel credential that incorporates bio-*



1                   *metrics and is uniform across all Federal,*  
2                   *State, and local government law enforce-*  
3                   *ment agencies;*

4                   “(ii) *establish a process by which the*  
5                   *travel credential will be used to verify the*  
6                   *identity of a Federal, State, or local govern-*  
7                   *ment law enforcement officer seeking to*  
8                   *carry a weapon on board an aircraft, with-*  
9                   *out unnecessarily disclosing to the public*  
10                  *that the individual is a law enforcement of-*  
11                  *ficer;*

12                  “(iii) *establish procedures—*

13                         “(I) *to ensure that only Federal,*  
14                         *State, and local government law en-*  
15                         *forcement officers are issued the travel*  
16                         *credential;*

17                         “(II) *to resolve failures to enroll,*  
18                         *false matches, and false non-matches*  
19                         *relating to use of the travel credential;*  
20                         *and*

21                         “(III) *to invalidate any travel*  
22                         *credential that is lost, stolen, or no*  
23                         *longer authorized for use;*

24                         “(iv) *begin issuance of the travel cre-*  
25                         *dential to each Federal, State, and local*



1           *government law enforcement officer author-*  
2           *ized by the Assistant Secretary to carry a*  
3           *weapon on board an aircraft; and*

4                   “(v) *take such other actions with re-*  
5           *spect to the travel credential as the Sec-*  
6           *retary considers appropriate.*

7                   “(B) *FUNDING.—There are authorized to be*  
8           *appropriated such sums as may be necessary to*  
9           *carry out this paragraph.*

10                   “(7) *DEFINITIONS.—In this subsection, the fol-*  
11           *lowing definitions apply:*

12                           “(A) *BIOMETRIC INFORMATION.—The term*  
13           *‘biometric information’ means the distinct phys-*  
14           *ical or behavioral characteristics that are used*  
15           *for identification, or verification of the identity,*  
16           *of an individual.*

17                           “(B) *BIOMETRICS.—The term ‘biometrics’*  
18           *means a technology that enables the automated*  
19           *identification, or verification of the identity, of*  
20           *an individual based on biometric information.*

21                           “(C) *FAILURE TO ENROLL.—The term ‘fail-*  
22           *ure to enroll’ means the inability of an indi-*  
23           *vidual to enroll in a biometric system due to an*  
24           *insufficiently distinctive biometric sample, the*  
25           *lack of a body part necessary to provide the bio-*



1           *metric sample, a system design that makes it dif-*  
2           *ficult to provide consistent biometric informa-*  
3           *tion, or other factors.*

4           “(D) *FALSE MATCH.*—*The term ‘false*  
5           *match’ means the incorrect matching of one indi-*  
6           *vidual’s biometric information to another indi-*  
7           *vidual’s biometric information by a biometric*  
8           *system.*

9           “(E) *FALSE NON-MATCH.*—*The term ‘false*  
10           *non-match’ means the rejection of a valid iden-*  
11           *tity by a biometric system.*

12           “(F) *SECURE AREA OF AN AIRPORT.*—*The*  
13           *term ‘secure area of an airport’ means the sterile*  
14           *area and the Secure Identification Display Area*  
15           *of an airport (as such terms are defined in sec-*  
16           *tion 1540.5 of title 49, Code of Federal Regula-*  
17           *tions, or any successor regulation to such sec-*  
18           *tion).”.*

19           ***(b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY***  
20           ***IN AIRPORT ACCESS CONTROL SYSTEMS.—***

21           ***(1) GRANT AUTHORITY.***—*Section 44923(a)(4) of*  
22           *title 49, United States Code, is amended—*

23                   ***(A) by striking “and” at the end of para-***  
24                   ***graph (3);***



1                   (B) by redesignating paragraph (4) as  
2                   paragraph (5); and

3                   (C) by inserting after paragraph (3) the fol-  
4                   lowing:

5                   “(4) for projects to implement biometric tech-  
6                   nologies in accordance with guidance issued under  
7                   section 44903(h)(4)(E); and”.

8                   (2) *AUTHORIZATION OF APPROPRIATIONS.*—*Sec-*  
9                   *tion 44923(i)(1) of such title is amended by striking*  
10                  *“\$250,000,000 for each of fiscal years 2004 through*  
11                  *2007” and inserting “\$250,000,000 for fiscal year*  
12                  *2004, \$345,000,000 for fiscal year 2005, and*  
13                  *\$250,000,000 for each of fiscal years 2006 and 2007”.*

14 **SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLAN-**  
15 **NING.**

16                  Section 44904 of title 49, United States Code, is  
17 amended—

18                  (1) by redesignating subsection (c) as subsection  
19                  (e); and

20                  (2) by inserting after subsection (b) the fol-  
21                  lowing:

22                  “(c) *TRANSPORTATION SECURITY STRATEGIC PLAN-*  
23 *NING.*—

24                  “(1) *IN GENERAL.*—*The Secretary of Homeland*  
25                  *Security in consultation with the Attorney General,*





1       *shall prepare and update, as needed, a transportation*  
2       *sector specific plan and transportation modal security*  
3       *plans in accordance with this section.*

4               “(2) *CONTENTS.*—*At a minimum, the modal se-*  
5       *curity plan for aviation prepared under paragraph*  
6       *(1) shall—*

7                       “(A) *set risk-based priorities for defending*  
8       *aviation assets;*

9                       “(B) *select the most practical and cost-effec-*  
10       *tive methods for defending aviation assets;*

11                      “(C) *assign roles and missions to Federal,*  
12       *State, regional, and local authorities and to*  
13       *stakeholders;*

14                      “(D) *establish a damage mitigation and re-*  
15       *covery plan for the aviation system in the event*  
16       *of a terrorist attack; and*

17                      “(E) *include a threat matrix document that*  
18       *outlines each threat to the United States civil*  
19       *aviation system and the corresponding layers of*  
20       *security in place to address such threat.*

21               “(3) *REPORTS.*—*Not later than 180 days after*  
22       *the date of enactment of the subsection and annually*  
23       *thereafter, the Secretary shall submit to the Com-*  
24       *mittee on Transportation and Infrastructure and the*  
25       *Committee on the Judiciary of the House of Rep-*





1                    *or the designee of the Assistant Secretary,*  
2                    *shall commence testing of a next generation*  
3                    *passenger prescreening system that will*  
4                    *allow the Department of Homeland Secu-*  
5                    *rity to assume the performance of com-*  
6                    *paring passenger name records to the auto-*  
7                    *matic selectee and no fly lists, utilizing all*  
8                    *appropriate records in the consolidated and*  
9                    *integrated terrorist watchlist maintained by*  
10                   *the Federal Government.*

11                    “(ii) *ASSUMPTION OF FUNCTION.*—*Not*  
12                    *later than 180 days after completion of test-*  
13                    *ing under clause (i), the Assistant Sec-*  
14                    *retary, or the designee of the Assistant Sec-*  
15                    *retary, shall assume the performance of the*  
16                    *passenger prescreening function of com-*  
17                    *paring passenger name records to the auto-*  
18                    *matic selectee and no fly lists and utilize all*  
19                    *appropriate records in the consolidated and*  
20                    *integrated terrorist watchlist maintained by*  
21                    *the Federal Government in performing that*  
22                    *function.*

23                    “(iii) *REQUIREMENTS.*—*In assuming*  
24                    *performance of the function under clause*  
25                    *(i), the Assistant Secretary shall—*



1           “(I) establish a procedure to en-  
2           able airline passengers, who are de-  
3           layed or prohibited from boarding a  
4           flight because the next generation pas-  
5           senger prescreening system determined  
6           that they might pose a security threat,  
7           to appeal such determination and cor-  
8           rect information contained in the sys-  
9           tem;

10           “(II) ensure that Federal Govern-  
11           ment databases that will be used to es-  
12           tablish the identity of a passenger  
13           under the system will not produce a  
14           large number of false positives;

15           “(III) establish an internal over-  
16           sight board to oversee and monitor the  
17           manner in which the system is being  
18           implemented;

19           “(IV) establish sufficient oper-  
20           ational safeguards to reduce the oppor-  
21           tunities for abuse;

22           “(V) implement substantial secu-  
23           rity measures to protect the system  
24           from unauthorized access;

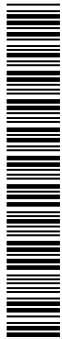


1                   “(VI) *adopt policies establishing*  
2                   *effective oversight of the use and oper-*  
3                   *ation of the system; and*

4                   “(VII) *ensure that there are no*  
5                   *specific privacy concerns with the tech-*  
6                   *nological architecture of the system.*

7                   “(iv) *PASSENGER NAME RECORDS.—*  
8                   *Not later than 60 days after the completion*  
9                   *of the testing of the next generation pas-*  
10                   *senger prescreening system, the Assistant*  
11                   *Secretary shall require air carriers to sup-*  
12                   *ply to the Assistant Secretary the passenger*  
13                   *name records needed to begin implementing*  
14                   *the next generation passenger prescreening*  
15                   *system.*

16                   “(D) *SCREENING OF EMPLOYEES AGAINST*  
17                   *WATCHLIST.—The Assistant Secretary of Home-*  
18                   *land Security (Transportation Security Admin-*  
19                   *istration), in coordination with the Secretary of*  
20                   *Transportation and the Administrator of the*  
21                   *Federal Aviation Administration, shall ensure*  
22                   *that individuals are screened against all appro-*  
23                   *priate records in the consolidated and integrated*  
24                   *terrorist watchlist maintained by the Federal*  
25                   *Government before—*



1                   “(i) being certificated by the Federal  
2                   Aviation Administration;

3                   “(ii) being issued a credential for ac-  
4                   cess to the secure area of an airport; or

5                   “(iii) being issued a credential for ac-  
6                   cess to the air operations area (as defined  
7                   in section 1540.5 of title 49, Code of Federal  
8                   Regulations, or any successor regulation to  
9                   such section) of an airport.

10                  “(E) APPEAL PROCEDURES.—The Assistant  
11                  Secretary shall establish a timely and fair proc-  
12                  ess for individuals identified as a threat under  
13                  subparagraph (D) to appeal the determination  
14                  and correct any erroneous information.

15                  “(F) DEFINITION.—In this paragraph, the  
16                  term ‘secure area of an airport’ means the sterile  
17                  area and the Secure Identification Display Area  
18                  of an airport (as such terms are defined in sec-  
19                  tion 1540.5 of title 49, Code of Federal Regula-  
20                  tions, or any successor regulation to such sec-  
21                  tion).”.

22                  (b) GAO REPORT.—

23                  (1) IN GENERAL.—Not later than 90 days after  
24                  the date on which the Assistant Secretary of Home-  
25                  land Security (Transportation Security Administra-



1        *tion) assumes performance of the passenger*  
2        *prescreening function under section 44903(j)(2)(C)(ii)*  
3        *of title 49, United States Code, the Comptroller Gen-*  
4        *eral shall submit to the appropriate congressional*  
5        *committees a report on the assumption of such func-*  
6        *tion. The report may be submitted in a classified for-*  
7        *mat.*

8                *(2) CONTENTS.—The report under paragraph (1)*  
9        *shall address—*

10                    *(A) whether a system exists in the next gen-*  
11                    *eration passenger prescreening system whereby*  
12                    *aviation passengers, determined to pose a threat*  
13                    *and either delayed or prohibited from boarding*  
14                    *their scheduled flights by the Transportation Se-*  
15                    *curity Administration, may appeal such a deci-*  
16                    *sion and correct erroneous information;*

17                    *(B) the sufficiency of identifying informa-*  
18                    *tion contained in passenger name records and*  
19                    *any government databases for ensuring that a*  
20                    *large number of false positives will not result*  
21                    *under the next generation passenger prescreening*  
22                    *system in a significant number of passengers*  
23                    *being treated as a threat mistakenly or in secu-*  
24                    *rity resources being diverted;*



1           (C) *whether the Transportation Security*  
2           *Administration stress tested the next generation*  
3           *passenger prescreening system;*

4           (D) *whether an internal oversight board has*  
5           *been established in the Department of Homeland*  
6           *Security to monitor the next generation pas-*  
7           *senger prescreening system;*

8           (E) *whether sufficient operational safe-*  
9           *guards have been established to prevent the op-*  
10          *portunities for abuse of the system;*

11          (F) *whether substantial security measures*  
12          *are in place to protect the passenger prescreening*  
13          *database from unauthorized access;*

14          (G) *whether policies have been adopted for*  
15          *the effective oversight of the use and operation of*  
16          *the system;*

17          (H) *whether specific privacy concerns still*  
18          *exist with the system; and*

19          (I) *whether appropriate life cycle cost esti-*  
20          *mates have been developed, and a benefit and*  
21          *cost analysis has been performed, for the system.*





1 **SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETEC-**  
2 **TION EQUIPMENT AT AIRPORT SCREENING**  
3 **CHECKPOINTS.**

4 (a) *NONMETALLIC WEAPONS AND EXPLOSIVES.*—*In*  
5 *order to improve security, the Assistant Secretary of Home-*  
6 *land Security (Transportation Security Administration)*  
7 *shall give priority to developing, testing, improving, and*  
8 *deploying technology at screening checkpoints at airports*  
9 *that will detect nonmetallic weapons and explosives on the*  
10 *person of individuals, in their clothing, or in their carry-*  
11 *on baggage or personal property and shall ensure that the*  
12 *equipment alone, or as part of an integrated system, can*  
13 *detect under realistic operating conditions the types of non-*  
14 *metallic weapons and explosives that terrorists would likely*  
15 *try to smuggle aboard an air carrier aircraft.*

16 (b) *STRATEGIC PLAN FOR DEPLOYMENT AND USE OF*  
17 *EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREEN-*  
18 *ING CHECKPOINTS.*—

19 (1) *IN GENERAL.*—*Not later than 90 days after*  
20 *the date of enactment of this Act, the Assistant Sec-*  
21 *retary shall transmit to the appropriate congressional*  
22 *committees a strategic plan to promote the optimal*  
23 *utilization and deployment of explosive detection sys-*  
24 *tems at airports to screen individuals and their*  
25 *carry-on baggage or personal property, including*  
26 *walk-through explosive detection portals, document*



1 *scanners, shoe scanners, and any other explosive de-*  
2 *tection equipment for use at a screening checkpoint.*

3 *The plan may be transmitted in a classified format.*

4 (2) *CONTENTS.—The strategic plan shall include*  
5 *descriptions of the operational applications of explo-*  
6 *sive detection equipment at airport screening check-*  
7 *points, a deployment schedule and quantities of*  
8 *equipment needed to implement the plan, and fund-*  
9 *ing needs for implementation of the plan, including*  
10 *a financing plan that provides for leveraging non-*  
11 *Federal funding.*

12 **SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-**  
13 **RESISTANT CARGO AND BAGGAGE CON-**  
14 **TAINERS.**

15 (a) *IN GENERAL.—Beginning not later than 180 days*  
16 *after the date of enactment of this Act, the Assistant Sec-*  
17 *retary of Homeland Security (Transportation Security Ad-*  
18 *ministration) shall carry out a pilot program to evaluate*  
19 *the use of blast-resistant containers for cargo and baggage*  
20 *on passenger aircraft to minimize the potential effects of*  
21 *detonation of an explosive device.*

22 (b) *INCENTIVES FOR PARTICIPATION IN PILOT PRO-*  
23 *GRAM.—*

24 (1) *IN GENERAL.—As part of the pilot program,*  
25 *the Assistant Secretary shall provide incentives to air*



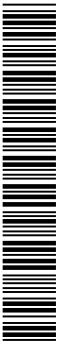
1 *carriers to volunteer to test the use of blast-resistant*  
2 *containers for cargo and baggage on passenger air-*  
3 *craft.*

4 (2) *APPLICATIONS.*—*To volunteer to participate*  
5 *in the incentive program, an air carrier shall submit*  
6 *to the Assistant Secretary an application that is in*  
7 *such form and contains such information as the As-*  
8 *stant Secretary requires.*

9 (3) *TYPES OF ASSISTANCE.*—*Assistance provided*  
10 *by the Assistant Secretary to air carriers that volun-*  
11 *teer to participate in the pilot program shall include*  
12 *the use of blast-resistant containers and financial as-*  
13 *sistance to cover increased costs to the carriers associ-*  
14 *ated with the use and maintenance of the containers,*  
15 *including increased fuel costs.*

16 (c) *REPORT.*—*Not later than one year after the date*  
17 *of enactment of this Act, the Assistant Secretary shall sub-*  
18 *mit to appropriate congressional committees a report on the*  
19 *results of the pilot program.*

20 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
21 *authorized to be appropriated to carry out this section*  
22 *\$2,000,000. Such sums shall remain available until ex-*  
23 *pendent.*



1 **SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

2 *The Transportation Security Administration shall de-*  
3 *velop technology to better identify, track, and screen air*  
4 *cargo.*

5 **SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE**  
6 **DETECTION.**

7 *Section 44940 of title 49, United States Code, is*  
8 *amended by adding at the end the following:*

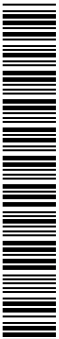
9 *“(i) CHECKPOINT SCREENING SECURITY FUND.—*

10 *“(1) ESTABLISHMENT.—There is established in*  
11 *the Department of Homeland Security a fund to be*  
12 *known as the ‘Checkpoint Screening Security Fund’.*

13 *“(2) DEPOSITS.—In each of fiscal years 2005*  
14 *and 2006, after amounts are made available under*  
15 *section 44923(h), the next \$30,000,000 derived from*  
16 *fees received under subsection (a)(1) shall be available*  
17 *to be deposited in the Fund.*

18 *“(3) FEES.—The Secretary of Homeland Secu-*  
19 *riety shall impose the fee authorized by subsection*  
20 *(a)(1) so as to collect at least \$30,000,000 in each of*  
21 *fiscal years 2005 and 2006 for deposit into the Fund.*

22 *“(4) AVAILABILITY OF AMOUNTS.—Amounts in*  
23 *the Fund shall be available for the purchase, deploy-*  
24 *ment, and installation of equipment to improve the*  
25 *ability of security screening personnel at screening*  
26 *checkpoints to detect explosives.”.*



1 **SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.**

2 (a) *PILOT PROGRAM.*—*The Transportation Security*  
3 *Administration shall develop, not later than 120 days after*  
4 *the date of enactment of this Act, and conduct a pilot pro-*  
5 *gram to test, integrate, and deploy next generation security*  
6 *checkpoint screening technology at not less than 5 airports*  
7 *in the United States.*

8 (b) *HUMAN FACTOR STUDIES.*—*The Administration*  
9 *shall conduct human factors studies to improve screener*  
10 *performance as part of the pilot program under subsection*  
11 *(a).*

12 **SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT**  
13 **DOOR.**

14 (a) *CIVIL PENALTY.*—*Section 46301(a) of title 49,*  
15 *United States Code, is amended by adding at the end the*  
16 *following:*

17 “(6) *PENALTY FOR FAILURE TO SECURE FLIGHT*  
18 *DECK DOOR.*—*Any person holding a part 119 certifi-*  
19 *cate under part of title 14, Code of Federal Regula-*  
20 *tions, is liable to the Government for a civil penalty*  
21 *of not more than \$25,000 for each violation, by the*  
22 *pilot in command of an aircraft owned or operated*  
23 *by such person, of any Federal regulation that re-*  
24 *quires that the flight deck door be closed and locked*  
25 *when the aircraft is being operated.”.*

26 (b) *TECHNICAL CORRECTIONS.*—



1           (1) *COMPROMISE AND SETOFF FOR FALSE INFOR-*  
2           *MATION.*—Section 46302(b) of such title is amended  
3           by striking “Secretary of Transportation” and insert-  
4           ing “Secretary of the Department of Homeland Secu-  
5           rity and, for a violation relating to section 46504, the  
6           Secretary of Transportation,”.

7           (2) *CARRYING A WEAPON.*—Section 46303 of  
8           such title is amended—

9                   (A) in subsection (b) by striking “Secretary  
10                  of Transportation” and inserting “Secretary of  
11                  Homeland Security”; and

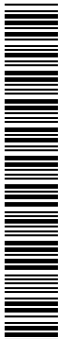
12                  (B) in subsection (c)(2) by striking “Under  
13                  Secretary of Transportation for Security” and  
14                  inserting “Secretary of Homeland Security”.

15           (3) *ADMINISTRATIVE IMPOSITION OF PEN-*  
16           *ALTIES.*—Section 46301(d) of such title is amended—

17                   (A) in the first sentence of paragraph (2) by  
18                  striking “46302, 46303,” and inserting “46302  
19                  (for a violation relating to section 46504),”; and

20                   (B) in the second sentence of paragraph  
21                  (2)—

22                           (i) by striking “Under Secretary of  
23                          Transportation for Security” and inserting  
24                          “Secretary of Homeland Security”; and



1                   (ii) by striking “44909” and inserting  
2                   “44909), 46302 (except for a violation relat-  
3                   ing to section 46504), 46303,”;  
4                   (C) in each of paragraphs (2), (3), and (4)  
5                   by striking “Under Secretary or” and inserting  
6                   “Secretary of Homeland Security”; and  
7                   (D) in paragraph (4)(A) by moving clauses  
8                   (i), (ii), and (iii) 2 ems to the left.

9 **SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.**

10           *The Director of the Federal Air Marshal Service of the*  
11 *Department of Homeland Security shall continue to develop*  
12 *operational initiatives to protect the anonymity of Federal*  
13 *air marshals.*

14 **SEC.     2181.     FEDERAL     LAW     ENFORCEMENT**  
15 **COUNTERTERRORISM TRAINING.**

16           (a) *The Assistant Secretary for Immigration and Cus-*  
17 *toms Enforcement and the Director of Federal Air Marshal*  
18 *Service of the Department of Homeland Security, in coordi-*  
19 *nation with the Assistant Secretary of Homeland Security*  
20 *(Transportation Security Administration), shall make*  
21 *available appropriate in-flight counterterrorism and weap-*  
22 *ons handling procedures and tactics training to Federal law*  
23 *enforcement officers who fly while on duty.*

24           (b) *The Assistant Secretary for Immigration and Cus-*  
25 *toms Enforcement and the Director of Federal Air Marshal*



1 *Service of the Department of Homeland Security, in coordi-*  
2 *nation with the Assistant Secretary of Homeland Security*  
3 *(Transportation Security Administration), shall ensure*  
4 *that Transportation Security Administration screeners and*  
5 *Federal Air Marshals receive training in identifying fraud-*  
6 *ulent identification documents, including fraudulent or ex-*  
7 *pired Visas and Passports. Such training shall also be made*  
8 *available to other Federal law enforcement agencies and*  
9 *local law enforcement agencies located in border states.*

10 **SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**  
11 **RIAGE PILOT PROGRAM.**

12 (a) *IN GENERAL.*—*Not later than 90 days after the*  
13 *date of enactment of this Act, the Assistant Secretary of*  
14 *Homeland Security (Transportation Security Administra-*  
15 *tion), with the concurrence of the Attorney General, shall*  
16 *implement a pilot program to allow pilots participating*  
17 *in the Federal flight deck officer program to transport their*  
18 *firearms on their persons. The Assistant Secretary, in con-*  
19 *sultation with the Attorney General, may prescribe any*  
20 *training, equipment, or procedures including procedures for*  
21 *reporting of missing, lost or stolen firearms, that the Assist-*  
22 *ant Secretary determines necessary to ensure safety and*  
23 *maximize weapon retention.*

24 (b) *REVIEW.*—*Not later than 1 year after the date of*  
25 *initiation of the pilot program, the Assistant Secretary*





1 *shall conduct a review of the safety record of the pilot pro-*  
2 *gram and transmit a report on the results of the review*  
3 *to the appropriate congressional committees.*

4       (c) *OPTION.—If the Assistant Secretary as part of the*  
5 *review under subsection (b) determines that the safety level*  
6 *obtained under the pilot program is comparable to the safe-*  
7 *ty level determined under existing methods of pilots car-*  
8 *rying firearms on aircraft, the Assistant Secretary shall*  
9 *allow all pilots participating in the Federal flight deck offi-*  
10 *cer program the option of carrying their firearm on their*  
11 *person subject to such requirements as the Assistant Sec-*  
12 *retary determines appropriate.*

13 **SEC. 2183. REGISTERED TRAVELER PROGRAM.**

14       *The Transportation Security Administration shall ex-*  
15 *pedite implementation of the registered traveler program.*

16 **SEC. 2184. WIRELESS COMMUNICATION.**

17       (a) *STUDY.—The Transportation Security Adminis-*  
18 *tration, in consultation with the Federal Aviation Adminis-*  
19 *tration, shall conduct a study to determine the viability of*  
20 *providing devices or methods, including wireless methods,*  
21 *to enable a flight crew to discreetly notify the pilot in the*  
22 *case of a security breach or safety issue occurring in the*  
23 *cabin.*

24       (b) *MATTERS TO BE CONSIDERED.—In conducting the*  
25 *study, the Transportation Security Administration and the*



1 *Federal Aviation Administration shall consider technology*  
2 *that is readily available and can be quickly integrated and*  
3 *customized for use aboard aircraft for flight crew commu-*  
4 *nication.*

5 *(c) REPORT.—Not later than 180 days after the date*  
6 *of enactment of this Act, the Transportation Security Ad-*  
7 *ministration shall submit to the appropriate congressional*  
8 *committees a report on the results of the study.*

9 **SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

10 *Not later than 6 months after the date of enactment*  
11 *of this Act, the Assistant Secretary of Homeland Security*  
12 *(Transportation Security Administration) shall transmit to*  
13 *the appropriate congressional committees a report on the*  
14 *costs and benefits associated with the use of secondary flight*  
15 *deck barriers and whether the use of such barriers should*  
16 *be mandated for all air carriers. The Assistant Secretary*  
17 *may transmit the report in a classified format.*

18 **SEC. 2186. EXTENSION.**

19 *Section 48301(a) of title 49, United States Code, is*  
20 *amended by striking “and 2005” and inserting “2005, and*  
21 *2006”.*

22 **SEC. 2187. PERIMETER SECURITY.**

23 *(a) REPORT.—Not later than 180 days after the date*  
24 *of enactment of this Act, the Assistant Secretary of Home-*  
25 *land Security (Transportation Security Administration),*



1 *in consultation with airport operators and law enforcement*  
2 *authorities, shall develop and submit to the appropriate*  
3 *congressional committee a report on airport perimeter secu-*  
4 *rity. The report may be submitted in a classified format.*

5 (b) *CONTENTS.—The report shall include—*

6 (1) *an examination of the feasibility of access*  
7 *control technologies and procedures, including the use*  
8 *of biometrics and other methods of positively identi-*  
9 *fying individuals prior to entry into secure areas of*  
10 *airports, and provide best practices for enhanced pe-*  
11 *rimeter access control techniques; and*

12 (2) *an assessment of the feasibility of physically*  
13 *screening all individuals prior to entry into secure*  
14 *areas of an airport and additional methods for*  
15 *strengthening the background vetting process for all*  
16 *individuals credentialed to gain access to secure areas*  
17 *of airports.*

18 **SEC. 2188. EXTREMELY HAZARDOUS MATERIALS TRANSPOR-**

19 **TATION SECURITY.**

20 (a) *RULEMAKING.—*

21 (1) *IN GENERAL.—Not later than 180 days after*  
22 *the date of enactment of this Act, the Secretary of*  
23 *Homeland Security, in consultation with the Attorney*  
24 *General and the heads of other appropriate Federal,*  
25 *State, and local government entities, security experts,*



1 *representatives of the hazardous materials shipping*  
2 *industry and labor unions representing persons who*  
3 *work in the hazardous materials shipping industry,*  
4 *and other interested persons, shall issue, after notice*  
5 *and opportunity for public comment, regulations con-*  
6 *cerning the shipping of extremely hazardous mate-*  
7 *rials.*

8 (2) *PURPOSES OF REGULATIONS.—The regula-*  
9 *tions shall be consistent, to the extent the Secretary*  
10 *determines appropriate, with and not duplicative of*  
11 *other Federal regulations and international agree-*  
12 *ments relating to the shipping of extremely hazardous*  
13 *materials and shall require—*

14 (A) *physical security measures for such*  
15 *shipments, such as the use of passive secondary*  
16 *containment of tanker valves, additional security*  
17 *force personnel, and surveillance technologies and*  
18 *barriers;*

19 (B) *concerned Federal, State, and local law*  
20 *enforcement authorities (including, if applicable,*  
21 *transit, railroad, or port authority police agen-*  
22 *cies) to be informed before an extremely haz-*  
23 *ardous material is transported within, through,*  
24 *or near an area of concern;*



1           (C) coordination with Federal, State, and  
2 local law enforcement authorities to create re-  
3 sponse plans for a terrorist attack on a shipment  
4 of extremely hazardous materials;

5           (D) the use of currently available tech-  
6 nologies and systems to ensure effective and im-  
7 mediate communication between transporters of  
8 extremely hazardous materials, law enforcement  
9 authorities and first responders;

10          (E) comprehensive and appropriate train-  
11 ing in the area of extremely hazardous materials  
12 transportation security for all individuals who  
13 transport, load, unload, or are otherwise involved  
14 in the shipping of extremely hazardous materials  
15 or who would respond to an accident or incident  
16 involving a shipment of extremely hazardous  
17 material or would have to repair transportation  
18 equipment and facilities in the event of such an  
19 accident or incident; and

20          (F) for the transportation of extremely haz-  
21 ardous materials through or near an area of con-  
22 cern, the Secretary to determine whether or not  
23 the transportation could be made by one or more  
24 alternate routes at lower security risk and, if the  
25 Secretary determines the transportation could be



1           *made by an alternate route, the use of such alter-*  
2           *nate route, except when the origination or des-*  
3           *tination of the shipment is located within the*  
4           *area of concern.*

5           ***(b) JUDICIAL RELIEF.***—*A person (other than an indi-*  
6           *vidual) who transports, loads, unloads, or is otherwise in-*  
7           *volved in the shipping of hazardous materials and violates*  
8           *or fails to comply with a regulation issued by the Secretary*  
9           *under subsection (a) may be subject, in a civil action*  
10          *brought in United States district court, for each shipment*  
11          *with respect to which the violation occurs—*

- 12                   *(1) to an order for injunctive relief; or*  
13                   *(2) to a civil penalty of not more than \$100,000.*

14          ***(c) ADMINISTRATIVE PENALTIES.***—

15                   ***(1) PENALTY ORDERS.***—*The Secretary may issue*  
16                   *an order imposing an administrative penalty of not*  
17                   *more than \$1,000,000 for failure by a person (other*  
18                   *than an individual) who transports, loads, unloads,*  
19                   *or is otherwise involved in the shipping of hazardous*  
20                   *materials to comply with a regulation issued by the*  
21                   *Secretary under subsection (a).*

22                   ***(2) NOTICE AND HEARING.***—*Before issuing an*  
23                   *order described in paragraph (1), the Secretary shall*  
24                   *provide to the person against whom the penalty is to*  
25                   *be assessed—*



1           (A) *written notice of the proposed order;*  
2           *and*

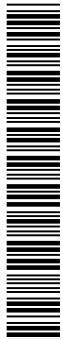
3           (B) *the opportunity to request, not later*  
4           *than 30 days after the date on which the person*  
5           *receives the notice, a hearing on the proposed*  
6           *order.*

7           (3) *PROCEDURES.—The Secretary may issue reg-*  
8           *ulations establishing procedures for administrative*  
9           *hearings and appropriate review of penalties issued*  
10           *under this subsection, including necessary deadlines.*

11          (d) *WHISTLEBLOWER PROTECTION.—*

12           (1) *IN GENERAL.—No person involved in the*  
13           *shipping of extremely hazardous materials may be*  
14           *discharged, demoted, suspended, threatened, harassed,*  
15           *or in any other manner discriminated against be-*  
16           *cause of any lawful act done by the person—*

17           (A) *to provide information, cause informa-*  
18           *tion to be provided, or otherwise assist in an in-*  
19           *vestigation regarding any conduct which the per-*  
20           *son reasonably believes constitutes a violation of*  
21           *any law, rule or regulation related to the secu-*  
22           *rity of shipments of extremely hazardous mate-*  
23           *rials, or any other threat to the security of ship-*  
24           *ments of extremely hazardous materials, when*



1           *the information or assistance is provided to or*  
2           *the investigation is conducted by—*

3                   *(i) a Federal regulatory or law enforce-*  
4                   *ment agency;*

5                   *(ii) any Member of Congress or any*  
6                   *committee of Congress; or*

7                   *(iii) a person with supervisory author-*  
8                   *ity over the person (or such other person*  
9                   *who has the authority to investigate, dis-*  
10                   *cover, or terminate misconduct); or*

11                   *(B) to file, cause to be filed, testify, partici-*  
12                   *pate in, or otherwise assist in a proceeding or*  
13                   *action filed or about to be filed relating to a vio-*  
14                   *lation of any law, rule or regulation related to*  
15                   *the security of shipments of extremely hazardous*  
16                   *materials or any other threat to the security of*  
17                   *shipments of extremely hazardous materials.*

18                   *(C) to refuse to violate or assist in the viola-*  
19                   *tion of any law, rule, or regulation related to the*  
20                   *security of shipments of extremely hazardous ma-*  
21                   *terials.*

22           (2) *ENFORCEMENT ACTION.—*

23                   *(A) IN GENERAL.—A person who alleges*  
24                   *discharge or other discrimination by any person*





1           *in violation of paragraph (1) may seek relief*  
2           *under paragraph (3), by—*

3                   *(i) filing a complaint with the Sec-*  
4                   *retary of Labor; or*

5                   *(ii) if the Secretary has not issued a*  
6                   *final decision within 180 days of the filing*  
7                   *of the complaint and there is no showing*  
8                   *that such delay is due to the bad faith of the*  
9                   *claimant, bringing an action at law or eq-*  
10                  *uity for de novo review in the appropriate*  
11                  *district court of the United States, which*  
12                  *shall have jurisdiction over such an action*  
13                  *without regard to the amount in con-*  
14                  *troversy.*

15                  *(B) PROCEDURE.—*

16                   *(i) IN GENERAL.— An action under*  
17                   *subparagraph (A)(i) shall be governed*  
18                   *under the rules and procedures set forth in*  
19                   *section 42121(b) of title 49, United States*  
20                   *Code.*

21                   *(ii) EXCEPTION.—Notification made*  
22                   *under section 42121(b)(1) of title 49, United*  
23                   *States Code, shall be made to the person*  
24                   *named in the complaint and to the person's*  
25                   *employer.*



1                   (iii) *BURDENS OF PROOF.*—*An action*  
2                   *brought under subparagraph (A)(ii) shall be*  
3                   *governed by the legal burdens of proof set*  
4                   *forth in section 42121(b) of title 49, United*  
5                   *States Code.*

6                   (iv) *STATUTE OF LIMITATIONS.*—*An*  
7                   *action under subparagraph (A) shall be*  
8                   *commenced not later than 90 days after the*  
9                   *date on which the violation occurs.*

10                   (3) *REMEDIES.*—

11                   (A) *IN GENERAL.*—*A person prevailing in*  
12                   *any action under paragraph (2)(A) shall be enti-*  
13                   *tled to all relief necessary to make the person*  
14                   *whole.*

15                   (B) *COMPENSATORY DAMAGES.*—*Relief for*  
16                   *any action under subparagraph (A) shall*  
17                   *include—*

18                   (i) *reinstatement with the same senior-*  
19                   *ity status that the person would have had,*  
20                   *but for the discrimination;*

21                   (ii) *the amount of any back pay, with*  
22                   *interest; and*

23                   (iii) *compensation for any special*  
24                   *damages sustained as a result of the dis-*  
25                   *crimination, including litigation costs, ex-*



1                    *pert witness fees, and reasonable attorney*  
2                    *fees.*

3                    (4) *RIGHTS RETAINED BY PERSON.*—*Nothing in*  
4                    *this subsection shall be deemed to diminish the rights,*  
5                    *privileges, or remedies of any person under any Fed-*  
6                    *eral or State law, or under any collective bargaining*  
7                    *agreement.*

8                    (e) *DEFINITIONS.*—*In this section, the following defini-*  
9                    *tions apply:*

10                    (1) *EXTREMELY HAZARDOUS MATERIAL.*—*The*  
11                    *term “extremely hazardous material” means—*

12                    (A) *a material that is toxic by inhalation;*

13                    (B) *a material that is extremely flammable;*

14                    (C) *a material that is highly explosive; and*

15                    (D) *any other material designated by the*  
16                    *Secretary to be extremely hazardous.*

17                    (2) *AREA OF CONCERN.*—*The term “area of con-*  
18                    *cern” means an area that the Secretary determines*  
19                    *could pose a particular interest to terrorists.*

20 **SEC. 2189. DEFINITIONS.**

21 *In this title, the following definitions apply:*

22                    (1) *APPROPRIATE CONGRESSIONAL COM-*  
23                    *MITTEE.*—*The term “appropriate congressional com-*  
24                    *mittees” means the Committee on Transportation and*  
25                    *Infrastructure and the Committee on the Judiciary of*



1 *the House of Representatives and the Committee on*  
2 *Commerce, Science, and Transportation of the Senate.*

3 (2) *AIR CARRIER.*—*The term “air carrier” has*  
4 *the meaning such term has under section 40102 of*  
5 *title 49, United States Code.*

6 (3) *SECURE AREA OF AN AIRPORT.*—*The term*  
7 *“secure area of an airport” means the sterile area*  
8 *and the Secure Identification Display Area of an air-*  
9 *port (as such terms are defined in section 1540.5 of*  
10 *title 49, Code of Federal Regulations, or any successor*  
11 *regulation to such section).*

## 12 ***Subtitle H—Other Matters***

### 13 ***SEC. 2191. GRAND JURY INFORMATION SHARING.***

14 (a) *RULE AMENDMENTS.*—*Rule 6(e) of the Federal*  
15 *Rules of Criminal Procedure is amended—*

16 (1) *in paragraph (3)—*

17 (A) *in subparagraph (A)(ii), by striking*  
18 *“or state subdivision or of an Indian tribe” and*  
19 *inserting “, state subdivision, Indian tribe, or*  
20 *foreign government”;*

21 (B) *in subparagraph (D)—*

22 (i) *by inserting after the first sentence*  
23 *the following: “An attorney for the govern-*  
24 *ment may also disclose any grand-jury*  
25 *matter involving a threat of actual or po-*



1           *tential attack or other grave hostile acts of*  
2           *a foreign power or an agent of a foreign*  
3           *power, domestic or international sabotage,*  
4           *domestic or international terrorism, or*  
5           *clandestine intelligence gathering activities*  
6           *by an intelligence service or network of a*  
7           *foreign power or by an agent of a foreign*  
8           *power, within the United States or else-*  
9           *where, to any appropriate Federal, State,*  
10          *state subdivision, Indian tribal, or foreign*  
11          *government official for the purpose of pre-*  
12          *venting or responding to such a threat.”;*  
13          *and*

14                   *(ii) in clause (i)—*

15                           *(I) by striking “federal”; and*

16                           *(II) by adding at the end the fol-*  
17                   *lowing: “Any State, state subdivision,*  
18                   *Indian tribal, or foreign government*  
19                   *official who receives information under*  
20                   *Rule 6(e)(3)(D) may use the informa-*  
21                   *tion only consistent with such guide-*  
22                   *lines as the Attorney General and the*  
23                   *National Intelligence Director shall*  
24                   *jointly issue.”; and*

25                   *(C) in subparagraph (E)—*



1                   (i) by redesignating clauses (iii) and  
2                   (iv) as clauses (iv) and (v), respectively;

3                   (ii) by inserting after clause (ii) the  
4                   following:

5                   “(iii) at the request of the government,  
6                   when sought by a foreign court or pros-  
7                   ecutor for use in an official criminal inves-  
8                   tigation;”; and

9                   (iii) in clause (iv), as redesignated—

10                   (I) by striking “state or Indian  
11                   tribal” and inserting “State, Indian  
12                   tribal, or foreign”; and

13                   (II) by striking “or Indian tribal  
14                   official” and inserting “Indian tribal,  
15                   or foreign government official”; and

16                   (2) in paragraph (7), by inserting “, or of guide-  
17                   lines jointly issued by the Attorney General and Di-  
18                   rector of Central Intelligence pursuant to Rule 6,”  
19                   after “Rule 6”.

20                   (b) *CONFORMING AMENDMENT.*—Section 203(c) of  
21                   Public Law 107–56 (18 U.S.C. 2517 note) is amended by  
22                   striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting  
23                   “Rule 6(e)(3)(D)”.



1 **SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND IN-**  
2 **TELLIGENCE DATA SYSTEM.**

3 (a) *FINDINGS.—The Congress finds as follows:*

4 (1) *The interoperable electronic data system*  
5 *known as the “Chimera system”, and required to be de-*  
6 *veloped and implemented by section 202(a)(2) of the*  
7 *Enhanced Border Security and Visa Entry Reform*  
8 *Act of 2002 (8 U.S.C. 1722(a)(2)), has not in any*  
9 *way been implemented.*

10 (2) *Little progress has been made since the enact-*  
11 *ment of such Act with regard to establishing a process*  
12 *to connect existing trusted systems operated independ-*  
13 *ently by the respective intelligence agencies.*

14 (3) *It is advisable, therefore, to assign such re-*  
15 *sponsibility to the National Intelligence Director.*

16 (4) *The National Intelligence Director should,*  
17 *pursuant to the amendments made by subsection (c),*  
18 *begin systems planning immediately upon assuming*  
19 *office to deliver an interim system not later than 1*  
20 *year after the date of the enactment of this Act, and*  
21 *to deliver the fully functional Chimera system not*  
22 *later than September 11, 2007.*

23 (5) *Both the interim system, and the fully func-*  
24 *tional Chimera system, should be designed so that in-*  
25 *telligence officers, Federal law enforcement agencies*  
26 *(as defined in section 2 of such Act (8 U.S.C. 1701)),*



1        *operational counter-terror support center personnel,*  
2        *consular officers, and Department of Homeland Secu-*  
3        *rity enforcement officers have access to them.*

4        *(b) PURPOSES.—The purposes of this section are as*  
5        *follows:*

6                *(1) To provide the National Intelligence Director*  
7        *with the necessary authority and resources to estab-*  
8        *lish both an interim data system and, subsequently,*  
9        *a fully functional Chimera system, to collect and*  
10       *share intelligence and operational information with*  
11       *the intelligence community (as defined in section 3(4)*  
12       *of the National Security Act of 1947 (50 U.S.C.*  
13       *401a(4)).*

14               *(2) To require the National Intelligence Director*  
15       *to establish a state-of-the-art Chimera system with*  
16       *both biometric identification and linguistic capabili-*  
17       *ties satisfying the best technology standards.*

18               *(3) To ensure that the National Intelligence Cen-*  
19       *ter will have a fully functional capability, not later*  
20       *than September 11, 2007, for interoperable data and*  
21       *intelligence exchange with the agencies of the intel-*  
22       *ligence community (as so defined).*

23       *(c) AMENDMENTS.—*





1           (1) *IN GENERAL.*—*Title II of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1721 et seq.) is amended—*

2                   (A) *in section 202(a)—*

3                           (i) *by amending paragraphs (1) and (2) to read as follows:*

4                                   “(1) *INTERIM INTEROPERABLE INTELLIGENCE DATA EXCHANGE SYSTEM.*—*Not later than 1 year after assuming office, the National Intelligence Director shall establish an interim interoperable intelligence data exchange system that will connect the data systems operated independently by the entities in the intelligence community and by the National Counterterrorism Center, so as to permit automated data exchange among all of these entities. Immediately upon assuming office, the National Intelligence Director shall begin the plans necessary to establish such interim system.*

5                                   “(2) *CHIMERA SYSTEM.*—*Not later than September 11, 2007, the National Intelligence Director shall establish a fully functional interoperable law enforcement and intelligence electronic data system within the National Counterterrorism Center to provide immediate access to information in databases of Federal law enforcement agencies and the intelligence*



1        *community that is necessary to identify terrorists,*  
2        *and organizations and individuals that support ter-*  
3        *rorism. The system established under this paragraph*  
4        *shall referred to as the ‘Chimera system’. ”;*

5                                *(ii) in paragraph (3)—*

6                                        *(I) by striking “President” and*  
7                                        *inserting “National Intelligence Direc-*  
8                                        *tor”;* and

9                                        *(II) by striking “the data system”*  
10                                        *and inserting “the interim system de-*  
11                                        *scribed in paragraph (1) and the Chi-*  
12                                        *mera system described in paragraph*  
13                                        *(2)”;*

14                                        *(iii) in paragraph (4)(A), by striking*  
15                                        *“The data system” and all that follows*  
16                                        *through “(2),” and inserting “The interim*  
17                                        *system described in paragraph (1) and the*  
18                                        *Chimera system described in paragraph*  
19                                        *(2)”;*

20                                        *(iv) in paragraph (5)—*

21                                        *(I) in the matter preceding sub-*  
22                                        *paragraph (A), by striking “data sys-*  
23                                        *tem under this subsection” and insert-*  
24                                        *ing “Chimera system described in*  
25                                        *paragraph (2)”;*



1                   (II) in subparagraph (B), by  
2 striking “and” at the end;

3                   (III) in subparagraph (C), by  
4 striking the period at the end and in-  
5 sserting “; and”; and

6                   (IV) by adding at the end the fol-  
7 lowing:

8                   “(D) to any Federal law enforcement or in-  
9 telligence officer authorized to assist in the inves-  
10 tigation, identification, or prosecution of terror-  
11 ists, alleged terrorists, individuals supporting  
12 terrorist activities, and individuals alleged to  
13 support terrorist activities. ”; and

14                   (v) in paragraph (6)—

15                   (I) by striking “President” and  
16 inserting “National Intelligence Direc-  
17 tor”;

18                   (II) by striking “the data system”  
19 and all that follows through “(2),” and  
20 inserting “the interim system described  
21 in paragraph (1) and the Chimera sys-  
22 tem described in paragraph (2)”;

23                   (B) in section 202(b)—

24                   (i) in paragraph (1), by striking “The  
25 interoperable” and all that follows through



1           “subsection (a)” and inserting “the Chi-  
2           mera system described in subsection (a)(2)”;

3           (ii) in paragraph (2), by striking  
4           “interoperable electronic database” and in-  
5           serting “Chimera system described in sub-  
6           section (a)(2)”;

7           (iii) by amending paragraph (4) to  
8           read as follows:

9           “(4) *INTERIM REPORTS.*—Not later than 6  
10          months after assuming office, the National Intel-  
11          ligence Director shall submit a report to the appro-  
12          priate committees of Congress on the progress in im-  
13          plementing each requirement of this section.”;

14          (C) in section 204—

15          (i) by striking “Attorney General”  
16          each place such term appears and inserting  
17          “National Intelligence Director”;

18          (ii) in subsection (d)(1), by striking  
19          “Attorney General’s” and inserting “Na-  
20          tional Intelligence Director’s”;

21          (D) by striking section 203 and redesign-  
22          ating section 204 as section 203.

23          (2) *CLERICAL AMENDMENT.*—The table of con-  
24          tents for the *Enhanced Border Security and Visa*



1       *Entry Reform Act of 2002 (8 U.S.C. 1701 et seq.) is*  
2       *amended—*

3               *(A) by striking the item relating to section*  
4               *203; and*

5               *(B) by redesignating the item relating to*  
6               *section 204 as relating to section 203.*

7       **SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**  
8               **OF THE FEDERAL BUREAU OF INVESTIGA-**  
9               **TION.**

10       *(a) FINDINGS.—Consistent with the report of the Na-*  
11       *tional Commission on Terrorist Attacks Upon the United*  
12       *States and to meet the intelligence needs of the United*  
13       *States, Congress makes the following findings:*

14               *(1) The Federal Bureau of Investigation has*  
15               *made significant progress in improving its intel-*  
16               *ligence capabilities.*

17               *(2) The Federal Bureau of Investigation must*  
18               *further enhance and fully institutionalize its ability*  
19               *to prevent, preempt, and disrupt terrorist threats to*  
20               *our homeland, our people, our allies, and our inter-*  
21               *ests.*

22               *(3) The Federal Bureau of Investigation must*  
23               *collect, process, share, and disseminate, to the greatest*  
24               *extent permitted by applicable law, to the President,*  
25               *the Vice President, and other officials in the Execu-*



1        *tive Branch, all terrorism information and other in-*  
2        *formation necessary to safeguard our people and ad-*  
3        *vance our national and homeland security interests.*

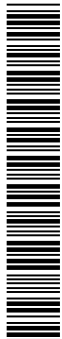
4            (4) *The Federal Bureau of Investigation must*  
5        *move towards full and seamless coordination and co-*  
6        *operation with all other elements of the Intelligence*  
7        *Community, including full participation in, and sup-*  
8        *port to, the National Counterterrorism Center.*

9            (5) *The Federal Bureau of Investigation must*  
10       *strengthen its pivotal role in coordination and co-*  
11       *operation with Federal, State, tribal, and local law*  
12       *enforcement agencies to ensure the necessary sharing*  
13       *of information for counterterrorism and criminal law*  
14       *enforcement purposes.*

15           (6) *The Federal Bureau of Investigation must*  
16       *perform its vital intelligence functions in a manner*  
17       *consistent with both with national intelligence prior-*  
18       *ities and respect for privacy and other civil liberties*  
19       *under the Constitution and laws of the United States.*

20           (b) *IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—*  
21       *The Director of the Federal Bureau of Investigation shall*  
22       *establish a comprehensive intelligence program for—*

23           (1) *intelligence analysis, including recruitment*  
24       *and hiring of analysts, analyst training, priorities*



1       *and status for analysis, and analysis performance*  
2       *measures;*

3             (2) *intelligence production, including product*  
4       *standards, production priorities, information sharing*  
5       *and dissemination, and customer satisfaction meas-*  
6       *ures;*

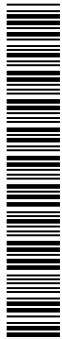
7             (3) *production of intelligence that is responsive*  
8       *to national intelligence requirements and priorities,*  
9       *including measures of the degree to which each FBI*  
10       *headquarters and field component is collecting and*  
11       *providing such intelligence;*

12            (4) *intelligence sources, including source valida-*  
13       *tion, new source development, and performance meas-*  
14       *ures;*

15            (5) *field intelligence operations, including staff-*  
16       *ing and infrastructure, management processes, prior-*  
17       *ities, and performance measures;*

18            (6) *full and seamless coordination and coopera-*  
19       *tion with the other components of the Intelligence*  
20       *Community, consistent with their responsibilities;*  
21       *and*

22            (7) *sharing of FBI intelligence and information*  
23       *across Federal, state, and local governments, with the*  
24       *private sector, and with foreign partners as provided*  
25       *by law or by guidelines of the Attorney General.*



1           (c) *INTELLIGENCE DIRECTORATE.*—*The Director of the*  
2 *Federal Bureau of Investigation shall establish an Intel-*  
3 *ligence Directorate within the FBI. The Intelligence Direc-*  
4 *torate shall have the authority to manage and direct the*  
5 *intelligence operations of all FBI headquarters and field*  
6 *components. The Intelligence Directorate shall have respon-*  
7 *sibility for all components and functions of the FBI nec-*  
8 *essary for—*

9                   (1) *oversight of FBI field intelligence operations;*

10                   (2) *FBI human source development and manage-*  
11 *ment;*

12                   (3) *FBI collection against nationally-determined*  
13 *intelligence requirements;*

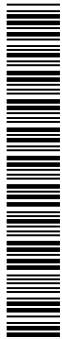
14                   (4) *language services;*

15                   (5) *strategic analysis;*

16                   (6) *intelligence program and budget manage-*  
17 *ment; and*

18                   (7) *the intelligence workforce.*

19           (d) *NATIONAL SECURITY WORKFORCE.*—*The Director*  
20 *of the Federal Bureau of Investigation shall establish a spe-*  
21 *cialized, integrated intelligence cadre composed of Special*  
22 *Agents, analysts, linguists, and surveillance specialists in*  
23 *a manner which creates and sustains within the FBI a*  
24 *workforce with substantial expertise in, and commitment*  
25 *to, the intelligence mission of the FBI. The Director shall—*





1           (1) *ensure that these FBI employees may make*  
2           *their career, including promotion to the most senior*  
3           *positions in the FBI, within this career track;*

4           (2) *establish intelligence cadre requirements*  
5           *for—*

6                   (A) *training;*

7                   (B) *career development and certification;*

8                   (C) *recruitment, hiring, and selection;*

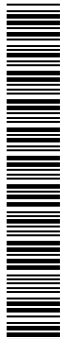
9                   (D) *integrating field intelligence teams; and*

10                  (E) *senior level field management;*

11           (3) *establish intelligence officer certification re-*  
12           *quirements, including requirements for training*  
13           *courses and assignments to other intelligence, na-*  
14           *tional security, or homeland security components of*  
15           *the Executive branch, in order to advance to senior*  
16           *operational management positions in the FBI;*

17           (4) *ensure that the FBI's recruitment and train-*  
18           *ing program enhances its ability to attract individ-*  
19           *uals with educational and professional backgrounds*  
20           *in intelligence, international relations, language,*  
21           *technology, and other skills relevant to the intelligence*  
22           *mission of the FBI;*

23           (5) *ensure that all Special Agents and analysts*  
24           *employed by the FBI after the date of the enactment*



1        *of this Act shall receive basic training in both crimi-*  
2        *nal justice matters and intelligence matters;*

3            *(6) ensure that all Special Agents employed by*  
4        *the FBI after the date of the enactment of this Act,*  
5        *to the maximum extent practicable, be given an op-*  
6        *portunity to undergo, during their early service with*  
7        *the FBI, meaningful assignments in criminal justice*  
8        *matters and in intelligence matters;*

9            *(7) ensure that, to the maximum extent prac-*  
10       *tical, Special Agents who specialize in intelligence are*  
11       *afforded the opportunity to work on intelligence mat-*  
12       *ters over the remainder of their career with the FBI;*  
13       *and*

14           *(8) ensure that, to the maximum extent prac-*  
15       *tical, analysts are afforded FBI training and career*  
16       *opportunities commensurate with the training and*  
17       *career opportunities afforded analysts in other ele-*  
18       *ments of the intelligence community.*

19        *(e) FIELD OFFICE MATTERS.—The Director of the*  
20       *Federal Bureau of Investigation shall take appropriate ac-*  
21       *tions to ensure the integration of analysis, Special Agents,*  
22       *linguists, and surveillance personnel in FBI field intel-*  
23       *ligence components and to provide effective leadership and*  
24       *infrastructure to support FBI field intelligence components.*  
25       *The Director shall—*



1           (1) *ensure that each FBI field office has an offi-*  
2           *cial at the level of Assistant Special Agent in Charge*  
3           *or higher with responsibility for the FBI field intel-*  
4           *ligence component; and*

5           (2) *to the extent practicable, provide for such ex-*  
6           *ansion of special compartmented information facili-*  
7           *ties in FBI field offices as is necessary to ensure the*  
8           *discharge by the field intelligence components of the*  
9           *national security and criminal intelligence mission of*  
10          *the FBI.*

11          (g) *BUDGET MATTERS.—The Director of the Federal*  
12          *Bureau of Investigation shall, in consultation with the Di-*  
13          *rector of the Office of Management and Budget, modify the*  
14          *budget structure of the FBI in order to organize the budget*  
15          *according to its four main programs as follows:*

16               (1) *Intelligence.*

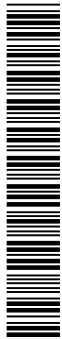
17               (2) *Counterterrorism and counterintelligence.*

18               (3) *Criminal enterprise/Federal crimes.*

19               (4) *Criminal justice services.*

20          (h) *REPORTS.—*

21               (1)(A) *Not later than 180 days after the date of*  
22               *the enactment of this Act, and every twelve months*  
23               *thereafter, the Director of the Federal Bureau of In-*  
24               *vestigation shall submit to Congress a report on the*



1        *progress made as of the date of such report in car-*  
2        *rying out the requirements of this section.*

3                *(B) The Director shall include in the first report*  
4        *required by subparagraph (A) an estimate of the re-*  
5        *sources required to complete the expansion of special*  
6        *compartmented information facilities to carry out the*  
7        *intelligence mission of FBI field intelligence compo-*  
8        *nents.*

9                *(2) In each annual report required by paragraph*  
10        *(1)(A) the director shall include—*

11                *(A) a report on the progress made by each*  
12        *FBI field office during the period covered by*  
13        *such review in addressing FBI and national in-*  
14        *telligence priorities;*

15                *(B) a report assessing the qualifications,*  
16        *status, and roles of analysts at FBI headquarters*  
17        *and in FBI field offices; and*

18                *(C) a report on the progress of the FBI in*  
19        *implementing information-sharing principles.*

20                *(3) A report required by this subsection shall be*  
21        *submitted—*

22                *(A) to each committee of Congress that has*  
23        *jurisdiction over the subject matter of such re-*  
24        *port; and*



1                   (B) in unclassified form, but may include a  
2                   classified annex.

3 **SEC. 2194. NUCLEAR FACILITY THREATS.**

4           (a) *STUDY.*—The President, in consultation with the  
5 Nuclear Regulatory Commission and other appropriate  
6 Federal, State, and local agencies and private entities, shall  
7 conduct a study to identify the types of threats that pose  
8 an appreciable risk to the security of the various classes  
9 of facilities licensed by the Nuclear Regulatory Commission  
10 under the Atomic Energy Act of 1954. Such study shall take  
11 into account, but not be limited to—

12                   (1) the events of September 11, 2001;

13                   (2) an assessment of physical, cyber, biochemical,  
14 and other terrorist threats;

15                   (3) the potential for attack on facilities by mul-  
16 tiple coordinated teams of a large number of individ-  
17 uals;

18                   (4) the potential for assistance in an attack from  
19 several persons employed at the facility;

20                   (5) the potential for suicide attacks;

21                   (6) the potential for water-based and air-based  
22 threats;

23                   (7) the potential use of explosive devices of con-  
24 siderable size and other modern weaponry;



1           (8) *the potential for attacks by persons with a*  
2           *sophisticated knowledge of facility operations;*

3           (9) *the potential for fires, especially fires of long*  
4           *duration; and*

5           (10) *the potential for attacks on spent fuel ship-*  
6           *ments by multiple coordinated teams of a large num-*  
7           *ber of individuals.*

8           (b) *SUMMARY AND CLASSIFICATION REPORT.*—*Not*  
9           *later than 180 days after the date of the enactment of this*  
10          *Act, the President shall transmit to the Congress and the*  
11          *Nuclear Regulatory Commission a report—*

12           (1) *summarizing the types of threats identified*  
13           *under subsection (a); and*

14           (2) *classifying each type of threat identified*  
15           *under subsection (a), in accordance with existing laws*  
16           *and regulations, as either—*

17           (A) *involving attacks and destructive acts,*  
18           *including sabotage, directed against the facility*  
19           *by an enemy of the United States, whether a for-*  
20           *foreign government or other person, or otherwise*  
21           *falling under the responsibilities of the Federal*  
22           *Government; or*

23           (B) *involving the type of risks that Nuclear*  
24           *Regulatory Commission licensees should be re-*  
25           *sponsible for guarding against.*



1           (c) *FEDERAL ACTION REPORT.*—Not later than 90  
2 days after the date on which a report is transmitted under  
3 subsection (b), the President shall transmit to the Congress  
4 a report on actions taken, or to be taken, to address the  
5 types of threats identified under subsection (b)(2)(A). Such  
6 report may include a classified annex as appropriate.

7           (d) *REGULATIONS.*—Not later than 270 days after the  
8 date on which a report is transmitted under subsection (b),  
9 the Nuclear Regulatory Commission shall issue regulations,  
10 including changes to the design basis threat, to ensure that  
11 licensees address the threats identified under subsection  
12 (b)(2)(B).

13           (e) *PHYSICAL SECURITY PROGRAM.*—The Nuclear  
14 Regulatory Commission shall establish an operational safe-  
15 guards response evaluation program that ensures that the  
16 physical protection capability and operational safeguards  
17 response for sensitive nuclear facilities, as determined by  
18 the Commission consistent with the protection of public  
19 health and the common defense and security, shall be tested  
20 periodically through Commission designed, observed, and  
21 evaluated force-on-force exercises to determine whether the  
22 ability to defeat the design basis threat is being maintained.  
23 The exercises shall be conducted by a mock terrorist team  
24 consisting of Commission personnel with advanced knowl-  
25 edge of special weapons and tactics comparable to special



1 *operations forces of the Armed Forces. For purposes of this*  
2 *subsection, the term “sensitive nuclear facilities” includes*  
3 *at a minimum commercial nuclear power plants, including*  
4 *associated spent fuel storage facilities, spent fuel storage*  
5 *pools and dry cask storage at closed reactors, independent*  
6 *spent fuel storage facilities and geologic repository oper-*  
7 *ations areas, category I fuel cycle facilities, and gaseous dif-*  
8 *fusion plants. There are authorized to be appropriated to*  
9 *the Nuclear Regulatory Commission \$3,000,000 for the pur-*  
10 *poses of carrying out this subsection.*

11 *(f) CONTROL OF INFORMATION.—In carrying out this*  
12 *section, the President and the Nuclear Regulatory Commis-*  
13 *sion shall control the dissemination of restricted data, safe-*  
14 *guards information, and other classified national security*  
15 *information in a manner so as to ensure the common de-*  
16 *fense and security, consistent with chapter 12 of the Atomic*  
17 *Energy Act of 1954.*

18 **SEC. 2195. AUTHORIZATION AND CHANGE OF COPS PRO-**  
19 **GRAM TO SINGLE GRANT PROGRAM.**

20 *(a) IN GENERAL.—Section 1701 of title I of the Omni-*  
21 *bus Crime Control and Safe Streets Act of 1968 (42 U.S.C.*  
22 *3796dd) is amended—*

23 *(1) by amending subsection (a) to read as fol-*  
24 *lows:*





1           “(a) *GRANT AUTHORIZATION.*—*The Attorney General*  
2 *shall carry out a single grant program under which the At-*  
3 *torney General makes grants to States, units of local gov-*  
4 *ernment, Indian tribal governments, other public and pri-*  
5 *vate entities, and multi-jurisdictional or regional consortia*  
6 *for the purposes described in subsection (b).”;*

7           (2) *by striking subsections (b) and (c);*

8           (3) *by redesignating subsection (d) as subsection*  
9 *(b), and in that subsection—*

10           (A) *by striking “ADDITIONAL GRANT*  
11 *PROJECTS.—Grants made under subsection (a)*  
12 *may include programs, projects, and other ac-*  
13 *tivities to—” and inserting “USES OF GRANT*  
14 *AMOUNTS.—The purposes for which grants made*  
15 *under subsection (a) may be made are—”;*

16           (B) *by redesignating paragraphs (1)*  
17 *through (12) as paragraphs (6) through (17), re-*  
18 *spectively;*

19           (C) *by inserting before paragraph (5) (as so*  
20 *redesignated) the following new paragraphs:*

21           “(1) *rehire law enforcement officers who have*  
22 *been laid off as a result of State and local budget re-*  
23 *ductions for deployment in community-oriented polic-*  
24 *ing;*



1           “(2) hire and train new, additional career law  
2 enforcement officers for deployment in community-  
3 oriented policing across the Nation;

4           “(3) procure equipment, technology, or support  
5 systems, or pay overtime, to increase the number of  
6 officers deployed in community-oriented policing;

7           “(4) improve security at schools and on school  
8 grounds in the jurisdiction of the grantee through—

9                   “(A) placement and use of metal detectors,  
10 locks, lighting, and other deterrent measures;

11                   “(B) security assessments;

12                   “(C) security training of personnel and stu-  
13 dents;

14                   “(D) coordination with local law enforce-  
15 ment; and

16                   “(E) any other measure that, in the deter-  
17 mination of the Attorney General, may provide  
18 a significant improvement in security;

19           “(5) pay for officers hired to perform intel-  
20 ligence, anti-terror, or homeland security duties exclu-  
21 sively;”; and

22                   (D) by amending paragraph (9) (as so re-  
23 designated) to read as follows:

24                   “(8) develop new technologies, including inter-  
25 operable communications technologies, modernized



1 *criminal record technology, and forensic technology,*  
2 *to assist State and local law enforcement agencies in*  
3 *reorienting the emphasis of their activities from react-*  
4 *ing to crime to preventing crime and to train law en-*  
5 *forcement officers to use such technologies;”;*

6 *(4) by redesignating subsections (e) through (k)*  
7 *as subsections (c) through (i), respectively;*

8 *(5) in subsection (c) (as so redesignated) by*  
9 *striking “subsection (i)” and inserting “subsection*  
10 *(g)”;* and

11 *(6) by adding at the end the following new sub-*  
12 *section:*

13 *“(j) MATCHING FUNDS FOR SCHOOL SECURITY*  
14 *GRANTS.—Notwithstanding subsection (i), in the case of a*  
15 *grant under subsection (a) for the purposes described in*  
16 *subsection (b)(4)—*

17 *“(1) the portion of the costs of a program pro-*  
18 *vided by that grant may not exceed 50 percent;*

19 *“(2) any funds appropriated by Congress for the*  
20 *activities of any agency of an Indian tribal govern-*  
21 *ment or the Bureau of Indian Affairs performing law*  
22 *enforcement functions on any Indian lands may be*  
23 *used to provide the non-Federal share of a matching*  
24 *requirement funded under this subsection; and*



1           “(3) *the Attorney General may provide, in the*  
2           *guidelines implementing this section, for the require-*  
3           *ment of paragraph (1) to be waived or altered in the*  
4           *case of a recipient with a financial need for such a*  
5           *waiver or alteration.”.*

6           **(b) CONFORMING AMENDMENT.**—*Section 1702 of title*  
7           *I of such Act (42 U.S.C. 3796dd–1) is amended in sub-*  
8           *section (d)(2) by striking “section 1701(d)” and inserting*  
9           *“section 1701(b)”.*

10          **(c) AUTHORIZATION OF APPROPRIATIONS.**—*Section*  
11          *1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11))*  
12          *is amended—*

13                 *(1) in subparagraph (A) by striking clause (i)*  
14                 *and all that follows through the period at the end and*  
15                 *inserting the following:*

16                         *“(i) \$1,007,624,000 for fiscal year 2005;*

17                         *“(ii) \$1,027,176,000 for fiscal year 2006; and*

18                         *“(iii) \$1,047,119,000 for fiscal year 2007.”; and*

19                 *(2) in subparagraph (B)—*

20                         *(A) by striking “section 1701(f)” and in-*  
21                         *serting “section 1701(d)”;* and

22                         *(B) by striking the third sentence.*



1                   ***Subtitle I—Police Badges***

2   ***SEC. 2201. SHORT TITLE.***

3           *This subtitle may be cited as the “Badge Security En-*  
4 *hancement Act of 2004” .*

5   ***SEC. 2202. POLICE BADGES.***

6           *Section 716 of title 18, United States Code, is amended*  
7 *in subsection (b)—*

8                   (1) *by striking paragraphs (2) and (4); and*

9                   (2) *by redesignating paragraph (3) as para-*  
10 *graph (2).*

11                   ***TITLE III—BORDER SECURITY***  
12                   ***AND TERRORIST TRAVEL***

13                   ***Subtitle A—Immigration Reform in***  
14                   ***the National Interest***

15                   ***CHAPTER 1—GENERAL PROVISIONS***

16   ***SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE” EX-***  
17                   ***CEPTION FOR CITIZENS.***

18                   (a) *IN GENERAL.—*

19                   (1) *IN GENERAL.—Section 215(b) of the Immi-*  
20 *gration and Nationality Act (8 U.S.C. 1185(b)) is*  
21 *amended to read as follows:*

22                   “(b)(1) *Except as otherwise provided in this sub-*  
23 *section, it shall be unlawful for any citizen of the United*  
24 *States to depart from or enter, or attempt to depart from*



1 *or enter, the United States unless the citizen bears a valid*  
2 *United States passport.*

3 “(2) *Subject to such limitations and exceptions as the*  
4 *President may authorize and prescribe, the President may*  
5 *wave the application of paragraph (1) in the case of a cit-*  
6 *izen departing the United States to, or entering the United*  
7 *States from, foreign contiguous territory.*

8 “(3) *The President, if waiving the application of para-*  
9 *graph (1) pursuant to paragraph (2), shall require citizens*  
10 *departing the United States to, or entering the United*  
11 *States from, foreign contiguous territory to bear a document*  
12 *(or combination of documents) designated by the Secretary*  
13 *of Homeland Security under paragraph (4).*

14 “(4) *The Secretary of Homeland Security—*

15 “(A) *shall designate documents that are suffi-*  
16 *cient to denote identity and citizenship in the United*  
17 *States such that they may be used, either individually*  
18 *or in conjunction with another document, to establish*  
19 *that the bearer is a citizen or national of the United*  
20 *States for purposes of lawfully departing from or en-*  
21 *tering the United States; and*

22 “(B) *shall publish a list of those documents in*  
23 *the Federal Register.*

24 “(5) *A document may not be designated under para-*  
25 *graph (4) (whether alone or in combination with other doc-*



1 uments) unless the Secretary of Homeland Security deter-  
2 mines that the document—

3 “(A) may be relied upon for the purposes of this  
4 subsection; and

5 “(B) may not be issued to an alien unlawfully  
6 present in the United States.”.

7 (2) *EFFECTIVE DATE.*—The amendment made by  
8 paragraph (1) shall take effect on October 1, 2006.

9 (b) *INTERIM RULE.*—

10 (1) *IN GENERAL.*—Not later than 60 days after  
11 the date of the enactment of this Act, the Secretary of  
12 Homeland Security—

13 (A) shall designate documents that are suffi-  
14 cient to denote identity and citizenship in the  
15 United States such that they may be used, either  
16 individually or in conjunction with another doc-  
17 ument, to establish that the bearer is a citizen or  
18 national of the United States for purposes of  
19 lawfully departing from or entering the United  
20 States; and

21 (B) shall publish a list of those documents  
22 in the Federal Register.

23 (2) *LIMITATION ON PRESIDENTIAL AUTHORITY.*—  
24 Beginning on the date that is 90 days after the publi-  
25 cation described in paragraph (1)(B), the President,



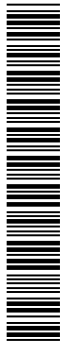
1       *notwithstanding section 215(b) of the Immigration*  
2       *and Nationality Act (8 U.S.C. 1185(b)), may not ex-*  
3       *ercise the President's authority under such section so*  
4       *as to permit any citizen of the United States to de-*  
5       *part from or enter, or attempt to depart from or*  
6       *enter, the United States from any country other than*  
7       *foreign contiguous territory, unless the citizen bears a*  
8       *document (or combination of documents) designated*  
9       *under paragraph (1)(A).*

10           (3) *CRITERIA FOR DESIGNATION.*—*A document*  
11       *may not be designated under paragraph (1)(A)*  
12       *(whether alone or in combination with other docu-*  
13       *ments) unless the Secretary of Homeland Security de-*  
14       *termines that the document—*

15                   (A) *may be relied upon for the purposes of*  
16                   *this subsection; and*

17                   (B) *may not be issued to an alien unlaw-*  
18                   *fully present in the United States.*

19           (4) *EFFECTIVE DATE.*—*This subsection shall take*  
20       *effect on the date of the enactment of this Act and*  
21       *shall cease to be effective on September 30, 2006.*





1 **SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH RE-**  
2 **SPECT TO DOCUMENTATION REQUIREMENTS**  
3 **FOR NATIONALS OF FOREIGN CONTIGUOUS**  
4 **TERRITORIES AND ADJACENT ISLANDS.**

5 (a) *IN GENERAL.*—Section 212(d)(4) of the Immigra-  
6 tion and Nationality Act (8 U.S.C.1182(d)(4)) is  
7 amended—

8 (1) by striking “Attorney General” and inserting  
9 “Secretary of Homeland Security”;

10 (2) by striking “on the basis of reciprocity” and  
11 all that follows through “or (C)”; and

12 (3) by adding at the end the following:  
13 “Either or both of the requirements of such paragraph  
14 may also be waived by the Secretary of Homeland Se-  
15 curity and the Secretary of State, acting jointly and  
16 on the basis of reciprocity, with respect to nationals  
17 of foreign contiguous territory or of adjacent islands,  
18 but only if such nationals are required, in order to  
19 be admitted into the United States, to be in possession  
20 of identification deemed by the Secretary of Home-  
21 land Security to be secure.”.

22 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
23 section (a) shall take effect on December 31, 2006.

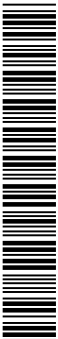


1 **SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL**  
2 **AGENTS.**

3 *The Secretary of Homeland Security, in each of fiscal*  
4 *years 2006 through 2010, shall increase by not less than*  
5 *2,000 the number of positions for full-time active-duty bor-*  
6 *der patrol agents within the Department of Homeland Se-*  
7 *curity above the number of such positions for which funds*  
8 *were allotted for the preceding fiscal year.*

9 **SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND CUS-**  
10 **TOMS ENFORCEMENT INVESTIGATORS.**

11 *The Secretary of Homeland Security, in each of fiscal*  
12 *years 2006 through 2010, shall increase by not less than*  
13 *800 the number of positions for full-time active-duty inves-*  
14 *tigators within the Department of Homeland Security in-*  
15 *vestigating violations of immigration laws (as defined in*  
16 *section 101(a)(17) of the Immigration and Nationality Act*  
17 *(8 U.S.C. 1101(a)(17)) above the number of such positions*  
18 *for which funds were allotted for the preceding fiscal year.*  
19 *At least half of these additional investigators shall be des-*  
20 *ignated to investigate potential violations of section 274A*  
21 *of the Immigration and Nationality Act (8 U.S.C 1324a).*  
22 *Each State shall be allotted at least 3 of these additional*  
23 *investigators.*



1 **SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

2 *Section 211 of the Immigration and Nationality Act*  
3 *(8 U.S.C. 1181) is amended by adding at the end the fol-*  
4 *lowing:*

5 *“(d) For purposes of establishing identity to any Fed-*  
6 *eral employee, an alien present in the United States may*  
7 *present any document issued by the Attorney General or*  
8 *the Secretary of Homeland Security under the authority of*  
9 *one of the immigration laws (as defined in section*  
10 *101(a)(17)), or an unexpired lawfully issued foreign pass-*  
11 *port. Subject to the limitations and exceptions in immigra-*  
12 *tion laws (as defined in section 101(a)(17) of the Immigra-*  
13 *tion and Nationality Act (8 U.S.C. 1101(a)(17)), no other*  
14 *document may be presented for those purposes.”.*

15 **SEC. 3006. EXPEDITED REMOVAL.**

16 *Section 235(b)(1)(A) of the Immigration and Nation-*  
17 *ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking*  
18 *clauses (i) through (iii) and inserting the following:*

19 *“(i) IN GENERAL.—If an immigration*  
20 *officer determines that an alien (other than*  
21 *an alien described in subparagraph (F))*  
22 *who is arriving in the United States, or*  
23 *who has not been admitted or paroled into*  
24 *the United States and has not been phys-*  
25 *ically present in the United States continu-*  
26 *ously for the 5-year period immediately*



1           *prior to the date of the determination of in-*  
2           *admissibility under this paragraph, is in-*  
3           *admissible under section 212(a)(6)(C) or*  
4           *212(a)(7), the officer shall order the alien*  
5           *removed from the United States without*  
6           *further hearing or review, unless—*

7                     *“(I) the alien has been charged*  
8                     *with a crime, is in criminal pro-*  
9                     *ceedings, or is serving a criminal sen-*  
10                    *tence; or*

11                    *“(II) the alien indicates an inten-*  
12                    *tion to apply for asylum under section*  
13                    *208 or a fear of persecution and the of-*  
14                    *ficer determines that the alien has been*  
15                    *physically present in the United States*  
16                    *for less than 1 year.*

17                    *“(ii) CLAIMS FOR ASYLUM.—If an im-*  
18                    *migration officer determines that an alien*  
19                    *(other than an alien described in subpara-*  
20                    *graph (F)) who is arriving in the United*  
21                    *States, or who has not been admitted or pa-*  
22                    *roled into the United States and has not*  
23                    *been physically present in the United States*  
24                    *continuously for the 5-year period imme-*  
25                    *diately prior to the date of the determina-*



1            *tion of inadmissibility under this para-*  
2            *graph, is inadmissible under section*  
3            *212(a)(6)(C) or 212(a)(7), and the alien in-*  
4            *dicates either an intention to apply for asy-*  
5            *lum under section 208 or a fear of persecu-*  
6            *tion, the officer shall refer the alien for an*  
7            *interview by an asylum officer under sub-*  
8            *paragraph (B) if the officer determines that*  
9            *the alien has been physically present in the*  
10           *United States for less than 1 year.”.*

11 **SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING**  
12 **ASYLUM.**

13            *(a) CONDITIONS FOR GRANTING ASYLUM.—Section*  
14 *208(b) of the Immigration and Nationality Act (8 U.S.C.*  
15 *1158(b)) is amended—*

16            *(1) in paragraph (1), by striking “The Attorney*  
17 *General” and inserting the following:*

18            *“(A) ELIGIBILITY.—The Secretary of Home-*  
19 *land Security or the Attorney General”;* and

20            *(2) by adding at the end the following:*

21            *“(B) BURDEN OF PROOF.—The burden of*  
22 *proof is on the applicant to establish that the ap-*  
23 *plicant is a refugee within the meaning of sec-*  
24 *tion 101(a)(42)(A). To establish that the appli-*  
25 *cant is a refugee within the meaning of this Act,*



1           *the applicant must establish that race, religion,*  
2           *nationality, membership in a particular social*  
3           *group, or political opinion was or will be the*  
4           *central motive for persecuting the applicant. The*  
5           *testimony of the applicant may be sufficient to*  
6           *sustain such burden without corroboration, but*  
7           *only if it is credible, is persuasive, and refers to*  
8           *specific facts that demonstrate that the applicant*  
9           *is a refugee. Where the trier of fact finds that it*  
10          *is reasonable to expect corroborating evidence for*  
11          *certain alleged facts pertaining to the specifics of*  
12          *the applicant's claim, such evidence must be pro-*  
13          *vided unless a reasonable explanation is given as*  
14          *to why such information is not provided. The*  
15          *credibility determination of the trier of fact may*  
16          *be based, in addition to other factors, on the de-*  
17          *meanor, candor, or responsiveness of the appli-*  
18          *cant or witness, the consistency between the ap-*  
19          *plicant's or witness's written and oral state-*  
20          *ments, whether or not under oath, made at any*  
21          *time to any officer, agent, or employee of the*  
22          *United States, the internal consistency of each*  
23          *such statement, the consistency of such state-*  
24          *ments with the country conditions in the country*  
25          *from which the applicant claims asylum (as pre-*



1           *mented by the Department of State) and any in-*  
2           *accuracies or falsehoods in such statements.*  
3           *These factors may be considered individually or*  
4           *cumulatively.”.*

5           **(b) STANDARD OF REVIEW FOR ORDERS OF RE-**  
6 **MOVAL.**—*Section 242(b)(4) of the Immigration and Nation-*  
7 *ality Act (8 U.S.C. 1252(b)(4)) is amended by adding after*  
8 *subparagraph (D) the following flush language: “No court*  
9 *shall reverse a determination made by an adjudicator with*  
10 *respect to the availability of corroborating evidence as de-*  
11 *scribed in section 208(b)(1)(B), unless the court finds that*  
12 *a reasonable adjudicator is compelled to conclude that such*  
13 *corroborating evidence is unavailable.”.*

14           **(c) EFFECTIVE DATE.**—*The amendment made by sub-*  
15 *section (b) shall take effect upon the date of enactment of*  
16 *this Act and shall apply to cases in which the final admin-*  
17 *istrative removal order was issued before, on, or after the*  
18 *date of enactment of this Act.*

19 **SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL DOC-**  
20 **UMENTATION.**

21           **(a) LIMITATION ON REVIEW.**—*Section 221(i) of the*  
22 *Immigration and Nationality Act (8 U.S.C. 1201(i)) is*  
23 *amended by adding at the end the following: “There shall*  
24 *be no means of administrative or judicial review of a rev-*  
25 *ocation under this subsection, and no court or other person*



1 *otherwise shall have jurisdiction to consider any claim chal-*  
2 *lenging the validity of such a revocation.”.*

3 (b) *CLASSES OF DEPORTABLE ALIENS.*—Section  
4 *237(a)(1)(B) of the Immigration and Nationality Act (8*  
5 *U.S.C. 1227(a)(1)(B)) is amended by striking “United*  
6 *States is” and inserting the following: “United States, or*  
7 *whose nonimmigrant visa (or other documentation author-*  
8 *izing admission into the United States as a nonimmigrant)*  
9 *has been revoked under section 221(i), is”.*

10 (c) *REVOCATION OF PETITIONS.*—Section 205 of the  
11 *Immigration and Nationality Act (8 U.S.C. 1155) is*  
12 *amended—*

13 (1) *by striking “Attorney General” and inserting*  
14 *“Secretary of Homeland Security”; and*

15 (2) *by striking the final two sentences.*

16 (d) *EFFECTIVE DATE.*—The amendments made by this  
17 *section shall take effect on the date of the enactment of this*  
18 *Act and shall apply to revocations under sections 205 and*  
19 *221(i) of the Immigration and Nationality Act made before,*  
20 *on, or after such date.*

21 **SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

22 (a) *IN GENERAL.*—Section 242 of the Immigration  
23 *and Nationality Act (8 U.S.C. 1252) is amended—*

24 (1) *in subsection (a)—*

25 (A) *in paragraph (2)—*

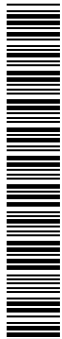




1                   (i) *in subparagraphs (A), (B), and*  
2                   *(C), by inserting “(statutory and nonstatu-*  
3                   *tory), including section 2241 of title 28,*  
4                   *United States Code, or any other habeas*  
5                   *corpus provision, and sections 1361 and*  
6                   *1651 of title 28, United States Code” after*  
7                   *“Notwithstanding any other provision of*  
8                   *law”; and*

9                   (ii) *by adding at the end the following:*

10                   “(D) *JUDICIAL REVIEW OF CERTAIN LEGAL*  
11                   *CLAIMS.—Nothing in this paragraph shall be*  
12                   *construed as precluding consideration by the cir-*  
13                   *cuit courts of appeals of constitutional claims or*  
14                   *pure questions of law raised upon petitions for*  
15                   *review filed in accordance with this section. Not-*  
16                   *withstanding any other provision of law (statu-*  
17                   *tory and nonstatutory), including section 2241*  
18                   *of title 28, United States Code, or, except as pro-*  
19                   *vided in subsection (e), any other habeas corpus*  
20                   *provision, and sections 1361 and 1651 of title*  
21                   *28, United States Code, such petitions for review*  
22                   *shall be the sole and exclusive means of raising*  
23                   *any and all claims with respect to orders of re-*  
24                   *moval entered or issued under any provision of*  
25                   *this Act.”; and*



1                   (B) by adding at the end the following:

2                   “(4) *CLAIMS UNDER THE UNITED NATIONS CON-*  
3                   *VENTION.—Notwithstanding any other provision of*  
4                   *law (statutory and nonstatutory), including section*  
5                   *2241 of title 28, United States Code, or any other ha-*  
6                   *beas corpus provision, and sections 1361 and 1651 of*  
7                   *title 28, United States Code, a petition for review by*  
8                   *the circuit courts of appeals filed in accordance with*  
9                   *this section is the sole and exclusive means of judicial*  
10                  *review of claims arising under the United Nations*  
11                  *Convention Against Torture and Other Forms of*  
12                  *Cruel, Inhuman, or Degrading Treatment or Punish-*  
13                  *ment.*

14                  “(5) *EXCLUSIVE MEANS OF REVIEW.—The judi-*  
15                  *cial review specified in this subsection shall be the*  
16                  *sole and exclusive means for review by any court of*  
17                  *an order of removal entered or issued under any pro-*  
18                  *vision of this Act. For purposes of this title, in every*  
19                  *provision that limits or eliminates judicial review or*  
20                  *jurisdiction to review, the terms ‘judicial review’ and*  
21                  *‘jurisdiction to review’ include habeas corpus review*  
22                  *pursuant to section 2241 of title 28, United States*  
23                  *Code, or any other habeas corpus provision, sections*  
24                  *1361 and 1651 of title 28, United States Code, and*  
25                  *review pursuant to any other provision of law.”;*



1           (2) *in subsection (b)—*

2                   (A) *in paragraph (3)(B), by inserting “pur-*  
3                   *suant to subsection (f)” after “unless”; and*

4                   (B) *in paragraph (9), by adding at the end*  
5                   *the following: “Except as otherwise provided in*  
6                   *this subsection, no court shall have jurisdiction,*  
7                   *by habeas corpus under section 2241 of title 28,*  
8                   *United States Code, or any other habeas corpus*  
9                   *provision, by section 1361 or 1651 of title 28,*  
10                   *United States Code, or by any other provision of*  
11                   *law (statutory or nonstatutory), to hear any*  
12                   *cause or claim subject to these consolidation pro-*  
13                   *visions.”;*

14                   (3) *in subsection (f)(2), by inserting “or stay, by*  
15                   *temporary or permanent order, including stays pend-*  
16                   *ing judicial review,” after “no court shall enjoin”;*  
17                   *and*

18                   (4) *in subsection (g), by inserting “(statutory*  
19                   *and nonstatutory), including section 2241 of title 28,*  
20                   *United States Code, or any other habeas corpus provi-*  
21                   *sion, and sections 1361 and 1651 of title 28, United*  
22                   *States Code” after “notwithstanding any other provi-*  
23                   *sion of law”.*

24                   (b) *EFFECTIVE DATE.—The amendments made by sub-*  
25                   *section (a) shall take effect upon the date of enactment of*



1 *this Act and shall apply to cases in which the final admin-*  
2 *istrative removal order was issued before, on, or after the*  
3 *date of enactment of this Act.*

4 **CHAPTER 2—DEPORTATION OF TERROR-**  
5 **ISTS AND SUPPORTERS OF TER-**  
6 **RORISM**

7 **SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION**  
8 **ON REMOVAL.**

9 (a) *IN GENERAL.*—Section 241(b)(3)(B) (8 U.S.C.  
10 1231(b)(3)(B)) is amended—

11 (1) *in the matter preceding clause (i), by strik-*  
12 *ing “section 237(a)(4)(D)” and inserting “paragraph*  
13 *(4)(B) or (4)(D) of section 237(a)”;* and

14 (2) *in clause (iii), by striking “or”;*

15 (3) *in clause (iv), by striking the period and in-*  
16 *serting “; or” ;*

17 (4) *by inserting after clause (iv) and following:*

18 “(v) *the alien is described in subclause*  
19 *(I), (II), (III), (IV), or (VI) of section*  
20 *212(a)(3)(B)(i) or section 237(a)(4)(B), un-*  
21 *less, in the case only of an alien described*  
22 *in subclause (IV) of section 212(a)(3)(B)(i),*  
23 *the Secretary of Homeland Security deter-*  
24 *mines, in the Secretary’s discretion, that*  
25 *there are not reasonable grounds for regard-*



1                    *ing the alien as a danger to the security of*  
2                    *the United States.”; and*

3                    *(5) by striking the last sentence.*

4                    *(b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of the Im-*  
5 *migration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v))*  
6 *is amended—*

7                    *(1) by striking “inadmissible under” each place*  
8 *such term appears and inserting “described in”; and*

9                    *(2) by striking “removable under”.*

10                   *(c) EFFECTIVE DATE.—The amendments made by this*  
11 *section shall take effect on the date of the enactment of this*  
12 *Act and shall apply to—*

13                   *(1) removal proceedings instituted before, on, or*  
14 *after the date of the enactment of this Act; and*

15                   *(2) acts and conditions constituting a ground for*  
16 *inadmissibility or removal occurring or existing be-*  
17 *fore, on, or after such date.*

18 **SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR**  
19 **TERRORISTS AND CRIMINALS.**

20                   *(a) REGULATIONS.—*

21                   *(1) REVISION DEADLINE.—Not later than 120*  
22 *days after the date of the enactment of this Act, the*  
23 *Secretary of Homeland Security shall revise the regu-*  
24 *lations prescribed by the Secretary to implement the*  
25 *United Nations Convention Against Torture and*



1        *Other Forms of Cruel, Inhuman or Degrading Treat-*  
2        *ment or Punishment, done at New York on December*  
3        *10, 1984.*

4            (2) *EXCLUSION OF CERTAIN ALIENS.—The*  
5        *revision—*

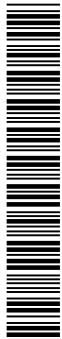
6            (A) *shall exclude from the protection of such*  
7        *regulations aliens described in section*  
8        *241(b)(3)(B) of the Immigration and Nation-*  
9        *ality Act (8 U.S.C. 1231(b)(3)(B)) (as amended*  
10       *by this title), including rendering such aliens in-*  
11       *eligible for withholding or deferral of removal*  
12       *under the Convention; and*

13           (B) *shall ensure that the revised regulations*  
14       *operate so as to—*

15            (i) *allow for the reopening of deter-*  
16        *minations made under the regulations be-*  
17        *fore the effective date of the revision; and*

18            (ii) *apply to acts and conditions con-*  
19        *stituting a ground for ineligibility for the*  
20        *protection of such regulations, as revised,*  
21        *regardless of when such acts or conditions*  
22        *occurred.*

23           (3) *BURDEN OF PROOF.—The revision shall also*  
24       *ensure that the burden of proof is on the applicant for*  
25       *withholding or deferral of removal under the Conven-*



1        *tion to establish by clear and convincing evidence that*  
2        *he or she would be tortured if removed to the proposed*  
3        *country of removal.*

4        *(b) JUDICIAL REVIEW.—Notwithstanding any other*  
5        *provision of law, no court shall have jurisdiction to review*  
6        *the regulations adopted to implement this section, and noth-*  
7        *ing in this section shall be construed as providing any court*  
8        *jurisdiction to consider or review claims raised under the*  
9        *Convention or this section, except as part of the review of*  
10       *a final order of removal pursuant to section 242 of the Im-*  
11       *migration and Nationality Act (8 U.S.C. 1252).*

12       **SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

13       *(a) IN GENERAL.—Section 241(b) of the Immigration*  
14       *and Nationality Act (8 U.S.C. 1231(b)) is amended—*

15                *(1) in paragraph (1)—*

16                        *(A) in each of subparagraphs (A) and (B),*  
17                        *by striking the period at the end and inserting*  
18                        *“unless, in the opinion of the Secretary of Home-*  
19                        *land Security, removing the alien to such coun-*  
20                        *try would be prejudicial to the United States.”;*  
21                        *and*

22                        *(B) by amending subparagraph (C) to read*  
23                        *as follows:*

24                        *“(C) ALTERNATIVE COUNTRIES.—If the*  
25                        *alien is not removed to a country designated in*



1           *subparagraph (A) or (B), the Secretary of Home-*  
2           *land Security shall remove the alien to—*

3                   “(i) *the country of which the alien is*  
4                   *a citizen, subject, or national, where the*  
5                   *alien was born, or where the alien has a*  
6                   *residence, unless the country physically pre-*  
7                   *vents the alien from entering the country*  
8                   *upon the alien’s removal there; or*

9                   “(ii) *any country whose government*  
10                  *will accept the alien into that country.”;*  
11                  *and*

12           (2) *in paragraph (2)—*

13                   (A) *by striking “Attorney General” each*  
14                   *place such term appears and inserting “Sec-*  
15                   *retary of Homeland Security”;*

16                   (B) *by amending subparagraph (D) to read*  
17                   *as follows:*

18                   “(D) *ALTERNATIVE COUNTRIES.—If the*  
19                   *alien is not removed to a country designated*  
20                   *under subparagraph (A)(i), the Secretary of*  
21                   *Homeland Security shall remove the alien to a*  
22                   *country of which the alien is a subject, national,*  
23                   *or citizen, or where the alien has a residence,*  
24                   *unless—*





1           “(i) such country physically prevents  
2           the alien from entering the country upon  
3           the alien’s removal there; or

4           “(ii) in the opinion of the Secretary of  
5           Homeland Security, removing the alien to  
6           the country would be prejudicial to the  
7           United States.”; and

8           (C) by amending subparagraph (E)(vii) to  
9           read as follows:

10           “(vii) Any country whose government  
11           will accept the alien into that country.”.

12           (b) *EFFECTIVE DATE.*—The amendments made by sub-  
13           section (a) shall take effect on the date of the enactment  
14           of this Act and shall apply to any deportation, exclusion,  
15           or removal on or after such date pursuant to any deporta-  
16           tion, exclusion, or removal order, regardless of whether such  
17           order is administratively final before, on, or after such date.

18           **CHAPTER 3—PREVENTING COMMERCIAL**

19                           **ALIEN SMUGGLING**

20           **SEC. 3041. BRINGING IN AND HARBORING CERTAIN ALIENS.**

21           (a) *CRIMINAL PENALTIES.*—Section 274(a) of the Im-  
22           migration and Nationality Act (8 U.S.C. 1324(a)) is  
23           amended by adding at the end the following:

24           “(4) In the case of a person who has brought aliens  
25           into the United States in violation of this subsection, the



1 *sentence otherwise provided for may be increased by up to*  
2 *10 years if—*

3           “(A) *the offense was part of an ongoing commer-*  
4 *cial organization or enterprise;*

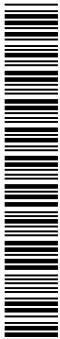
5           “(B) *aliens were transported in groups of 10 or*  
6 *more;*

7           “(C) *aliens were transported in a manner that*  
8 *endangered their lives; or*

9           “(D) *the aliens presented a life-threatening*  
10 *health risk to people in the United States.”.*

11       **(b) OUTREACH PROGRAM.**—*Section 274 of the Immi-*  
12 *gration and Nationality Act (8 U.S.C. 1324), as amended*  
13 *by subsection (a), is further amended by adding at the end*  
14 *the following:*

15       **“(f) OUTREACH PROGRAM.**—*The Secretary of Home-*  
16 *land Security, in consultation as appropriate with the At-*  
17 *torney General and the Secretary of State, shall develop and*  
18 *implement an outreach program to educate the public in*  
19 *the United States and abroad about the penalties for bring-*  
20 *ing in and harboring aliens in violation of this section.*



1     ***Subtitle B—Identity Management***  
2                     ***Security***

3     ***CHAPTER 1—IMPROVED SECURITY FOR***  
4             ***DRIVERS’ LICENSES AND PERSONAL***  
5             ***IDENTIFICATION CARDS***

6     ***SEC. 3051. DEFINITIONS.***

7         *In this chapter, the following definitions apply:*

8             (1) *DRIVER’S LICENSE.*—*The term “driver’s li-*  
9             *cence” means a motor vehicle operator’s license, as de-*  
10            *finied in section 30301 of title 49, United States Code.*

11            (2) *IDENTIFICATION CARD.*—*The term “identi-*  
12            *fication card” means a personal identification card,*  
13            *as defined in section 1028(d) of title 18, United*  
14            *States Code, issued by a State.*

15            (3) *SECRETARY.*—*The term “Secretary” means*  
16            *the Secretary of Homeland Security.*

17            (4) *STATE.*—*The term “State” means a State of*  
18            *the United States, the District of Columbia, Puerto*  
19            *Rico, the Virgin Islands, Guam, American Samoa,*  
20            *the Northern Mariana Islands, the Trust Territory of*  
21            *the Pacific Islands, and any other territory or posses-*  
22            *sion of the United States.*



1 **SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND**  
2 **ISSUANCE STANDARDS FOR FEDERAL REC-**  
3 **OGNITION.**

4 (a) *MINIMUM STANDARDS FOR FEDERAL USE.—*

5 (1) *IN GENERAL.—Beginning 3 years after the*  
6 *date of enactment of this Act, a Federal agency may*  
7 *not accept, for any official purpose, a driver’s license*  
8 *or identification card issued by a State to any person*  
9 *unless the State is meeting the requirements of this*  
10 *section.*

11 (2) *STATE CERTIFICATIONS.—The Secretary*  
12 *shall determine whether a State is meeting the re-*  
13 *quirements of this section based on certifications*  
14 *made by the State to the Secretary. Such certifi-*  
15 *cations shall be made at such times and in such man-*  
16 *ner as the Secretary, in consultation with the Sec-*  
17 *retary of Transportation, may prescribe by regula-*  
18 *tion.*

19 (b) *MINIMUM DOCUMENT REQUIREMENTS.—To meet*  
20 *the requirements of this section, a State shall include, at*  
21 *a minimum, the following information and features on each*  
22 *driver’s license and identification card issued to a person*  
23 *by the State:*

- 24 (1) *The person’s full legal name.*  
25 (2) *The person’s date of birth.*  
26 (3) *The person’s gender.*



1           (4) *The person's driver license or identification*  
2           *card number.*

3           (5) *A photograph of the person.*

4           (6) *The person's address of principal residence.*

5           (7) *The person's signature.*

6           (8) *Physical security features designed to prevent*  
7           *tampering, counterfeiting, or duplication of the docu-*  
8           *ment for fraudulent purposes.*

9           (9) *A common machine-readable technology, with*  
10          *defined minimum data elements.*

11          (c) *MINIMUM ISSUANCE STANDARDS.—*

12           (1) *IN GENERAL.—To meet the requirements of*  
13          *this section, a State shall require, at a minimum,*  
14          *presentation and verification of the following infor-*  
15          *mation before issuing a driver's license or identifica-*  
16          *tion card to a person:*

17           (A) *A photo identity document, except that*  
18          *a non-photo identity document is acceptable if it*  
19          *includes both the person's full legal name and*  
20          *date of birth.*

21           (B) *Documentation showing the person's*  
22          *date of birth.*

23           (C) *Proof of the person's social security ac-*  
24          *count number or verification that the person is*  
25          *not eligible for a social security account number.*



1           (D) Documentation showing the person's  
2           name and address of principal residence.

3           (2) VERIFICATION OF DOCUMENTS.—To meet the  
4           requirements of this section, a State shall implement  
5           the following procedures:

6           (A) Before issuing a driver's license or iden-  
7           tification card to a person, the State shall verify,  
8           with the issuing agency, the issuance, validity,  
9           and completeness of each document required to be  
10          presented by the person under paragraph (1).

11          (B) The State shall not accept any foreign  
12          document, other than an official passport, to sat-  
13          isfy a requirement of paragraph (1).

14          (d) OTHER REQUIREMENTS.—To meet the require-  
15          ments of this section, a State shall adopt the following prac-  
16          tices in the issuance of drivers' licenses and identification  
17          cards:

18           (1) Employ technology to capture digital images  
19           of identity source documents so that the images can  
20           be retained in electronic storage in a transferable for-  
21           mat.

22           (2) Retain paper copies of source documents for  
23           a minimum of 7 years or images of source documents  
24           presented for a minimum of 10 years.



1           (3) *Subject each person applying for a driver's*  
2 *license or identification card to mandatory facial*  
3 *image capture.*

4           (4) *Establish an effective procedure to confirm or*  
5 *verify a renewing applicant's information.*

6           (5) *Confirm with the Social Security Adminis-*  
7 *tration a social security account number presented by*  
8 *a person using the full social security account num-*  
9 *ber. In the event that a social security account num-*  
10 *ber is already registered to or associated with another*  
11 *person to which any State has issued a driver's li-*  
12 *cence or identification card, the State shall resolve the*  
13 *discrepancy and take appropriate action.*

14           (6) *Refuse to issue a driver's license or identi-*  
15 *fication card to a person holding a driver's license*  
16 *issued by another State without confirmation that the*  
17 *person is terminating or has terminated the driver's*  
18 *license.*

19           (7) *Ensure the physical security of locations*  
20 *where drivers' licenses and identification cards are*  
21 *produced and the security of document materials and*  
22 *papers from which drivers' licenses and identification*  
23 *cards are produced.*



1           (8) *Subject all persons authorized to manufac-*  
2           *ture or produce drivers' licenses and identification*  
3           *cards to appropriate security clearance requirements.*

4           (9) *Establish fraudulent document recognition*  
5           *training programs for appropriate employees engaged*  
6           *in the issuance of drivers' licenses and identification*  
7           *cards.*

8   **SEC. 3053. LINKING OF DATABASES.**

9           (a) *IN GENERAL.—To be eligible to receive any grant*  
10          *or other type of financial assistance made available under*  
11          *this subtitle, a State shall participate in the interstate com-*  
12          *pact regarding sharing of driver license data, known as the*  
13          *“Driver License Agreement”, in order to provide electronic*  
14          *access by a State to information contained in the motor*  
15          *vehicle databases of all other States.*

16          (b) *REQUIREMENTS FOR INFORMATION.—A State*  
17          *motor vehicle database shall contain, at a minimum, the*  
18          *following information:*

19               (1) *All data fields printed on drivers' licenses*  
20               *and identification cards issued by the State.*

21               (2) *Motor vehicle drivers' histories, including*  
22               *motor vehicle violations, suspensions, and points on*  
23               *licenses.*





1 **SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES**  
2 **FOR USE IN FALSE IDENTIFICATION DOCU-**  
3 **MENTS.**

4 *Section 1028(a)(8) of title 18, United States Code, is*  
5 *amended by striking “false authentication features” and in-*  
6 *serting “false or actual authentication features”.*

7 **SEC. 3055. GRANTS TO STATES.**

8 *(a) IN GENERAL.—The Secretary may make grants to*  
9 *a State to assist the State in conforming to the minimum*  
10 *standards set forth in this chapter.*

11 *(b) AUTHORIZATION OF APPROPRIATIONS.—There are*  
12 *authorized to be appropriated to the Secretary for each of*  
13 *the fiscal years 2005 through 2009 such sums as may be*  
14 *necessary to carry out this chapter.*

15 **SEC. 3056. AUTHORITY.**

16 *(a) PARTICIPATION OF SECRETARY OF TRANSPOR-*  
17 *TATION AND STATES.—All authority to issue regulations,*  
18 *certify standards, and issue grants under this chapter shall*  
19 *be carried out by the Secretary, in consultation with the*  
20 *Secretary of Transportation and the States.*

21 *(b) EXTENSIONS OF DEADLINES.—The Secretary may*  
22 *grant to a State an extension of time to meet the require-*  
23 *ments of section 3052(a)(1) if the State provides adequate*  
24 *justification for noncompliance.*



1     **CHAPTER 2—IMPROVED SECURITY FOR**  
2                     **BIRTH CERTIFICATES**

3     **SEC. 3061. DEFINITIONS.**

4             (a) *APPLICABILITY OF DEFINITIONS.*—*Except as oth-*  
5 *erwise specifically provided, the definitions contained in*  
6 *section 3051 apply to this chapter.*

7             (b) *OTHER DEFINITIONS.*—*In this chapter, the fol-*  
8 *lowing definitions apply:*

9                     (1) *BIRTH CERTIFICATE.*—*The term “birth cer-*  
10 *tificate” means a certificate of birth—*

11                             (A) *for an individual (regardless of where*  
12 *born)—*

13                                     (i) *who is a citizen or national of the*  
14 *United States at birth; and*

15                                     (ii) *whose birth is registered in the*  
16 *United States; and*

17                             (B) *that—*

18                                     (i) *is issued by a Federal, State, or*  
19 *local government agency or authorized cus-*  
20 *todian of record and produced from birth*  
21 *records maintained by such agency or custo-*  
22 *dian of record; or*

23                                     (ii) *is an authenticated copy, issued by*  
24 *a Federal, State, or local government agen-*  
25 *cy or authorized custodian of record, of an*



1                   *original certificate of birth issued by such*  
2                   *agency or custodian of record.*

3                   (2) *REGISTRANT.*—*The term “registrant” means,*  
4                   *with respect to a birth certificate, the person whose*  
5                   *birth is registered on the certificate.*

6                   (3) *STATE.*—*The term “State” shall have the*  
7                   *meaning given such term in section 3051; except that*  
8                   *New York City shall be treated as a State separate*  
9                   *from New York.*

10 **SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO**  
11 **LOCAL GOVERNMENTS.**

12                   *The minimum standards in this chapter applicable to*  
13 *birth certificates issued by a State shall also apply to birth*  
14 *certificates issued by a local government in the State. It*  
15 *shall be the responsibility of the State to ensure that local*  
16 *governments in the State comply with the minimum stand-*  
17 *ards.*

18 **SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNI-**  
19 **TION.**

20                   (a) *MINIMUM STANDARDS FOR FEDERAL USE.*—

21                   (1) *IN GENERAL.*—*Beginning 3 years after the*  
22 *date of enactment of this Act, a Federal agency may*  
23 *not accept, for any official purpose, a birth certificate*  
24 *issued by a State to any person unless the State is*  
25 *meeting the requirements of this section.*



1           (2) *STATE CERTIFICATIONS.*—*The Secretary*  
2           *shall determine whether a State is meeting the re-*  
3           *quirements of this section based on certifications*  
4           *made by the State to the Secretary. Such certifi-*  
5           *cations shall be made at such times and in such man-*  
6           *ner as the Secretary, in consultation with the Sec-*  
7           *retary of Health and Human Services, may prescribe*  
8           *by regulation.*

9           (b) *MINIMUM DOCUMENT STANDARDS.*—*To meet the*  
10          *requirements of this section, a State shall include, on each*  
11          *birth certificate issued to a person by the State, the use of*  
12          *safety paper, the seal of the issuing custodian of record, and*  
13          *such other features as the Secretary may determine nec-*  
14          *essary to prevent tampering, counterfeiting, and otherwise*  
15          *duplicating the birth certificate for fraudulent purposes.*  
16          *The Secretary may not require a single design to which*  
17          *birth certificates issued by all States must conform.*

18          (c) *MINIMUM ISSUANCE STANDARDS.*—

19                 (1) *IN GENERAL.*—*To meet the requirements of*  
20                 *this section, a State shall require and verify the fol-*  
21                 *lowing information from the requestor before issuing*  
22                 *an authenticated copy of a birth certificate:*

- 23                         (A) *The name on the birth certificate.*  
24                         (B) *The date and location of the birth.*  
25                         (C) *The mother's maiden name.*



1           (D) *Substantial proof of the requestor's*  
2           *identity.*

3           (2) *ISSUANCE TO PERSONS NOT NAMED ON*  
4           *BIRTH CERTIFICATE.—To meet the requirements of*  
5           *this section, in the case of a request by a person who*  
6           *is not named on the birth certificate, a State must re-*  
7           *quire the presentation of legal authorization to re-*  
8           *quest the birth certificate before issuance.*

9           (3) *ISSUANCE TO FAMILY MEMBERS.—Not later*  
10          *than one year after the date of enactment of this Act,*  
11          *the Secretary, in consultation with the Secretary of*  
12          *Health and Human Services and the States, shall es-*  
13          *tablish minimum standards for issuance of a birth*  
14          *certificate to specific family members, their author-*  
15          *ized representatives, and others who demonstrate that*  
16          *the certificate is needed for the protection of the re-*  
17          *questor's personal or property rights.*

18          (4) *WAIVERS.—A State may waive the require-*  
19          *ments set forth in subparagraphs (A) through (C) of*  
20          *subsection (c)(1) in exceptional circumstances, such as*  
21          *the incapacitation of the registrant.*

22          (5) *APPLICATIONS BY ELECTRONIC MEANS.—To*  
23          *meet the requirements of this section, for applications*  
24          *by electronic means, through the mail or by phone or*  
25          *fax, a State shall employ third party verification, or*



1        *equivalent verification, of the identity of the re-*  
2        *questor.*

3            (6) *VERIFICATION OF DOCUMENTS.—To meet the*  
4        *requirements of this section, a State shall verify the*  
5        *documents used to provide proof of identity of the re-*  
6        *questor.*

7            (d) *OTHER REQUIREMENTS.—To meet the require-*  
8        *ments of this section, a State shall adopt, at a minimum,*  
9        *the following practices in the issuance and administration*  
10       *of birth certificates:*

11           (1) *Establish and implement minimum building*  
12        *security standards for State and local vital record of-*  
13        *fices.*

14           (2) *Restrict public access to birth certificates and*  
15        *information gathered in the issuance process to ensure*  
16        *that access is restricted to entities with which the*  
17        *State has a binding privacy protection agreement.*

18           (3) *Subject all persons with access to vital*  
19        *records to appropriate security clearance require-*  
20        *ments.*

21           (4) *Establish fraudulent document recognition*  
22        *training programs for appropriate employees engaged*  
23        *in the issuance process.*

24           (5) *Establish and implement internal operating*  
25        *system standards for paper and for electronic systems.*



1           (6) *Establish a central database that can provide*  
2           *interoperative data exchange with other States and*  
3           *with Federal agencies, subject to privacy restrictions*  
4           *and confirmation of the authority and identity of the*  
5           *requestor.*

6           (7) *Ensure that birth and death records are*  
7           *matched in a comprehensive and timely manner, and*  
8           *that all electronic birth records and paper birth cer-*  
9           *tificates of decedents are marked "deceased".*

10           (8) *Cooperate with the Secretary in the imple-*  
11           *mentation of electronic verification of vital events*  
12           *under section 3065.*

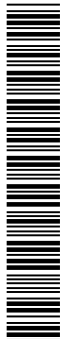
13   **SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND**  
14                            **DEATH REGISTRATION SYSTEMS.**

15           *In consultation with the Secretary of Health and*  
16           *Human Services and the Commissioner of Social Security,*  
17           *the Secretary shall take the following actions:*

18           (1) *Work with the States to establish a common*  
19           *data set and common data exchange protocol for elec-*  
20           *tronic birth registration systems and death registra-*  
21           *tion systems.*

22           (2) *Coordinate requirements for such systems to*  
23           *align with a national model.*

24           (3) *Ensure that fraud prevention is built into*  
25           *the design of electronic vital registration systems in*



1        *the collection of vital event data, the issuance of birth*  
2        *certificates, and the exchange of data among govern-*  
3        *ment agencies.*

4            (4) *Ensure that electronic systems for issuing*  
5        *birth certificates, in the form of printed abstracts of*  
6        *birth records or digitized images, employ a common*  
7        *format of the certified copy, so that those requiring*  
8        *such documents can quickly confirm their validity.*

9            (5) *Establish uniform field requirements for*  
10       *State birth registries.*

11           (6) *Not later than 1 year after the date of enact-*  
12       *ment of this Act, establish a process with the Depart-*  
13       *ment of Defense that will result in the sharing of*  
14       *data, with the States and the Social Security Admin-*  
15       *istration, regarding deaths of United States military*  
16       *personnel and the birth and death of their dependents.*

17           (7) *Not later than 1 year after the date of enact-*  
18       *ment of this Act, establish a process with the Depart-*  
19       *ment of State to improve registration, notification,*  
20       *and the sharing of data with the States and the So-*  
21       *cial Security Administration, regarding births and*  
22       *deaths of United States citizens abroad.*

23           (8) *Not later than 3 years after the date of estab-*  
24       *lishment of databases provided for under this section,*  
25       *require States to record and retain electronic records*





1       *of pertinent identification information collected from*  
2       *requestors who are not the registrants.*

3               *(9) Not later than 6 months after the date of en-*  
4       *actment of this Act, submit to Congress, a report on*  
5       *whether there is a need for Federal laws to address*  
6       *penalties for fraud and misuse of vital records and*  
7       *whether violations are sufficiently enforced.*

8       **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

9               *(a) LEAD AGENCY.—The Secretary shall lead the im-*  
10       *plementation of electronic verification of a person’s birth*  
11       *and death.*

12              *(b) REGULATIONS.—In carrying out subsection (a), the*  
13       *Secretary shall issue regulations to establish a means by*  
14       *which authorized Federal and State agency users with a*  
15       *single interface will be able to generate an electronic query*  
16       *to any participating vital records jurisdiction throughout*  
17       *the Nation to verify the contents of a paper birth certificate.*  
18       *Pursuant to the regulations, an electronic response from the*  
19       *participating vital records jurisdiction as to whether there*  
20       *is a birth record in their database that matches the paper*  
21       *birth certificate will be returned to the user, along with an*  
22       *indication if the matching birth record has been flagged*  
23       *“deceased”. The regulations shall take effect not later than*  
24       *5 years after the date of enactment of this Act.*



1 **SEC. 3066. GRANTS TO STATES.**

2 (a) *IN GENERAL.*—*The Secretary may make grants to*  
3 *a State to assist the State in conforming to the minimum*  
4 *standards set forth in this chapter.*

5 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
6 *authorized to be appropriated to the Secretary for each of*  
7 *the fiscal years 2005 through 2009 such sums as may be*  
8 *necessary to carry out this chapter.*

9 **SEC. 3067. AUTHORITY.**

10 (a) *PARTICIPATION WITH FEDERAL AGENCIES AND*  
11 *STATES.*—*All authority to issue regulations, certify stand-*  
12 *ards, and issue grants under this chapter shall be carried*  
13 *out by the Secretary, with the concurrence of the Secretary*  
14 *of Health and Human Services and in consultation with*  
15 *State vital statistics offices and appropriate Federal agen-*  
16 *cies.*

17 (b) *EXTENSIONS OF DEADLINES.*—*The Secretary may*  
18 *grant to a State an extension of time to meet the require-*  
19 *ments of section 3063(a)(1) if the State provides adequate*  
20 *justification for noncompliance.*



1 **Chapter 3—Measures To Enhance Privacy and**  
2 **Integrity of Social Security Account Numbers**

3 **SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**  
4 **RITY ACCOUNT NUMBERS ON DRIVER'S LI-**  
5 **CENSES OR MOTOR VEHICLE REGISTRA-**  
6 **TIONS.**

7 (a) *IN GENERAL.*—Section 205(c)(2)(C)(vi) of the So-  
8 cial Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is  
9 amended—

10 (1) by inserting “(I)” after “(vi)”; and

11 (2) by adding at the end the following new sub-  
12 clause:

13 “(II) Any State or political subdivision thereof (and  
14 any person acting as an agent of such an agency or instru-  
15 mentality), in the administration of any driver’s license or  
16 motor vehicle registration law within its jurisdiction, may  
17 not display a social security account number issued by the  
18 Commissioner of Social Security (or any derivative of such  
19 number) on any driver’s license or motor vehicle registra-  
20 tion or any other document issued by such State or political  
21 subdivision to an individual for purposes of identification  
22 of such individual or include on any such license, registra-  
23 tion, or other document a magnetic strip, bar code, or other  
24 means of communication which conveys such number (or  
25 derivative thereof).”



1           (b) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply with respect to licenses, registrations,*  
3 *and other documents issued or reissued after 1 year after*  
4 *the date of the enactment of this Act.*

5 **SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH**  
6 **RECORDS PROVIDED IN SUPPORT OF APPLI-**  
7 **CATIONS FOR SOCIAL SECURITY ACCOUNT**  
8 **NUMBERS.**

9           (a) *APPLICATIONS FOR SOCIAL SECURITY ACCOUNT*  
10 *NUMBERS.*—*Section 205(c)(2)(B)(ii) of the Social Security*  
11 *Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—*

12                   (1) *by inserting “(I)” after “(ii)”;* and

13                   (2) *by adding at the end the following new sub-*  
14 *clause:*

15           “(II) *With respect to an application for a social secu-*  
16 *urity account number for an individual, other than for pur-*  
17 *poses of enumeration at birth, the Commissioner shall re-*  
18 *quire independent verification of any birth record provided*  
19 *by the applicant in support of the application. The Com-*  
20 *missioner may provide by regulation for reasonable excep-*  
21 *tions from the requirement for independent verification*  
22 *under this subclause in any case in which the Commissioner*  
23 *determines there is minimal opportunity for fraud.”.*



1           (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
2 *section (a) shall apply with respect to applications filed*  
3 *after 270 days after the date of the enactment of this Act.*

4           (c) *STUDY REGARDING APPLICATIONS FOR REPLACE-*  
5 *MENT SOCIAL SECURITY CARDS.*—

6           (1) *IN GENERAL.*—*As soon as practicable after*  
7 *the date of the enactment of this Act, the Commis-*  
8 *sioner of Social Security shall undertake a study to*  
9 *test the feasibility and cost effectiveness of verifying*  
10 *all identification documents submitted by an appli-*  
11 *cant for a replacement social security card. As part*  
12 *of such study, the Commissioner shall determine the*  
13 *feasibility of, and the costs associated with, the devel-*  
14 *opment of appropriate electronic processes for third*  
15 *party verification of any such identification docu-*  
16 *ments which are issued by agencies and instrumental-*  
17 *ities of the Federal Government and of the States*  
18 *(and political subdivisions thereof).*

19           (2) *REPORT.*—*Not later than 2 years after the*  
20 *date of the enactment of this Act, the Commissioner*  
21 *shall report to the Committee on Ways and Means of*  
22 *the House of Representatives and the Committee on*  
23 *Finance of the Senate regarding the results of the*  
24 *study undertaken under paragraph (1). Such report*  
25 *shall contain such recommendations for legislative*



1 *changes as the Commissioner considers necessary to*  
2 *implement needed improvements in the process for*  
3 *verifying identification documents submitted by ap-*  
4 *plicants for replacement social security cards.*

5 **SEC. 3073. ENUMERATION AT BIRTH.**

6 *(a) IMPROVEMENT OF APPLICATION PROCESS.—*

7 *(1) IN GENERAL.—As soon as practicable after*  
8 *the date of the enactment of this Act, the Commis-*  
9 *sioner of Social Security shall undertake to make im-*  
10 *provements to the enumeration at birth program for*  
11 *the issuance of social security account numbers to*  
12 *newborns. Such improvements shall be designed to*  
13 *prevent—*

14 *(A) the assignment of social security ac-*  
15 *count numbers to unnamed children;*

16 *(B) the issuance of more than 1 social secu-*  
17 *rity account number to the same child; and*

18 *(C) other opportunities for fraudulently ob-*  
19 *taining a social security account number.*

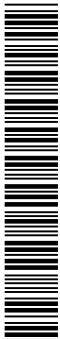
20 *(2) REPORT TO THE CONGRESS.—Not later than*  
21 *1 year after the date of the enactment of this Act, the*  
22 *Commissioner shall transmit to each House of the*  
23 *Congress a report specifying in detail the extent to*  
24 *which the improvements required under paragraph*  
25 *(1) have been made.*



1       **(b) STUDY REGARDING PROCESS FOR ENUMERATION**  
2 *AT BIRTH.*—

3           **(1) IN GENERAL.**—*As soon as practicable after*  
4 *the date of the enactment of this Act, the Commis-*  
5 *sioner of Social Security shall undertake a study to*  
6 *determine the most efficient options for ensuring the*  
7 *integrity of the process for enumeration at birth. Such*  
8 *study shall include an examination of available meth-*  
9 *ods for reconciling hospital birth records with birth*  
10 *registrations submitted to agencies of States and po-*  
11 *litical subdivisions thereof and with information pro-*  
12 *vided to the Commissioner as part of the process for*  
13 *enumeration at birth.*

14           **(2) REPORT.**—*Not later than 18 months after the*  
15 *date of the enactment of this Act, the Commissioner*  
16 *shall report to the Committee on Ways and Means of*  
17 *the House of Representatives and the Committee on*  
18 *Finance of the Senate regarding the results of the*  
19 *study undertaken under paragraph (1). Such report*  
20 *shall contain such recommendations for legislative*  
21 *changes as the Commissioner considers necessary to*  
22 *implement needed improvements in the process for*  
23 *enumeration at birth.*



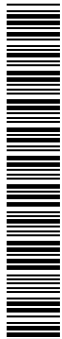
1 **SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC**  
2 **IDENTIFICATION IN CONNECTION WITH AP-**  
3 **PLICATIONS FOR BENEFITS, SOCIAL SECU-**  
4 **RITY ACCOUNT NUMBERS, AND SOCIAL SECU-**  
5 **RITY CARDS.**

6 (a) *IN GENERAL.*—As soon as practicable after the  
7 date of the enactment of this Act, the Commissioner of So-  
8 cial Security shall undertake a study to—

9 (1) *determine the best method of requiring and*  
10 *obtaining photographic identification of applicants*  
11 *for old-age, survivors, and disability insurance bene-*  
12 *fits under title II of the Social Security Act, for a so-*  
13 *cial security account number, or for a replacement so-*  
14 *cial security card, and of providing for reasonable ex-*  
15 *ceptions to any requirement for photographic identi-*  
16 *fication of such applicants that may be necessary to*  
17 *promote efficient and effective administration of such*  
18 *title, and*

19 (2) *evaluate the benefits and costs of instituting*  
20 *such a requirement for photographic identification,*  
21 *including the degree to which the security and integ-*  
22 *egrity of the old-age, survivors, and disability insurance*  
23 *program would be enhanced.*

24 (b) *REPORT.*—Not later than 18 months after the date  
25 of the enactment of this Act, the Commissioner shall report  
26 to the Committee on Ways and Means of the House of Rep-





1 *representatives and the Committee on Finance of the Senate*  
2 *regarding the results of the study undertaken under sub-*  
3 *section (a). Such report shall contain such recommenda-*  
4 *tions for legislative changes as the Commissioner considers*  
5 *necessary relating to requirements for photographic identi-*  
6 *fication of applicants described in subsection (a).*

7 **SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE RE-**  
8 **PLACEMENT SOCIAL SECURITY CARDS.**

9 *(a) IN GENERAL.—Section 205(c)(2)(G) of the Social*  
10 *Security Act (42 U.S.C. 405(c)(2)(G)) is amended by add-*  
11 *ing at the end the following new sentence: “The Commis-*  
12 *sioner shall restrict the issuance of multiple replacement so-*  
13 *cial security cards to any individual to 3 per year and*  
14 *to 10 for the life of the individual, except in any case in*  
15 *which the Commissioner determines there is minimal op-*  
16 *portunity for fraud.”.*

17 *(b) REGULATIONS AND EFFECTIVE DATE.—The Com-*  
18 *missioner of Social Security shall issue regulations under*  
19 *the amendment made by subsection (a) not later than 1*  
20 *year after the date of the enactment of this Act. Systems*  
21 *controls developed by the Commissioner pursuant to such*  
22 *amendment shall take effect upon the earlier of the issuance*  
23 *of such regulations or the end of such 1-year period.*



1 **SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SO-**  
2 **CIAL SECURITY ACCOUNT NUMBERING SYS-**  
3 **TEM TO SHOW WORK AUTHORIZATION STA-**  
4 **TUS.**

5 (a) *IN GENERAL.*—As soon as practicable after the  
6 date of the enactment of this Act, the Commissioner of So-  
7 cial Security, in consultation with the Secretary of Home-  
8 land Security, shall undertake a study to examine the best  
9 method of modifying the social security account number as-  
10 signed to individuals who—

11 (1) *are not citizens of the United States,*

12 (2) *have not been admitted for permanent resi-*  
13 *dence, and*

14 (3) *are not authorized by the Secretary of Home-*  
15 *land Security to work in the United States, or are so*  
16 *authorized subject to one or more restrictions,*

17 *so as to include an indication of such lack of authorization*  
18 *to work or such restrictions on such an authorization.*

19 (b) *REPORT.*—Not later than 1 year after the date of  
20 the enactment of this Act, the Commissioner shall report  
21 to the Committee on Ways and Means of the House of Rep-  
22 resentatives and the Committee on Finance of the Senate  
23 regarding the results of the study undertaken under this sec-  
24 tion. Such report shall include the Commissioner's rec-  
25 ommendations of feasible options for modifying the social



1 *security account number in the manner described in sub-*  
2 *section (a).*

3       ***Subtitle C—Targeting Terrorist***  
4                               ***Travel***

5 ***SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS***  
6                               ***AND TRAVEL HISTORY DATABASE.***

7       (a) *IN GENERAL.*—Not later than May 31, 2005, the  
8 *Comptroller General of the United States, the Secretary of*  
9 *State, and the Secretary of Homeland Security each shall*  
10 *submit to the Committees on the Judiciary of the House*  
11 *of Representatives and of the Senate, the Committee on*  
12 *International Relations of the House of Representatives,*  
13 *and the Committee on Foreign Relations of the Senate the*  
14 *results of a separate study on the subjects described in sub-*  
15 *section (c).*

16       (b) *STUDY.*—The study submitted by the Secretary of  
17 *State under subsection (a) shall be completed by the Office*  
18 *of Visa and Passport Control of the Department of State,*  
19 *in coordination with the appropriate officials of the Depart-*  
20 *ment of Homeland Security.*

21       (c) *CONTENTS.*—The studies described in subsection  
22 (a) shall examine the feasibility, cost, potential benefits,  
23 and relative importance to the objectives of tracking sus-  
24 pected terrorists' travel, and apprehending suspected terror-  
25 ists, of each of the following:





1           (3) by striking “number of aliens” and inserting  
2           “number of inadmissible aliens, especially aliens who  
3           are potential terrorists,”;

4           (4) by striking “who are inadmissible to the  
5           United States.” and inserting a period; and

6           (5) by striking “Attorney General” each place  
7           such term appears and inserting “Secretary of Home-  
8           land Security”.

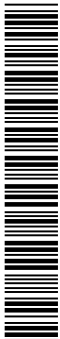
9           (b) *REPORT.*—Not later than June 30, 2006, the Sec-  
10          retary of Homeland Security and the Secretary of State  
11          shall report to the Committees on the Judiciary of the House  
12          of Representatives and of the Senate, the Committee on  
13          International Relations of the House of Representatives,  
14          and the Committee on Foreign Relations of the Senate on  
15          the progress being made in implementing the amendments  
16          made by subsection (a).

17          (c) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
18          authorized to be appropriated to the Secretary of Homeland  
19          Security to carry out the amendments made by subsection  
20          (a)—

21                 (1) \$24,000,000 for fiscal year 2005;

22                 (2) \$48,000,000 for fiscal year 2006; and

23                 (3) \$97,000,000 for fiscal year 2007.



1 **SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

2 (a) *IN GENERAL.*—Section 235A(b) of the Immigra-  
3 tion and Nationality Act (8 U.S.C. 1225(b)) is amended—

4 (1) in the subsection heading, by inserting “AND  
5 IMMIGRATION SECURITY INITIATIVE” after “PRO-  
6 GRAM”; and

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

8 “Beginning not later than December 31, 2006, the number  
9 of airports selected for an assignment under this subsection  
10 shall be at least 50.”.

11 (b) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
12 authorized to be appropriated to the Secretary of Homeland  
13 Security to carry out the amendments made by subsection  
14 (a)—

15 (1) \$25,000,000 for fiscal year 2005;

16 (2) \$40,000,000 for fiscal year 2006; and

17 (3) \$40,000,000 for fiscal year 2007.

18 **SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-**  
19 **SULAR OFFICERS.**

20 (a) *INCREASED NUMBER OF CONSULAR OFFICERS.*—  
21 The Secretary of State, in each of fiscal years 2006 through  
22 2009, may increase by 150 the number of positions for con-  
23 sular officers above the number of such positions for which  
24 funds were allotted for the preceding fiscal year.

25 (b) *LIMITATION ON USE OF FOREIGN NATIONALS FOR*  
26 *NONIMMIGRANT VISA SCREENING.*—Section 222(d) of the



1 *Immigration and Nationality Act (8 U.S.C. 1202(d)) is*  
2 *amended by adding at the end the following:*

3 *“All nonimmigrant visa applications shall be reviewed and*  
4 *adjudicated by a consular officer.”.*

5 *(c) TRAINING FOR CONSULAR OFFICERS IN DETEC-*  
6 *TION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the*  
7 *Enhanced Border Security and Visa Entry Reform Act of*  
8 *2002 (8 U.S.C. 1734(a)) is amended by adding at the end*  
9 *the following: “As part of the consular training provided*  
10 *to such officers by the Secretary of State, such officers shall*  
11 *also receive training in detecting fraudulent documents and*  
12 *general document forensics and shall be required as part*  
13 *of such training to work with immigration officers con-*  
14 *ducting inspections of applicants for admission into the*  
15 *United States at ports of entry.”.*

16 *(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—*

17 *(1) SURVEY REGARDING DOCUMENT FRAUD.—*

18 *The Secretary of State, in coordination with the Sec-*  
19 *retary of Homeland Security, shall conduct a survey*  
20 *of each diplomatic and consular post at which visas*  
21 *are issued to assess the extent to which fraudulent*  
22 *documents are presented by visa applicants to con-*  
23 *sular officers at such posts.*

24 *(2) PLACEMENT OF SPECIALIST.—Not later than*  
25 *July 31, 2005, the Secretary shall, in coordination*



1       *with the Secretary of Homeland Security, identify*  
2       *100 of such posts that experience the greatest fre-*  
3       *quency of presentation of fraudulent documents by*  
4       *visa applicants. The Secretary shall place in each*  
5       *such post at least one full-time anti-fraud specialist*  
6       *employed by the Department of State to assist the*  
7       *consular officers at each such post in the detection of*  
8       *such fraud.*

9       **SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RE-**  
10                                    **LATED ACTIVITY.**

11       *Section 1028 of title 18, United States Code, relating*  
12       *to penalties for fraud and related activity in connection*  
13       *with identification documents and information, is*  
14       *amended—*

15                    (1) *in subsection (b)(1)(A)(i), by striking “issued*  
16                    *by or under the authority of the United States” and*  
17                    *inserting the following: “as described in subsection*  
18                    *(d)”;*

19                    (2) *in subsection (b)(2), by striking “three years”*  
20                    *and inserting “six years”;*

21                    (3) *in subsection (b)(3), by striking “20 years”*  
22                    *and inserting “25 years”;*

23                    (4) *in subsection (b)(4), by striking “25 years”*  
24                    *and inserting “30 years”; and*





1           (5) *in subsection (c)(1), by inserting after*  
2           *“United States” the following: “Government, a State,*  
3           *political subdivision of a State, a foreign government,*  
4           *political subdivision of a foreign government, an*  
5           *international governmental or an international*  
6           *quasi-governmental organization,”.*

7   **SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITI-**  
8                                   **ZENSHIP.**

9           *Section 1015 of title 18, United States Code, is*  
10 *amended—*

11           (1) *by striking the dash at the end of subsection*  
12           *(f) and inserting “; or”; and*

13           (2) *by inserting after subsection (f) the following:*  
14           *“(g) Whoever knowingly makes any false statement or*  
15           *claim that he is a citizen of the United States in order to*  
16           *enter into, or remain in, the United States—”.*

17   **SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE**  
18                                   **DEPARTMENT OF STATE.**

19           (a) *LIMITATION.—Notwithstanding any other provi-*  
20           *sion of law, the Secretary of State shall ensure, subject to*  
21           *subsection (b), that the Antiterrorism Assistance Training*  
22           *(ATA) program of the Department of State (or any suc-*  
23           *cessor or related program) under chapter 8 of part II of*  
24           *the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et*  
25           *seq.) (or other relevant provisions of law) is carried out pri-*



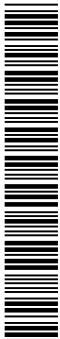
1 *marily to provide training to host nation security services*  
2 *for the specific purpose of ensuring the physical security*  
3 *and safety of United States Government facilities and per-*  
4 *sonnel abroad (as well as foreign dignitaries and training*  
5 *related to the protection of such dignitaries), including se-*  
6 *curity detail training and offenses related to passport or*  
7 *visa fraud.*

8       (b) *EXCEPTION.—The limitation contained in sub-*  
9 *section (a) shall not apply, and the Secretary of State may*  
10 *expand the ATA program to include other types of*  
11 *antiterrorism assistance training, if the Secretary first ob-*  
12 *tains the approval of the Attorney General and provides*  
13 *written notification of such proposed expansion to the ap-*  
14 *propriate congressional committees.*

15       (c) *DEFINITION.—In this section, the term “appro-*  
16 *propriate congressional committees” means—*

17               (1) *the Committee on International Relations*  
18               *and the Committee on the Judiciary of the House of*  
19               *Representatives; and*

20               (2) *the Committee on Foreign Relations and the*  
21               *Committee on the Judiciary of the Senate.*



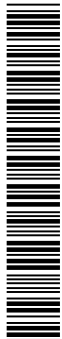
1 **SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND**  
2 **CURTAIN TERRORIST TRAVEL THROUGH THE**  
3 **USE OF FRAUDULENTLY OBTAINED DOCU-**  
4 **MENTS.**

5 (a) *FINDINGS.*—Congress finds the following:

6 (1) *International terrorists travel across inter-*  
7 *national borders to raise funds, recruit members,*  
8 *train for operations, escape capture, communicate,*  
9 *and plan and carry out attacks.*

10 (2) *The international terrorists who planned and*  
11 *carried out the attack on the World Trade Center on*  
12 *February 26, 1993, the attack on the embassies of the*  
13 *United States in Kenya and Tanzania on August 7,*  
14 *1998, the attack on the USS Cole on October 12,*  
15 *2000, and the attack on the World Trade Center and*  
16 *the Pentagon on September 11, 2001, traveled across*  
17 *international borders to plan and carry out these at-*  
18 *tacks.*

19 (3) *The international terrorists who planned*  
20 *other attacks on the United States, including the plot*  
21 *to bomb New York City landmarks in 1993, the plot*  
22 *to bomb the New York City subway in 1997, and the*  
23 *millennium plot to bomb Los Angeles International*  
24 *Airport on December 31, 1999, traveled across inter-*  
25 *national borders to plan and carry out these attacks.*



1           (4) *Many of the international terrorists who*  
2           *planned and carried out large-scale attacks against*  
3           *foreign targets, including the attack in Bali, Indo-*  
4           *nesia, on October 11, 2002, and the attack in Madrid,*  
5           *Spain, on March 11, 2004, traveled across inter-*  
6           *national borders to plan and carry out these attacks.*

7           (5) *Throughout the 1990s, international terror-*  
8           *ists, including those involved in the attack on the*  
9           *World Trade Center on February 26, 1993, the plot*  
10          *to bomb New York City landmarks in 1993, and the*  
11          *millennium plot to bomb Los Angeles International*  
12          *Airport on December 31, 1999, traveled on fraudulent*  
13          *passports and often had more than one passport.*

14          (6) *Two of the September 11, 2001, hijackers*  
15          *were carrying passports that had been manipulated*  
16          *in a fraudulent manner and several other hijackers*  
17          *whose passports did not survive the attacks on the*  
18          *World Trade Center and Pentagon were likely to have*  
19          *carried passports that were similarly manipulated.*

20          (7) *The National Commission on Terrorist At-*  
21          *tacks upon the United States, (commonly referred to*  
22          *as the 9/11 Commission), stated that “Targeting trav-*  
23          *el is at least as powerful a weapon against terrorists*  
24          *as targeting their money.”*



1           (b) *INTERNATIONAL AGREEMENTS TO TRACK AND*  
2 *CURTAIN TERRORIST TRAVEL.*—

3           (1) *INTERNATIONAL AGREEMENT ON LOST, STO-*  
4 *LEN, OR FALSIFIED DOCUMENTS.*—*The President shall*  
5 *lead efforts to track and curtail the travel of terrorists*  
6 *by supporting the drafting, adoption, and implemen-*  
7 *tation of international agreements, and by supporting*  
8 *the expansion of existing international agreements, to*  
9 *track and stop international travel by terrorists and*  
10 *other criminals through the use of lost, stolen, or fal-*  
11 *sified documents to augment existing United Nations*  
12 *and other international anti-terrorism efforts.*

13           (2) *CONTENTS OF INTERNATIONAL AGREE-*  
14 *MENT.*—*The President shall seek, in the appropriate*  
15 *fora, the drafting, adoption, and implementation of*  
16 *an effective international agreement requiring—*

17           (A) *the establishment of a system to share*  
18 *information on lost, stolen, and fraudulent pass-*  
19 *ports and other travel documents for the pur-*  
20 *poses of preventing the undetected travel of per-*  
21 *sons using such passports and other travel docu-*  
22 *ments that were obtained improperly;*

23           (B) *the establishment and implementation*  
24 *of a real-time verification system of passports*



1           *and other travel documents with issuing authori-*  
2           *ties;*

3           (C) *the assumption of an obligation by*  
4           *countries that are parties to the agreement to*  
5           *share with officials at ports of entry in any such*  
6           *country information relating to lost, stolen, and*  
7           *fraudulent passports and other travel documents;*

8           (D) *the assumption of an obligation by*  
9           *countries that are parties to the agreement—*

10           (i) *to criminalize—*

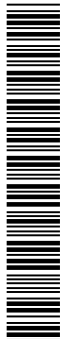
11                   (I) *the falsification or counter-*  
12                   *feiting of travel documents or breeder*  
13                   *documents for any purpose;*

14                   (II) *the use or attempted use of*  
15                   *false documents to obtain a visa or*  
16                   *cross a border for any purpose;*

17                   (III) *the possession of tools or im-*  
18                   *plements used to falsify or counterfeit*  
19                   *such documents;*

20                   (IV) *the trafficking in false or sto-*  
21                   *len travel documents and breeder docu-*  
22                   *ments for any purpose;*

23                   (V) *the facilitation of travel by a*  
24                   *terrorist; and*



1                   (VI) attempts to commit, includ-  
2                   ing conspiracies to commit, the crimes  
3                   specified above;

4                   (ii) to impose significant penalties so  
5                   as to appropriately punish violations and  
6                   effectively deter these crimes; and

7                   (iii) to limit the issuance of citizenship  
8                   papers, passports, identification documents,  
9                   and the like to persons whose identity is  
10                  proven to the issuing authority, who have a  
11                  bona fide entitlement to or need for such  
12                  documents, and who are not issued such  
13                  documents principally on account of a dis-  
14                  proportional payment made by them or on  
15                  their behalf to the issuing authority;

16                  (E) the provision of technical assistance to  
17                  State Parties to help them meet their obligations  
18                  under the convention;

19                  (F) the establishment and implementation  
20                  of a system of self-assessments and peer reviews  
21                  to examine the degree of compliance with the  
22                  convention; and

23                  (G) an agreement that would permit immi-  
24                  gration and border officials to confiscate a lost,  
25                  stolen, or falsified passport at ports of entry and



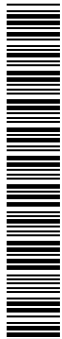
1           *permit the traveler to return to the sending coun-*  
2           *try without being in possession of the lost, stolen,*  
3           *or falsified passport, and for the detention and*  
4           *investigation of such traveler upon the return of*  
5           *the traveler to the sending country.*

6           (3) *INTERNATIONAL CIVIL AVIATION ORGANIZA-*  
7           *TION.—The United States shall lead efforts to track*  
8           *and curtail the travel of terrorists by supporting ef-*  
9           *forts at the International Civil Aviation Organization*  
10          *to continue to strengthen the security features of pass-*  
11          *ports and other travel documents.*

12          (c) *REPORT.—*

13           (1) *IN GENERAL.—Not later than one year after*  
14          *the date of the enactment of this Act, and at least an-*  
15          *nually thereafter, the President shall submit to the*  
16          *appropriate congressional committees a report on*  
17          *progress toward achieving the goals described in sub-*  
18          *section (b).*

19           (2) *TERMINATION.—Paragraph (1) shall cease to*  
20          *be effective when the President certifies to the Com-*  
21          *mittee on International Relations of the House of*  
22          *Representatives and the Committee on Foreign Rela-*  
23          *tions of the Senate that the goals described in sub-*  
24          *section (b) have been fully achieved.*





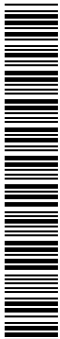
1 **SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION**  
2 **OF NAMES INTO THE ROMAN ALPHABET FOR**  
3 **INTERNATIONAL TRAVEL DOCUMENTS AND**  
4 **NAME-BASED WATCHLIST SYSTEMS.**

5 (a) *FINDINGS.*—Congress finds that—

6 (1) *the current lack of a single convention for*  
7 *translating Arabic names enabled some of the 19 hi-*  
8 *jackers of aircraft used in the terrorist attacks against*  
9 *the United States that occurred on September 11,*  
10 *2001, to vary the spelling of their names to defeat*  
11 *name-based terrorist watchlist systems and to make*  
12 *more difficult any potential efforts to locate them;*  
13 *and*

14 (2) *although the development and utilization of*  
15 *terrorist watchlist systems using biometric identifiers*  
16 *will be helpful, the full development and utilization of*  
17 *such systems will take several years, and name-based*  
18 *terrorist watchlist systems will always be useful.*

19 (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*  
20 *that the President should seek to enter into an international*  
21 *agreement to modernize and improve standards for the*  
22 *translation of names into the Roman alphabet in order to*  
23 *ensure one common spelling for such names for inter-*  
24 *national travel documents and name-based watchlist sys-*  
25 *tems.*



1 **SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

2 (a) *FINDINGS.*—*Consistent with the report of the Na-*  
3 *tional Commission on Terrorist Attacks Upon the United*  
4 *States, Congress finds that completing a biometric entry*  
5 *and exit data system as expeditiously as possible is an es-*  
6 *sential investment in efforts to protect the United States*  
7 *by preventing the entry of terrorists.*

8 (b) *PLAN AND REPORT.*—

9 (1) *DEVELOPMENT OF PLAN.*—*The Secretary of*  
10 *Homeland Security shall develop a plan to accelerate*  
11 *the full implementation of an automated biometric*  
12 *entry and exit data system required by applicable sec-*  
13 *tions of—*

14 (A) *the Illegal Immigration Reform and*  
15 *Immigrant Responsibility Act of 1996 (Public*  
16 *Law 104–208);*

17 (B) *the Immigration and Naturalization*  
18 *Service Data Management Improvement Act of*  
19 *2000 (Public Law 106–205);*

20 (C) *the Visa Waiver Permanent Program*  
21 *Act (Public Law 106–396);*

22 (D) *the Enhanced Border Security and Visa*  
23 *Entry Reform Act of 2002 (Public Law 107–*  
24 *173); and*

25 (E) *the Uniting and Strengthening America*  
26 *by Providing Appropriate Tools Required to*



1            *Intercept and Obstruct Terrorism Act of 2001*  
2            *(Public Law 107-56).*

3            *(2) REPORT.—Not later than 180 days after the*  
4            *date of the enactment of this Act, the Secretary shall*  
5            *submit a report to Congress on the plan developed*  
6            *under paragraph (1), which shall contain—*

7                    *(A) a description of the current*  
8                    *functionality of the entry and exit data system,*  
9                    *including—*

10                            *(i) a listing of ports of entry with bio-*  
11                            *metric entry data systems in use and*  
12                            *whether such screening systems are located*  
13                            *at primary or secondary inspection areas;*

14                            *(ii) a listing of ports of entry with bio-*  
15                            *metric exit data systems in use;*

16                            *(iii) a listing of databases and data*  
17                            *systems with which the automated entry*  
18                            *and exit data system are interoperable;*

19                            *(iv) a description of—*

20                                    *(I) identified deficiencies con-*  
21                                    *cerning the accuracy or integrity of the*  
22                                    *information contained in the entry*  
23                                    *and exit data system;*

24                                    *(II) identified deficiencies con-*  
25                                    *cerning technology associated with*



1                    *processing individuals through the sys-*  
2                    *tem; and*

3                    *(III) programs or policies*  
4                    *planned or implemented to correct*  
5                    *problems identified in subclause (I) or*  
6                    *(II); and*

7                    *(v) an assessment of the effectiveness of*  
8                    *the entry and exit data system in fulfilling*  
9                    *its intended purposes, including preventing*  
10                   *terrorists from entering the United States;*

11                   *(B) a description of factors relevant to the*  
12                   *accelerated implementation of the biometric*  
13                   *entry and exit system, including—*

14                   *(i) the earliest date on which the Sec-*  
15                   *retary estimates that full implementation of*  
16                   *the biometric entry and exit data system*  
17                   *can be completed;*

18                   *(ii) the actions the Secretary will take*  
19                   *to accelerate the full implementation of the*  
20                   *biometric entry and exit data system at all*  
21                   *ports of entry through which all aliens must*  
22                   *pass that are legally required to do so; and*

23                   *(iii) the resources and authorities re-*  
24                   *quired to enable the Secretary to meet the*  
25                   *implementation date described in clause (i);*



1           (C) a description of any improvements  
2           needed in the information technology employed  
3           for the entry and exit data system; and

4           (D) a description of plans for improved or  
5           added interoperability with any other databases  
6           or data systems.

7           (c) *INTEGRATION REQUIREMENT.*—Not later than 2  
8           years after the date of the enactment of this Act, the Sec-  
9           retary shall integrate the biometric entry and exit data sys-  
10          tem with all databases and data systems maintained by the  
11          United States Citizenship and Immigration Services that  
12          process or contain information on aliens.

13          (d) *MAINTAINING ACCURACY AND INTEGRITY OF*  
14          *ENTRY AND EXIT DATA SYSTEM.*—

15               (1) *IN GENERAL.*—The Secretary, in consultation  
16               with other appropriate agencies, shall establish rules,  
17               guidelines, policies, and operating and auditing pro-  
18               cedures for collecting, removing, and updating data  
19               maintained in, and adding information to, the entry  
20               and exit data system, and databases and data systems  
21               linked to the entry and exit data system, that ensure  
22               the accuracy and integrity of the data.

23               (2) *REQUIREMENTS.*—The rules, guidelines, poli-  
24               cies, and procedures established under paragraph (1)  
25               shall—



1                   (A) incorporate a simple and timely method  
2                   for—

3                               (i) correcting errors; and

4                               (ii) clarifying information known to  
5                   cause false hits or misidentification errors;  
6                   and

7                   (B) include procedures for individuals to  
8                   seek corrections of data contained in the data  
9                   systems.

10           (e) *EXPEDITING REGISTERED TRAVELERS ACROSS*  
11 *INTERNATIONAL BORDERS.*—

12                   (1) *FINDINGS.*—*Consistent with the report of the*  
13 *National Commission on Terrorist Attacks Upon the*  
14 *United States, Congress finds that—*

15                               (A) *expediting the travel of previously*  
16 *screened and known travelers across the borders*  
17 *of the United States should be a high priority;*  
18 *and*

19                               (B) *the process of expediting known trav-*  
20 *elers across the border can permit inspectors to*  
21 *better focus on identifying terrorists attempting*  
22 *to enter the United States.*

23                   (2) *DEFINITION.*—*The term “registered traveler*  
24 *program” means any program designed to expedite*



1        *the travel of previously screened and known travelers*  
2        *across the borders of the United States.*

3            (3) *REGISTERED TRAVEL PLAN.—*

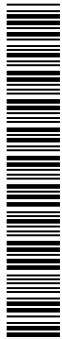
4            (A) *IN GENERAL.—As soon as is prac-*  
5            *ticable, the Secretary shall develop and imple-*  
6            *ment a plan to expedite the processing of reg-*  
7            *istered travelers who enter and exit the United*  
8            *States through a single registered traveler pro-*  
9            *gram.*

10           (B) *INTEGRATION.—The registered traveler*  
11           *program developed under this paragraph shall be*  
12           *integrated into the automated biometric entry*  
13           *and exit data system described in this section.*

14           (C) *REVIEW AND EVALUATION.—In devel-*  
15           *oping the program under this paragraph, the*  
16           *Secretary shall—*

17           (i) *review existing programs or pilot*  
18           *projects designed to expedite the travel of*  
19           *registered travelers across the borders of the*  
20           *United States;*

21           (ii) *evaluate the effectiveness of the*  
22           *programs described in clause (i), the costs*  
23           *associated with such programs, and the*  
24           *costs to travelers to join such programs; and*



1                   (iii) increase research and development  
2                   efforts to accelerate the development and im-  
3                   plementation of a single registered traveler  
4                   program.

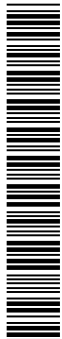
5                   (4) *REPORT.*—Not later than 1 year after the  
6                   date of the enactment of this Act, the Secretary shall  
7                   submit to the Congress a report describing the De-  
8                   partment's progress on the development and imple-  
9                   mentation of the plan required by this subsection.

10                  (f) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
11                  authorized to be appropriated to the Secretary, for each of  
12                  the fiscal years 2005 through 2009, such sums as may be  
13                  necessary to carry out the provisions of this section.

14                  **SEC. 3091. BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.**

15                  (a) *INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING*  
16                  *SYSTEM.*—With respect to the biometric entry/exit data sys-  
17                  tem referred to in subsections (a) and (b), such systems  
18                  shall—

19                       (1) *Ensure that the system's tracking capabilities*  
20                       *encompass data related to all immigration benefits*  
21                       *processing, including visa applications with the De-*  
22                       *partment of State, immigration related filings with*  
23                       *the Department of Labor, cases pending before the Ex-*  
24                       *ecutive Office for Immigration review, and matters*





1        *pending or under investigation before the Department*  
2        *of Homeland Security.*

3            (2) *Utilize a biometric based identity number*  
4        *tied to an applicant's biometric algorithm established*  
5        *under the entry/exit system to track all immigration*  
6        *related matters concerning the applicant.*

7            (3) *Provide that all information about an appli-*  
8        *cant's immigration related history, including entry/*  
9        *exit history, can be queried through electronic means.*  
10       *Database access and usage guidelines shall include*  
11       *stringent safeguards to prevent misuse of data.*

12           (4) *Provide real time updates to the database de-*  
13       *scribed in paragraph (3) including pertinent data*  
14       *from all agencies referenced in paragraph (1).*

15           (5) *Limit access to the database described in*  
16       *paragraph (4) (and any other database used for*  
17       *tracking immigration related processing and/or entry/*  
18       *exit) to personnel explicitly authorized to do so, and*  
19       *that any such access may be ascertained by author-*  
20       *ized persons by review of the person's access author-*  
21       *ization code or number.*

22           (6) *Provide continuing education in*  
23       *counterterrorism techniques, tools, and methods for all*  
24       *Federal personnel employed in the evaluation of im-*  
25       *migration documents and immigration-related policy.*



1           (b) *ENTRY-EXIT SYSTEM GOALS.*—*The Department of*  
2 *Homeland Security shall continue to implement the system*  
3 *described in subsections (a) and (b), in such a way that*  
4 *it fulfills the following goals:*

5                   (1) *Serves as a vital counterterrorism tool.*

6                   (2) *Screens travelers efficiently and in a wel-*  
7 *coming manner.*

8                   (3) *Provides inspectors and related personnel*  
9 *with adequate real-time information.*

10                  (4) *Ensures flexibility of training and security*  
11 *protocols to most effectively comply with security*  
12 *mandates.*

13                  (5) *Integrates relevant databases and plans for*  
14 *database modifications to address volume increase*  
15 *and database usage.*

16                  (6) *Improves database search capacities by uti-*  
17 *lizing language algorithms to detect alternate names.*

18           (c) *DEDICATED SPECIALISTS AND FRONT LINE PER-*  
19 *SONNEL TRAINING.*—*In implementing the provisions of sub-*  
20 *sections (a), (b), and (c), the Department of Homeland Se-*  
21 *curity and the Department of State shall—*

22                   (1) *develop cross-training programs that focus on*  
23 *the scope and procedures of the entry/exit system;*

24                   (2) *provide extensive community outreach and*  
25 *education on the entry/exit system procedures;*



1           (3) *provide clear and consistent eligibility guide-*  
2           *lines for applicants in low-risk traveler programs;*  
3           *and*

4           (4) *establish ongoing training modules on immi-*  
5           *gration law to improve adjudications at our ports of*  
6           *entry, consulates, and embassies.*

7           (d) *INFORMATION ACCURACY STANDARDS.—*

8           (1) *Any information placed in the entry/exit*  
9           *database shall be entered by authorized officers in*  
10           *compliance with established procedures, as set forth in*  
11           *section 407 of this Act, that guarantee the identifica-*  
12           *tion of the person making the database entry.*

13           (2) *The Secretary of Homeland Security, the*  
14           *Secretary of State, and the Attorney General, after*  
15           *consultation with directors of the relevant intelligence*  
16           *agencies, shall standardize the information and data*  
17           *collected from foreign nationals as well as the proce-*  
18           *dures utilized to collect such data to ensure that the*  
19           *information is consistent and of value to officials ac-*  
20           *cessing that data across multiple agencies.*

21           (e) *ACCESSIBILITY.—The Secretary of Homeland Se-*  
22           *curity, the Secretary of State, the Attorney General, and*  
23           *the head of any other department or agency that possesses*  
24           *authority to enter data related to the immigration status*  
25           *of foreign nationals, including lawful permanent resident*



1 *aliens, or where such information could serve to impede*  
2 *lawful admission of United States citizens to the United*  
3 *States, shall each establish guidelines related to data entry*  
4 *procedures. Such guidelines shall—*

5 *(1) strictly limit the agency personnel authorized*  
6 *to enter data into the system;*

7 *(2) identify classes of information to be des-*  
8 *ignated as temporary or permanent entries, with cor-*  
9 *responding expiration dates for temporary entries;*  
10 *and*

11 *(3) identify classes of prejudicial information re-*  
12 *quiring additional authority of supervisory personnel*  
13 *prior to entry.*

14 *(f) SYSTEM ADAPTABILITY.—*

15 *(1) Each agency authorized to enter data related*  
16 *to the immigration status of any persons identified in*  
17 *subsection (b) above shall develop and implement sys-*  
18 *tem protocols to—*

19 *(A) correct erroneous data entries in a*  
20 *timely and effective manner;*

21 *(B) clarify information known to cause*  
22 *false hits or misidentification errors; and*

23 *(C) update all relevant information that is*  
24 *dispositive to the adjudicatory or admission*  
25 *process.*



1           (2) *The President or agency director so des-*  
2           *ignated by the President shall establish a clearing-*  
3           *house bureau as part of the Department of Homeland*  
4           *Security to centralize and streamline the process*  
5           *through which members of the public can seek correc-*  
6           *tions to erroneous or inaccurate information related*  
7           *to immigration status, or which otherwise impedes*  
8           *lawful admission to the United States contained in*  
9           *agency databases. Such process shall include specific*  
10          *time schedules for reviewing data correction requests,*  
11          *rendering decisions on such requests, and imple-*  
12          *menting appropriate corrective action in a timely*  
13          *manner.*

14          (g) *TRAINING.*—*Agency personnel authorized to enter*  
15          *data pursuant to subsection (b)(1) shall undergo extensive*  
16          *training in immigration law and procedure.*

17          (h) *IMPLEMENTATION AUDIT.*—*The Secretary of the*  
18          *Department of Homeland Security shall issue a report to*  
19          *Congress within 6 months of enactment of this Act that de-*  
20          *tails activities undertaken to date to develop an entry-exit*  
21          *system, areas in which the system currently does not achieve*  
22          *the mandates set forth by this section, and the funding, in-*  
23          *frastructure, technology and other factors needed to com-*  
24          *plete the system, as well as a detailed time frame in which*  
25          *the completion of the system will be achieved.*



1       (i) *REPORTS.*—

2           (1) *The Secretaries of the Departments of State*  
3 *and Homeland Security jointly shall report bian-*  
4 *ually to Congress on: Current infrastructure and*  
5 *staffing at each port of entry and each consular post,*  
6 *numbers of immigrant and nonimmigrant visas*  
7 *issued, specify the numbers of individuals subject to*  
8 *expedited removal at the ports of entry as well as*  
9 *within 100 miles of the United States border, the plan*  
10 *for enhanced database review at entry, the number of*  
11 *suspected terrorists and criminals intercepted uti-*  
12 *lizing the entry/exit system and the moneys spent in*  
13 *the preceding fiscal year to achieve the mandates of*  
14 *this section, areas in which they failed to achieve*  
15 *these mandates, and the steps they are taking to ad-*  
16 *dress these deficiencies. For ports of entry, similar in-*  
17 *formation shall be provided including the number of*  
18 *I-94s issued, immigrant visa admissions made, and*  
19 *nonimmigrant admissions.*

20           (2) *No later than 120 days after enactment of*  
21 *this Act, the Secretary of Homeland Security and the*  
22 *Secretary of State, after consultation with the Direc-*  
23 *tor of the National Institute of Standards and Tech-*  
24 *nology and the Commission on Interoperable Data*



1       *Sharing, shall issue a report addressing the following*  
2       *areas:*

3               (A) *The status of agency compliance with*  
4               *the mandates set forth in section 202 (“Inter-*  
5               *operable Law Enforcement and Intelligence Data*  
6               *System with Name-Matching Capacity and*  
7               *Training”) of the Enhanced Border Security and*  
8               *Visa Entry Reform Act (Public Law 107–173).*

9               (B) *The status of agency compliance with*  
10              *section 201(c)(3) (“Protections Regarding Infor-*  
11              *mation and Uses Thereof”) of the Enhanced Bor-*  
12              *der Security and Visa Entry Reform Act (Public*  
13              *Law 107–173).*

14              (3) *No later than 1 year after enactment of this*  
15              *Act, the Secretary of Homeland Security, the Sec-*  
16              *retary of State, the Attorney General, and the head*  
17              *of any other department or agency bound by the man-*  
18              *dates in this Act, shall issue both individual status*  
19              *reports and a joint status report detailing compliance*  
20              *with each mandate contained in this section.*

21              (j) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
22              *authorized to be appropriated such sums as may be nec-*  
23              *essary to carry out this section.*



1 **SEC. 3092. ENHANCED RESPONSIBILITIES OF THE COORDI-**  
2 **NATOR FOR COUNTERTERRORISM.**

3 (a) *DECLARATION OF UNITED STATES POLICY.*—Con-  
4 gress declares that it shall be the policy of the United States  
5 to—

6 (1) *make combating terrorist travel and those*  
7 *who assist them a priority for the United States*  
8 *counterterrorism policy; and*

9 (2) *ensure that the information relating to indi-*  
10 *viduals who help facilitate terrorist travel by creating*  
11 *false passports, visas, documents used to obtain such*  
12 *travel documents, and other documents are fully*  
13 *shared within the United States Government and, to*  
14 *the extent possible, with and from foreign govern-*  
15 *ments, in order to initiate United States and foreign*  
16 *prosecutions of such individuals.*

17 (b) *AMENDMENT.*—Section 1(e)(2) of the State Depart-  
18 *ment Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2))*  
19 *is amended by adding at the end the following:*

20 “(C) *ADDITIONAL DUTIES RELATING TO*  
21 *TERRORIST TRAVEL.*—*In addition to the prin-*  
22 *cipal duties of the Coordinator described in sub-*  
23 *paragraph (B), the Coordinator shall analyze*  
24 *methods used by terrorists to travel internation-*  
25 *ally, develop policies with respect to curtailing*  
26 *terrorist travel, and coordinate such policies with*





1           *the appropriate bureaus and other entities of the*  
2           *Department of State, other United States Gov-*  
3           *ernment agencies, the Human Trafficking and*  
4           *Smuggling Center, and foreign governments.”.*

5   **SEC. 3093. ESTABLISHMENT OF OFFICE OF VISA AND PASS-**  
6                   **PORT SECURITY IN THE DEPARTMENT OF**  
7                   **STATE.**

8           *(a) ESTABLISHMENT.—There is established within the*  
9           *Bureau of Diplomatic Security of the Department of State*  
10          *an Office of Visa and Passport Security (in this section*  
11          *referred to as the “Office”).*

12          *(b) HEAD OF OFFICE.—*

13                *(1) IN GENERAL.—Notwithstanding any other*  
14                *provision of law, the head of the Office shall be an in-*  
15                *dividual who shall have the rank and status of Dep-*  
16                *uty Assistant Secretary of State for Diplomatic Secu-*  
17                *rity (in this section referred to as the “Deputy Assist-*  
18                *ant Secretary”).*

19                *(2) RECRUITMENT.—The Under Secretary of*  
20                *State for Management shall chose the Deputy Assist-*  
21                *ant Secretary from among individuals who are Diplo-*  
22                *matic Security Agents.*

23                *(3) QUALIFICATIONS.—The Diplomatic Security*  
24                *Agent chosen to serve as the Deputy Assistant Sec-*



1        *retary shall have expertise and experience in inves-*  
2        *tigating and prosecuting visa and passport fraud.*

3        *(c) DUTIES.—*

4                *(1) PREPARATION OF STRATEGIC PLAN.—*

5                        *(A) IN GENERAL.—The Deputy Assistant*  
6        *Secretary, in coordination with the appropriate*  
7        *officials of the Department of Homeland Secu-*  
8        *rity, shall ensure the preparation of a strategic*  
9        *plan to target and disrupt individuals and orga-*  
10       *nizations at home and in foreign countries that*  
11       *are involved in the fraudulent production, dis-*  
12       *tribution, use, or other similar activity—*

13                        *(i) of a United States visa or United*  
14                        *States passport;*

15                        *(ii) of documents intended to help*  
16        *fraudulently procure a United States visa*  
17        *or United States passport, or other docu-*  
18        *ments intended to gain unlawful entry into*  
19        *the United States; or*

20                        *(iii) of passports and visas issued by*  
21        *foreign countries intended to gain unlawful*  
22        *entry into the United States.*

23                *(B) EMPHASIS.—Such plan shall—*

24                        *(i) focus particular emphasis on indi-*  
25        *viduals and organizations that may have*



1 *links to domestic terrorist organizations or*  
2 *foreign terrorist organizations (as such term*  
3 *is defined in Section 219 of the Immigra-*  
4 *tion and Nationality Act (8 U.S.C. 1189));*  
5 *(ii) require the development of a stra-*  
6 *tegic training course under the*  
7 *Antiterrorism Assistance Training (ATA)*  
8 *program of the Department of State (or any*  
9 *successor or related program) under chapter*  
10 *8 of part II of the Foreign Assistance Act*  
11 *of 1961 (22 U.S.C. 2349aa et seq.) (or other*  
12 *relevant provisions of law) to train partici-*  
13 *pants in the identification of fraudulent*  
14 *documents and the forensic detection of such*  
15 *documents which may be used to obtain un-*  
16 *lawful entry into the United States; and*  
17 *(iii) determine the benefits and costs of*  
18 *providing technical assistance to foreign*  
19 *governments to ensure the security of pass-*  
20 *ports, visas, and related documents and to*  
21 *investigate, arrest, and prosecute individ-*  
22 *uals who facilitate travel by the creation of*  
23 *false passports and visas, documents to ob-*  
24 *tain such passports and visas, and other*  
25 *types of travel documents.*



1           (2) *DUTIES OF OFFICE.*—*The Office shall have*  
2           *the following duties:*

3                   (A) *ANALYSIS OF METHODS.*—*Analyze*  
4                   *methods used by terrorists to travel internation-*  
5                   *ally, particularly the use of false or altered trav-*  
6                   *el documents to illegally enter foreign countries*  
7                   *and the United States, and advise the Bureau of*  
8                   *Consular Affairs on changes to the visa issuance*  
9                   *process that could combat such methods, includ-*  
10                   *ing the introduction of new technologies into*  
11                   *such process.*

12                   (B) *IDENTIFICATION OF INDIVIDUALS AND*  
13                   *DOCUMENTS.*—*Identify, in cooperation with the*  
14                   *Human Trafficking and Smuggling Center, indi-*  
15                   *viduals who facilitate travel by the creation of*  
16                   *false passports and visas, documents used to ob-*  
17                   *tain such passports and visas, and other types of*  
18                   *travel documents, and ensure that the appro-*  
19                   *priate agency is notified for further investigation*  
20                   *and prosecution or, in the case of such individ-*  
21                   *uals abroad for which no further investigation or*  
22                   *prosecution is initiated, ensure that all appro-*  
23                   *priate information is shared with foreign govern-*  
24                   *ments in order to facilitate investigation, arrest,*  
25                   *and prosecution of such individuals.*



1                   (C) *IDENTIFICATION OF FOREIGN COUN-*  
2                   *TRIES NEEDING ASSISTANCE.*—Identify foreign  
3                   countries that need technical assistance, such as  
4                   law reform, administrative reform, prosecutorial  
5                   training, or assistance to police and other inves-  
6                   tigative services, to ensure passport, visa, and re-  
7                   lated document security and to investigate, ar-  
8                   rest, and prosecute individuals who facilitate  
9                   travel by the creation of false passports and  
10                  visas, documents used to obtain such passports  
11                  and visas, and other types of travel documents.

12                  (D) *INSPECTION OF APPLICATIONS.*—Ran-  
13                  domly inspect visa and passport applications for  
14                  accuracy, efficiency, and fraud, especially at  
15                  high terrorist threat posts, in order to prevent a  
16                  recurrence of the issuance of visas to those who  
17                  submit incomplete, fraudulent, or otherwise ir-  
18                  regular or incomplete applications.

19                  (3) *REPORT.*—Not later than 90 days after the  
20                  date of the enactment of this Act, the Deputy Assist-  
21                  ant Secretary shall submit to Congress a report  
22                  containing—

23                         (A) a description of the strategic plan pre-  
24                         pared under paragraph (1); and



1                   (B) an evaluation of the feasibility of estab-  
2                   lishing civil service positions in field offices of  
3                   the Bureau of Diplomatic Security to investigate  
4                   visa and passport fraud, including an evaluation  
5                   of whether to allow diplomatic security agents to  
6                   convert to civil service officers to fill such posi-  
7                   tions.

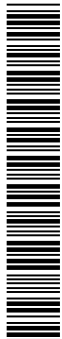
## 8                   **Subtitle D—Terrorist Travel**

### 9                   **SEC. 3101. INFORMATION SHARING AND COORDINATION.**

10                  *The Secretary of Homeland Security shall establish a*  
11                  *mechanism to—*

12                   (1) *ensure the coordination and dissemination of*  
13                   *terrorist travel intelligence and operational informa-*  
14                   *tion among the appropriate agencies within the De-*  
15                   *partment of Homeland Security, including the Bu-*  
16                   *reau of Customs and Border Protection, the Bureau*  
17                   *of Immigration and Customs Enforcement, the Bu-*  
18                   *reau of Citizenship and Immigration Services, the*  
19                   *Transportation Security Administration, the Coast*  
20                   *Guard, and other agencies as directed by the Sec-*  
21                   *retary; and*

22                   (2) *ensure the sharing of terrorist travel intel-*  
23                   *ligence and operational information with the Depart-*  
24                   *ment of State, the National Counterterrorism Center,*  
25                   *and other appropriate Federal agencies.*



1 **SEC. 3102. TERRORIST TRAVEL PROGRAM.**

2 *The Secretary of Homeland Security shall establish a*  
3 *program to—*

4 *(1) analyze and utilize information and intel-*  
5 *ligence regarding terrorist travel tactics, patterns,*  
6 *trends, and practices; and*

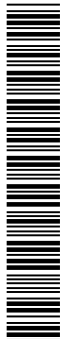
7 *(2) disseminate that information to all front-line*  
8 *Department of Homeland Security personnel who are*  
9 *at ports of entry or between ports of entry, to immi-*  
10 *gration benefits offices, and, in coordination with the*  
11 *Secretary of State, to appropriate individuals at*  
12 *United States embassies and consulates.*

13 **SEC. 3103. TRAINING PROGRAM.**

14 *(a) REVIEW, EVALUATION, AND REVISION OF EXIST-*  
15 *ING TRAINING PROGRAMS.—The Secretary of Homeland Se-*  
16 *curity shall—*

17 *(1) review and evaluate the training currently*  
18 *provided to Department of Homeland Security per-*  
19 *sonnel and, in consultation with the Secretary of*  
20 *State, relevant Department of State personnel with*  
21 *respect to travel and identity documents, and tech-*  
22 *niques, patterns, and trends associated with terrorist*  
23 *travel; and*

24 *(2) develop and implement a revised training*  
25 *program for border, immigration, and consular offi-*



1        *cials in order to teach such officials how to effectively*  
2        *detect, intercept, and disrupt terrorist travel.*

3        *(b) REQUIRED TOPICS OF REVISED PROGRAMS.—The*  
4        *training program developed under subsection (a)(2) shall*  
5        *include training in the following areas:*

6                *(1) Methods for identifying fraudulent and gen-*  
7                *uine travel documents.*

8                *(2) Methods for detecting terrorist indicators on*  
9                *travel documents and other relevant identity docu-*  
10               *ments.*

11               *(3) Recognizing travel patterns, tactics, and be-*  
12               *haviors exhibited by terrorists.*

13               *(4) Effectively utilizing information contained*  
14               *in databases and data systems available to the De-*  
15               *partment of Homeland Security.*

16               *(5) Other topics determined to be appropriate by*  
17               *the Secretary of Homeland Security in consultation*  
18               *with the Secretary of State or the National Intel-*  
19               *ligence Director.*

20        **SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINA-**  
21                **TION PLAN.**

22               *(a) PLAN REQUIRED.—Not later than 180 days after*  
23               *the date of the enactment of this Act, the Secretary of Home-*  
24               *land Security, in consultation with the Secretary of State,*  
25               *shall submit to the Congress a plan to ensure that the De-*





1 *partment of Homeland Security and the Department of*  
2 *State acquire and deploy, to all consulates, ports of entry,*  
3 *and immigration benefits offices, technologies that facilitate*  
4 *document authentication and the detection of potential ter-*  
5 *rorist indicators on travel documents.*

6 (b) *INTEROPERABILITY REQUIREMENT.*—*To the extent*  
7 *possible, technologies to be acquired and deployed under the*  
8 *plan shall be compatible with current systems used by the*  
9 *Department of Homeland Security to detect and identify*  
10 *fraudulent documents and genuine documents.*

11 (c) *PASSPORT SCREENING.*—*The plan shall address*  
12 *the feasibility of using such technologies to screen passports*  
13 *submitted for identification purposes to a United States*  
14 *consular, border, or immigration official.*

15 ***Subtitle E—Maritime Security***  
16 ***Requirements***

17 ***SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-***  
18 ***TIME SECURITY REQUIREMENTS.***

19 (a) *NATIONAL MARITIME TRANSPORTATION SECURITY*  
20 *PLAN.*—*Section 70103(a) of the 46, United States Code, is*  
21 *amended by striking “The Secretary” and inserting “Not*  
22 *later than December 31, 2004, the Secretary”.*

23 (b) *FACILITY AND VESSEL VULNERABILITY ASSESS-*  
24 *MENTS.*—*Section 70102(b)(1) of the 46, United States Code,*



1 *is amended by striking “, the Secretary” and inserting*  
2 *“and by not later than December 31, 2004, the Secretary”.*

3 (c) *TRANSPORTATION SECURITY CARD REGULA-*  
4 *TIONS.—Section 70105(a) of the 46, United States Code, is*  
5 *amended by striking “The Secretary” and inserting “Not*  
6 *later than December 31, 2004, the Secretary”.*

7 ***TITLE IV—INTERNATIONAL CO-***  
8 ***OPERATION AND COORDINA-***  
9 ***TION***

10 ***Subtitle A—Attack Terrorists and***  
11 ***Their Organizations***

12 ***CHAPTER 1—PROVISIONS RELATING TO***  
13 ***TERRORIST SANCTUARIES***

14 ***SEC. 4001. UNITED STATES POLICY ON TERRORIST SANC-***  
15 ***TUARIES.***

16 *It is the sense of Congress that it should be the policy*  
17 *of the United States—*

18 (1) *to identify and prioritize foreign countries*  
19 *that are or that could be used as terrorist sanctuaries;*

20 (2) *to assess current United States resources*  
21 *being provided to such foreign countries;*

22 (3) *to develop and implement a coordinated*  
23 *strategy to prevent terrorists from using such foreign*  
24 *countries as sanctuaries; and*



1           (4) *to work in bilateral and multilateral fora to*  
2           *prevent foreign countries from being used as terrorist*  
3           *sanctuaries.*

4 **SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

5           (a) *INITIAL REPORT.—*

6           (1) *IN GENERAL.—Not later than 90 days after*  
7           *the date of the enactment of this Act, the President*  
8           *shall transmit to Congress a report that describes a*  
9           *strategy for addressing and, where possible, elimi-*  
10          *nating terrorist sanctuaries.*

11          (2) *CONTENT.—The report required under this*  
12          *subsection shall include the following:*

13               (A) *A list that prioritizes each actual and*  
14               *potential terrorist sanctuary and a description*  
15               *of activities in the actual and potential sanc-*  
16               *tuaries.*

17               (B) *An outline of strategies for preventing*  
18               *the use of, disrupting, or ending the use of such*  
19               *sanctuaries.*

20               (C) *A detailed description of efforts, includ-*  
21               *ing an assessment of successes and setbacks, by*  
22               *the United States to work with other countries in*  
23               *bilateral and multilateral fora to address or*  
24               *eliminate each actual or potential terrorist sanc-*



1           *tuary and disrupt or eliminate the security pro-*  
2           *vided to terrorists by each such sanctuary.*

3           *(D) A description of long-term goals and*  
4           *actions designed to reduce the conditions that*  
5           *allow the formation of terrorist sanctuaries.*

6           ***(b) SUBSEQUENT REPORTS.—***

7           ***(1) REQUIREMENT OF REPORTS.—Section***  
8           ***140(a)(1) of the Foreign Relations Authorization Act,***  
9           ***Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)(1))***  
10          ***is amended—***

11           ***(A) by striking “(1)” and inserting***  
12           ***“(1)(A)”;***

13           ***(B) by redesignating subparagraphs (A)***  
14           ***through (C) as clauses (i) through (iii), respec-***  
15           ***tively;***

16           ***(C) in subparagraph (A)(iii) (as redesign-***  
17           ***ated), by adding “and” at the end; and***

18           ***(D) by adding at the end the following:***

19           ***“(B) detailed assessments with respect to each***  
20           ***foreign country whose territory is being used or could***  
21           ***potentially be used as a sanctuary for terrorists or***  
22           ***terrorist organizations;”.***

23           ***(2) PROVISIONS TO BE INCLUDED IN REPORT.—***  
24           ***Section 140(b) of such Act (22 U.S.C. 2656f(b)) is***  
25           ***amended—***



1                   (A) in paragraph (1)—

2                   (i) in the matter preceding subpara-  
3                   graph (A), by striking “subsection (a)(1)”  
4                   and inserting “subsection (a)(1)(A)”; and

5                   (ii) by striking “and” at the end;

6                   (B) by redesignating paragraph (2) as  
7                   paragraph (3);

8                   (C) by inserting after paragraph (1) the fol-  
9                   lowing:

10                  “(2) with respect to subsection (a)(1)(B)—

11                  “(A) the extent of knowledge by the govern-  
12                  ment of the country with respect to terrorist ac-  
13                  tivities in the territory of the country; and

14                  “(B) the actions by the country—

15                  “(i) to eliminate each terrorist sanc-  
16                  tuary in the territory of the country;

17                  “(ii) to cooperate with United States  
18                  antiterrorism efforts; and

19                  “(iii) to prevent the proliferation of  
20                  and trafficking in weapons of mass destruc-  
21                  tion in and through the territory of the  
22                  country;”;

23                  (D) by striking the period at the end of  
24                  paragraph (3) (as redesignated) and inserting a  
25                  semicolon; and



1                   (E) by inserting after paragraph (3) (as re-  
2                   designated) the following:

3                   “(4) a strategy for addressing and, where pos-  
4                   sible, eliminating terrorist sanctuaries that shall  
5                   include—

6                   “(A) a description of actual and potential  
7                   terrorist sanctuaries, together with an assessment  
8                   of the priorities of addressing and eliminating  
9                   such sanctuaries;

10                  “(B) an outline of strategies for disrupting  
11                  or eliminating the security provided to terrorists  
12                  by such sanctuaries;

13                  “(C) a description of efforts by the United  
14                  States to work with other countries in bilateral  
15                  and multilateral fora to address or eliminate ac-  
16                  tual or potential terrorist sanctuaries and dis-  
17                  rupt or eliminate the security provided to terror-  
18                  ists by such sanctuaries; and

19                  “(D) a description of long-term goals and  
20                  actions designed to reduce the conditions that  
21                  allow the formation of terrorist sanctuaries;

22                  “(5) an update of the information contained in  
23                  the report required to be transmitted to Congress pur-  
24                  suant to section 4002(a)(2) of the 9/11 Recommenda-  
25                  tions Implementation Act;



1           “(6) to the extent practicable, complete statistical  
2           information on the number of individuals, including  
3           United States citizens and dual nationals, killed, in-  
4           jured, or kidnapped by each terrorist group during  
5           the preceding calendar year; and

6           “(7) an analysis, as appropriate, relating to  
7           trends in international terrorism, including changes  
8           in technology used, methods and targets of attacks, de-  
9           mographic information on terrorists, and other ap-  
10          propriate information.”.

11           (3) *DEFINITIONS.*—Section 140(d) of such Act  
12          (22 U.S.C. 2656f(d)) is amended—

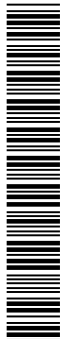
13           (A) in paragraph (2), by striking “and” at  
14          the end;

15           (B) in paragraph (3), by striking the period  
16          at the end and inserting a semicolon; and

17           (C) by adding at the end the following:

18           “(4) the term ‘territory’ and ‘territory of the  
19          country’ means the land, waters, and airspace of the  
20          country; and

21           “(5) the term ‘terrorist sanctuary’ or ‘sanctuary’  
22          means an area in the territory of a country that is  
23          used by a terrorist group with the express or implied  
24          consent of the government of the country—



1           “(A) to carry out terrorist activities, includ-  
2           ing training, fundraising, financing, recruit-  
3           ment, and education activities; or

4           “(B) to provide transit through the coun-  
5           try.”.

6           (4) *EFFECTIVE DATE.*—The amendments made  
7           by paragraphs (1), (2), and (3) apply with respect to  
8           the report required to be transmitted under section  
9           140 of the Foreign Relations Authorization Act, Fis-  
10          cal Years 1988 and 1989, by April 30, 2006, and by  
11          April 30 of each subsequent year.

12 **SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE**  
13                                   **TERRORIST SANCTUARIES.**

14          (a) *AMENDMENTS.*—Section 6(j) of the *Export Admin-*  
15          *istration Act of 1979 (50 U.S.C. App. 2405(j))* is  
16          amended—

17               (1) in paragraph (1)—

18                       (A) by redesignating subparagraph (B) as  
19                       subparagraph (C); and

20                       (B) by inserting after subparagraph (A) the  
21                       following:

22                       “(B) Any part of the territory of the country is  
23                       being used as a sanctuary for terrorists or terrorist  
24                       organizations.”;





1           (2) *in paragraph (3), by striking “paragraph*  
2           *(1)(A)” and inserting “subparagraph (A) or (B) of*  
3           *paragraph (1)”;*

4           (3) *by redesignating paragraph (5) as para-*  
5           *graph (6);*

6           (4) *by inserting after paragraph (4) the fol-*  
7           *lowing:*

8           “(5) *A determination made by the Secretary of State*  
9           *under paragraph (1)(B) may not be rescinded unless the*  
10           *President submits to the Speaker of the House of Represent-*  
11           *atives and the chairman of the Committee on Banking,*  
12           *Housing, and Urban Affairs and the chairman of the Com-*  
13           *mittee on Foreign Relations of the Senate before the pro-*  
14           *posed rescission would take effect a report certifying that*  
15           *the government of the country concerned —*

16           “(A) *is taking concrete, verifiable steps to elimi-*  
17           *nate each terrorist sanctuary in the territory of the*  
18           *country;*

19           “(B) *is cooperating with United States*  
20           *antiterrorism efforts; and*

21           “(C) *is taking all appropriate actions to prevent*  
22           *the proliferation of and trafficking in weapons of*  
23           *mass destruction in and through the territory of the*  
24           *country.”; and*



1           (5) *by inserting after paragraph (6) (as redesignated) the following:*

2           (7) *In this subsection—*

3           (A) *the term ‘territory of the country’ means the land, waters, and airspace of the country; and*

4           (B) *the term ‘terrorist sanctuary’ or ‘sanctuary’ means an area in the territory of a country that is used by a terrorist group with the express or implied consent of the government of the country—*

5           (i) *to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or*

6           (ii) *to provide transit through the country.”.*

7           (b) *IMPLEMENTATION.—The President shall implement the amendments made by subsection (a) by exercising the authorities the President has under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).*

8           **CHAPTER 2—OTHER PROVISIONS**

9           **SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS**

10           **CONTROL AND NONPROLIFERATION ADVISORY BOARD.**

11           (a) *REQUIREMENT.—Not later than December 31, 2004, the Secretary of State shall appoint individuals to the Arms Control and Nonproliferation Advisory Board to*



1 *fill all vacancies in the membership of the Board that exist*  
2 *on the date of the enactment of this Act.*

3 (b) *CONSULTATION.*—*Appointments to the Board*  
4 *under subsection (a) shall be made in consultation with the*  
5 *Committee on International Relations of the House of Rep-*  
6 *resentatives and the Committee on Foreign Relations of the*  
7 *Senate.*

8 **SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-**  
9 **LIFERATION OF WEAPONS OF MASS DESTRUC-**  
10 **TION AND CONTROL OF STRATEGIC WEAP-**  
11 **ONS.**

12 (a) *REVIEW.*—

13 (1) *IN GENERAL.*—*The Undersecretary of State*  
14 *for Arms Control and International Security shall in-*  
15 *struct the Arms Control and Nonproliferation Advi-*  
16 *sory Board (in this section referred to as the “Advi-*  
17 *sory Board”)* *to carry out a review of existing policies*  
18 *of the United States relating to the proliferation of*  
19 *weapons of mass destruction and the control of stra-*  
20 *tegic weapons.*

21 (2) *COMPONENTS.*—*The review required under*  
22 *this subsection shall contain at a minimum the fol-*  
23 *lowing:*

24 (A) *An identification of all major defi-*  
25 *ciencies in existing United States policies relat-*



1            *ing to the proliferation of weapons of mass de-*  
2            *struction and the control of strategic weapons.*

3            *(B) Proposals that contain a range of op-*  
4            *tions that if implemented would adequately ad-*  
5            *dress any significant threat deriving from the*  
6            *deficiencies in existing United States policies de-*  
7            *scribed in subparagraph (A).*

8            *(b) REPORTS.—*

9            *(1) INTERIM REPORT.—Not later than June 15,*  
10           *2005, the Advisory Board shall prepare and submit*  
11           *to the Undersecretary of State for Arms Control and*  
12           *International Security an interim report that con-*  
13           *tains the initial results of the review carried out pur-*  
14           *suant to subsection (a).*

15           *(2) FINAL REPORT.—Not later than December 1,*  
16           *2005, the Advisory Board shall prepare and submit*  
17           *to the Undersecretary of State for Arms Control and*  
18           *International Security, and to the Committee on*  
19           *International Relations of the House of Representa-*  
20           *tives and the Committee on Foreign Relations of the*  
21           *Senate, a final report that contains the comprehensive*  
22           *results of the review carried out pursuant to sub-*  
23           *section (a).*

24           *(c) EXPERTS AND CONSULTANTS.— In carrying out*  
25           *this section, the Advisory Board may procure temporary*



1 *and intermittent services of experts and consultants, includ-*  
2 *ing experts and consultants from nongovernmental organi-*  
3 *zations, under section 3109(b) of title 5, United States Code.*

4 *(d) FUNDING AND OTHER RESOURCES.—The Sec-*  
5 *retary of State shall provide to the Advisory Board an ap-*  
6 *propriate amount of funding and other resources to enable*  
7 *the Advisory Board to carry out this section.*

8 **SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT**  
9 **ACTS OF INTERNATIONAL TERRORISM.**

10 *Section 1(e)(2) of the State Department Basic Authori-*  
11 *ties Act of 1956 (22 U.S.C. 2651a(e)(2)), as amended by*  
12 *section 3091(b), is further amended by adding at the end*  
13 *the following:*

14 *“(D) ADDITIONAL DUTIES RELATING TO*  
15 *INTERNATIONAL AGREEMENTS TO INTERDICT*  
16 *ACTS OF INTERNATIONAL TERRORISM.—*

17 *“(i) IN GENERAL.—In addition to the*  
18 *principal duties of the Coordinator de-*  
19 *scribed in subparagraph (B), the Coordi-*  
20 *nator, in consultation with relevant United*  
21 *States Government agencies, shall seek to*  
22 *negotiate on a bilateral basis international*  
23 *agreements under which parties to an agree-*  
24 *ment work in partnership to address and*  
25 *interdict acts of international terrorism.*



1                   “(i) *TERMS OF INTERNATIONAL*  
2                   *AGREEMENT.—It is the sense of Congress*  
3                   *that—*

4                   “(I) *each party to an inter-*  
5                   *national agreement referred to in*  
6                   *clause (i)—*

7                   “(aa) *should be in full com-*  
8                   *pliance with United Nations Se-*  
9                   *curity Council Resolution 1373*  
10                  *(September 28, 2001), other ap-*  
11                  *propriate international agree-*  
12                  *ments relating to antiterrorism*  
13                  *measures, and such other appro-*  
14                  *priate criteria relating to*  
15                  *antiterrorism measures;*

16                  “(bb) *should sign and adhere*  
17                  *to a ‘Counterterrorism Pledge’*  
18                  *and a list of ‘Interdiction Prin-*  
19                  *ciples’, to be determined by the*  
20                  *parties to the agreement;*

21                  “(cc) *should identify assets*  
22                  *and agree to multilateral efforts*  
23                  *that maximizes the country’s*  
24                  *strengths and resources to address*  
25                  *and interdict acts of international*



1 *terrorism or the financing of such*  
2 *acts;*

3 *“(dd) should agree to joint*  
4 *training exercises among the other*  
5 *parties to the agreement; and*

6 *“(ee) should agree to the ne-*  
7 *gotiation and implementation of*  
8 *other relevant international agree-*  
9 *ments and consensus-based inter-*  
10 *national standards; and*

11 *“(II) an international agreement*  
12 *referred to in clause (i) should contain*  
13 *provisions that require the parties to*  
14 *the agreement—*

15 *“(aa) to identify regions*  
16 *throughout the world that are*  
17 *emerging terrorist threats;*

18 *“(bb) to establish terrorism*  
19 *interdiction centers in such re-*  
20 *gions and other regions, as appro-*  
21 *priate;*

22 *“(cc) to deploy terrorism pre-*  
23 *vention teams to such regions, in-*  
24 *cluding United States-led teams;*  
25 *and*



1                   “(dd) to integrate intel-  
2                   ligence, military, and law enforce-  
3                   ment personnel from countries  
4                   that are parties to the agreement  
5                   in order to work directly with the  
6                   regional centers described in item  
7                   (bb) and regional teams described  
8                   in item (cc).”.

9   **SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DE-**  
10                   **TENTION AND HUMANE TREATMENT OF CAP-**  
11                   **TURED TERRORISTS.**

12           *It is the sense of Congress that the President should*  
13           *pursue by all appropriate diplomatic means with countries*  
14           *that are participating in the Coalition to fight terrorism*  
15           *the development of an effective approach toward the deten-*  
16           *tion and humane treatment of captured terrorists. The effec-*  
17           *tive approach referred to in this section may, as appro-*  
18           *priate, draw on Article 3 of the Convention Relative to the*  
19           *Treatment of Prisoners of War, done at Geneva on August*  
20           *12, 1949 (6 UST 3316).*

21   **SEC. 4015. SENSE OF CONGRESS AND REPORT REGARDING**  
22                   **COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

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





1           (1) *the President should make the substantial re-*  
2           *duction of illegal drug production and trafficking in*  
3           *Afghanistan a priority in the Global War on Ter-*  
4           *rorism;*

5           (2) *the Secretary of Defense, in coordination*  
6           *with the Secretary of State, Attorney General, and the*  
7           *heads of other appropriate Federal agencies, should*  
8           *expand cooperation with the Government of Afghani-*  
9           *stan and international organizations involved in*  
10          *counter-drug activities to assist in providing a secure*  
11          *environment for counter-drug personnel in Afghani-*  
12          *stan; and*

13          (3) *the United States, in conjunction with the*  
14          *Government of Afghanistan and coalition partners,*  
15          *should undertake additional efforts to reduce illegal*  
16          *drug trafficking and related activities that provide fi-*  
17          *nancial support for terrorist organizations in Afghan-*  
18          *istan and neighboring countries.*

19          (b) *REPORT REQUIRED.—(1) The Secretary of Defense*  
20          *and the Secretary of State shall jointly prepare a report*  
21          *that describes—*

22                 (A) *the progress made towards substantially re-*  
23                 *ducing poppy cultivation and heroin production ca-*  
24                 *pabilities in Afghanistan; and*



1           (B) *the extent to which profits from illegal drug*  
2           *activity in Afghanistan are used to financially sup-*  
3           *port terrorist organizations and groups seeking to un-*  
4           *dermine the Government of Afghanistan.*

5           (2) *The report required by this subsection shall be sub-*  
6           *mitted to Congress not later than 120 days after the date*  
7           *of the enactment of this Act.*

8           ***Subtitle B—Prevent the Continued***  
9           ***Growth of Terrorism***

10          ***CHAPTER 1—UNITED STATES PUBLIC***

11                           ***DIPLOMACY***

12          ***SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC***

13                           ***DIPLOMACY STRATEGY.***

14           (a) *IN GENERAL.—The Secretary of State, in coordi-*  
15           *nation with all appropriate Federal agencies, shall submit*  
16           *to the Committee on International Relations of the House*  
17           *of Representatives and the Committee on Foreign Relations*  
18           *of the Senate an annual assessment of the impact of public*  
19           *diplomacy efforts on target audiences. Each assessment*  
20           *shall review the United States public diplomacy strategy*  
21           *worldwide and by region, including an examination of the*  
22           *allocation of resources and an evaluation and assessment*  
23           *of the progress in, and barriers to, achieving the goals set*  
24           *forth under previous plans submitted under this section. Not*



1 *later than March 15 of every year, the Secretary shall sub-*  
2 *mit the assessment required by this subsection.*

3 (b) *FURTHER ACTION.*— *On the basis of such review,*  
4 *the Secretary, in coordination with all appropriate Federal*  
5 *agencies, shall submit, as part of the annual budget submis-*  
6 *sion, a public diplomacy strategy plan which specifies*  
7 *goals, agency responsibilities, and necessary resources and*  
8 *mechanisms for achieving such goals during the next fiscal*  
9 *year. The plan may be submitted in classified form.*

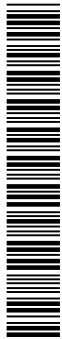
10 **SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

11 (a) *STATEMENT OF POLICY.*—*It should be the policy*  
12 *of the United States:*

13 (1) *The Foreign Service should recruit individ-*  
14 *uals with expertise and professional experience in*  
15 *public diplomacy.*

16 (2) *United States chiefs of mission should have*  
17 *a prominent role in the formulation of public diplo-*  
18 *macy strategies for the countries and regions to which*  
19 *they are assigned and should be accountable for the*  
20 *operation and success of public diplomacy efforts at*  
21 *their posts.*

22 (3) *Initial and subsequent training of Foreign*  
23 *Service officers should be enhanced to include infor-*  
24 *mation and training on public diplomacy and the*  
25 *tools and technology of mass communication.*



1       (b) *PERSONNEL.*—

2               (1) *QUALIFICATIONS.*—*In the recruitment, train-*  
3 *ing, and assignment of members of the Foreign Serv-*  
4 *ice, the Secretary of State shall emphasize the impor-*  
5 *tance of public diplomacy and applicable skills and*  
6 *techniques. The Secretary shall consider the priority*  
7 *recruitment into the Foreign Service, at middle-level*  
8 *entry, of individuals with expertise and professional*  
9 *experience in public diplomacy, mass communica-*  
10 *tions, or journalism. The Secretary shall give special*  
11 *consideration to individuals with language facility*  
12 *and experience in particular countries and regions.*

13               (2) *LANGUAGES OF SPECIAL INTEREST.*—*The*  
14 *Secretary of State shall seek to increase the number*  
15 *of Foreign Service officers proficient in languages*  
16 *spoken in predominantly Muslim countries. Such in-*  
17 *crease shall be accomplished through the recruitment*  
18 *of new officers and incentives for officers in service.*

19 **SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM**  
20 **COUNTRIES.**

21               (a) *DECLARATION OF POLICY.*—*Congress declares that*  
22 *the United States should commit to a long-term and sus-*  
23 *tainable investment in promoting engagement with people*  
24 *of all levels of society in countries with predominantly Mus-*  
25 *lim populations, particularly with youth and those who in-*



1 *fluence youth. Such an investment should make use of the*  
2 *talents and resources in the private sector and should in-*  
3 *clude programs to increase the number of people who can*  
4 *be exposed to the United States and its fundamental ideas*  
5 *and values in order to dispel misconceptions. Such pro-*  
6 *grams should include youth exchange programs, young am-*  
7 *bassadors programs, international visitor programs, aca-*  
8 *demic and cultural exchange programs, American Corner*  
9 *programs, library programs, journalist exchange programs,*  
10 *sister city programs, and other programs related to people-*  
11 *to-people diplomacy.*

12 (b) *SENSE OF CONGRESS.—It is the sense of Congress*  
13 *that the United States should significantly increase its in-*  
14 *vestment in the people-to-people programs described in sub-*  
15 *section (a).*

16 **SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PROMOTION**  
17 **IN FOREIGN SERVICE.**

18 (a) *IN GENERAL.—Section 603(b) of the Foreign Serv-*  
19 *ice Act of 1980 (22 U.S.C. 4003(b)) is amended by adding*  
20 *at the end the following new sentences: “The precepts for*  
21 *such selection boards shall also consider whether the member*  
22 *of the Service or the member of the Senior Foreign Service,*  
23 *as the case may be, has served in at least one position in*  
24 *which the primary responsibility of such member was re-*  
25 *lated to public diplomacy. A member may not be promoted*



1 *into or within the Senior Foreign Service if such member*  
2 *has not served in at least one such position.”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
4 *section (a) shall take effect on January 1, 2009.*

5 **CHAPTER 2—UNITED STATES**  
6 **MULTILATERAL DIPLOMACY**

7 **SEC. 4031. PURPOSE.**

8 *It is the purpose of this chapter to strengthen United*  
9 *States leadership and effectiveness at international organi-*  
10 *zations and multilateral institutions.*

11 **SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAU-**  
12 **CUS.**

13 (a) *IN GENERAL.*—*The President, acting through the*  
14 *Secretary of State and the relevant United States chiefs of*  
15 *mission, shall—*

16 (1) *continue to strongly support and seek to ex-*  
17 *pend the work of the democracy caucus at the United*  
18 *Nations General Assembly and the United Nations*  
19 *Human Rights Commission; and*

20 (2) *seek to establish a democracy caucus at the*  
21 *United Nations Conference on Disarmament and at*  
22 *other broad-based international organizations.*

23 (b) *PURPOSES OF THE CAUCUS.*—*A democracy caucus*  
24 *at an international organization should—*



1           (1) *forge common positions, including, as appro-*  
2           *priate, at the ministerial level, on matters of concern*  
3           *before the organization and work within and across*  
4           *regional lines to promote agreed positions;*

5           (2) *work to revise an increasingly outmoded sys-*  
6           *tem of membership selection, regional voting, and de-*  
7           *cision making; and*

8           (3) *establish a rotational leadership agreement to*  
9           *provide member countries an opportunity, for a set*  
10          *period of time, to serve as the designated president of*  
11          *the caucus, responsible for serving as its voice in each*  
12          *organization.*

13 **SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-**  
14                                    **NATIONAL ORGANIZATIONS.**

15          (a) *UNITED STATES POLICY.—The President, acting*  
16          *through the Secretary of State and the relevant United*  
17          *States chiefs of mission, shall use the voice, vote, and influ-*  
18          *ence of the United States to—*

19               (1) *where appropriate, reform the criteria for*  
20               *leadership and, in appropriate cases, for membership,*  
21               *at all United Nations bodies and at other inter-*  
22               *national organizations and multilateral institutions*  
23               *to which the United States is a member so as to ex-*  
24               *clude countries that violate the principles of the spe-*  
25               *cific organization;*



1           (2) *make it a policy of the United Nations and*  
2           *other international organizations and multilateral in-*  
3           *stitutions of which the United States is a member*  
4           *that a member country may not stand in nomination*  
5           *for membership or in nomination or in rotation for*  
6           *a leadership position in such bodies if the member*  
7           *country is subject to sanctions imposed by the United*  
8           *Nations Security Council; and*

9           (3) *work to ensure that no member country stand*  
10          *in nomination for membership, or in nomination or*  
11          *in rotation for a leadership position in such organi-*  
12          *zations, or for membership on the United Nations Se-*  
13          *curity Council, if the member country is subject to a*  
14          *determination under section 6(j)(1)(A) of the Export*  
15          *Administration Act of 1979 (50 U.S.C. App.*  
16          *2405(j)(1)(A)), section 620A(a) of the Foreign Assist-*  
17          *ance Act of 1961 (22 U.S.C. 2371(a)), or section*  
18          *40(d) of the Arms Export Control Act (22 U.S.C.*  
19          *2780(d)).*

20          (b) *REPORT TO CONGRESS.—Not later than 15 days*  
21          *after a country subject to a determination under one or*  
22          *more of the provisions of law specified in subsection (a)(3)*  
23          *is selected for membership or a leadership post in an inter-*  
24          *national organization of which the United States is a mem-*  
25          *ber or for membership on the United Nations Security*





1 *Council, the Secretary of State shall submit to the Com-*  
2 *mittee on International Relations of the House of Rep-*  
3 *resentatives and the Committee on Foreign Relations of the*  
4 *Senate a report on any steps taken pursuant to subsection*  
5 *(a)(3).*

6 **SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLO-**  
7 **MACY.**

8 *(a) TRAINING PROGRAMS.—Section 708 of the Foreign*  
9 *Service Act of 1980 (22 U.S.C. 4028) is amended by adding*  
10 *at the end the following new subsection:*

11 *“(c) TRAINING IN MULTILATERAL DIPLOMACY.—*

12 *“(1) IN GENERAL.—The Secretary shall establish*  
13 *a series of training courses for officers of the Service,*  
14 *including appropriate chiefs of mission, on the con-*  
15 *duct of diplomacy at international organizations and*  
16 *other multilateral institutions and at broad-based*  
17 *multilateral negotiations of international instru-*  
18 *ments.*

19 *“(2) PARTICULAR PROGRAMS.—The Secretary*  
20 *shall ensure that the training described in paragraph*  
21 *(1) is provided at various stages of the career of mem-*  
22 *bers of the service. In particular, the Secretary shall*  
23 *ensure that after January 1, 2006—*

24 *“(A) officers of the Service receive training*  
25 *on the conduct of diplomacy at international or-*



1            *ganizations and other multilateral institutions*  
2            *and at broad-based multilateral negotiations of*  
3            *international instruments as part of their train-*  
4            *ing upon entry into the Service; and*

5            *“(B) officers of the Service, including chiefs*  
6            *of mission, who are assigned to United States*  
7            *missions representing the United States to inter-*  
8            *national organizations and other multilateral*  
9            *institutions or who are assigned in Washington,*  
10           *D.C., to positions that have as their primary re-*  
11           *sponsibility formulation of policy towards such*  
12           *organizations and institutions or towards par-*  
13           *ticipation in broad-based multilateral negotia-*  
14           *tions of international instruments, receive spe-*  
15           *cialized training in the areas described in para-*  
16           *graph (1) prior to beginning of service for such*  
17           *assignment or, if receiving such training at that*  
18           *time is not practical, within the first year of be-*  
19           *ginning such assignment.”.*

20           *(b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The*  
21           *Secretary shall ensure that employees of the Department of*  
22           *State who are members of the civil service and who are as-*  
23           *signed to positions described in section 708(c) of the Foreign*  
24           *Service Act of 1980 (as amended by subsection (a)) receive*  
25           *training described in such section.*



1           (c) *CONFORMING AMENDMENTS.*—Section 708 of such  
2 *Act is further amended—*

3                 (1) *in subsection (a), by striking “(a) The” and*  
4                 *inserting “(a) TRAINING ON HUMAN RIGHTS.—The”;*  
5                 *and*

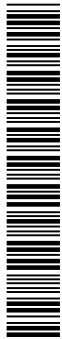
6                 (2) *in subsection (b), by striking “(b) The” and*  
7                 *inserting “(b) TRAINING ON REFUGEE LAW AND RE-*  
8                 *LIGIOUS PERSECUTION.—The”.*

9   **SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OF-**  
10                                   **FICE ON MULTILATERAL NEGOTIATIONS.**

11           (a) *ESTABLISHMENT OF OFFICE.*—*The Secretary of*  
12 *State is authorized to establish, within the Bureau of Inter-*  
13 *national Organizational Affairs, an Office on Multilateral*  
14 *Negotiations to be headed by a Special Representative for*  
15 *Multilateral Negotiations (in this section referred to as the*  
16 *“Special Representative”).*

17           (b) *APPOINTMENT.*—*The Special Representative shall*  
18 *be appointed by the President and shall have the rank of*  
19 *Ambassador-at-Large. At the discretion of the President an-*  
20 *other official at the Department may serve as the Special*  
21 *Representative.*

22           (c) *STAFFING.*—*The Special Representative shall have*  
23 *a staff of Foreign Service and civil service officers skilled*  
24 *in multilateral diplomacy.*



1       (d) *DUTIES.*—*The Special Representative shall have*  
2 *the following responsibilities:*

3           (1) *IN GENERAL.*—*The primary responsibility of*  
4 *the Special Representative shall be to assist in the or-*  
5 *ganization of, and preparation for, United States*  
6 *participation in multilateral negotiations, including*  
7 *advocacy efforts undertaken by the Department of*  
8 *State and other United States Government agencies.*

9           (2) *CONSULTATIONS.*—*The Special Representa-*  
10 *tive shall consult with Congress, international organi-*  
11 *zations, nongovernmental organizations, and the pri-*  
12 *vate sector on matters affecting multilateral negotia-*  
13 *tions.*

14           (3) *ADVISORY ROLE.*—*The Special Representa-*  
15 *tive shall advise the Assistant Secretary for Inter-*  
16 *national Organizational Affairs and, as appropriate,*  
17 *the Secretary of State, regarding advocacy at inter-*  
18 *national organizations, multilateral institutions, and*  
19 *negotiations, and shall make recommendations*  
20 *regarding—*

21           (A) *effective strategies (and tactics) to*  
22 *achieve United States policy objectives at multi-*  
23 *lateral negotiations;*

24           (B) *the need for and timing of high level*  
25 *intervention by the President, the Secretary of*



1           *State, the Deputy Secretary of State, and other*  
2           *United States officials to secure support from*  
3           *key foreign government officials for United*  
4           *States positions at such organizations, institu-*  
5           *tions, and negotiations; and*

6                   *(C) the composition of United States delega-*  
7                   *tions to multilateral negotiations.*

8           (4) *ANNUAL DIPLOMATIC MISSIONS OF MULTI-*  
9           *LATERAL ISSUES.—The Special Representative, in co-*  
10           *ordination with the Assistant Secretary for Inter-*  
11           *national Organizational Affairs, shall organize an-*  
12           *annual diplomatic missions to appropriate foreign*  
13           *countries to conduct consultations between principal*  
14           *officers responsible for advising the Secretary of State*  
15           *on international organizations and high-level rep-*  
16           *resentatives of the governments of such foreign coun-*  
17           *tries to promote the United States agenda at the*  
18           *United Nations General Assembly and other key*  
19           *international fora (such as the United Nations*  
20           *Human Rights Commission).*

21                   (5) *LEADERSHIP AND MEMBERSHIP OF INTER-*  
22           *NATIONAL ORGANIZATIONS.—The Special Representa-*  
23           *tive, in coordination with the Assistant Secretary of*  
24           *International Organizational Affairs, shall direct the*  
25           *efforts of the United States to reform the criteria for*



1        *leadership of and membership in international orga-*  
2        *nizations as described in section 4033.*

3                (6) *PARTICIPATION IN MULTILATERAL NEGOTIA-*  
4        *TIONS.—The Secretary of State may direct the Spe-*  
5        *cial Representative to serve as a member of a United*  
6        *States delegation to any multilateral negotiation.*

7                **CHAPTER 3—OTHER PROVISIONS**

8        **SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMER-**  
9                **ICAN-SPONSORED SCHOOLS IN PREDOMI-**  
10              **NANTLY MUSLIM COUNTRIES TO PROVIDE**  
11              **SCHOLARSHIPS.**

12        (a) *FINDINGS.—Congress finds the following:*

13                (1) *During the 2003–2004 school year, the Office*  
14        *of Overseas Schools of the Department of State is fi-*  
15        *nancially assisting 189 elementary and secondary*  
16        *schools in foreign countries.*

17                (2) *American-sponsored elementary and sec-*  
18        *ondary schools are located in more than 20 countries*  
19        *with significant Muslim populations in the Near*  
20        *East, Africa, South Asia, Central Asia, and East*  
21        *Asia.*

22                (3) *American-sponsored elementary and sec-*  
23        *ondary schools provide an American-style education*  
24        *in English, with curricula that typically include an*



1       *emphasis on the development of critical thinking and*  
2       *analytical skills.*

3       **(b) PURPOSE.**—*The United States has an interest in*  
4       *increasing the level of financial support provided to Amer-*  
5       *ican-sponsored elementary and secondary schools in pre-*  
6       *dominantly Muslim countries, in order to—*

7             (1) *increase the number of students in such coun-*  
8             *tries who attend such schools;*

9             (2) *increase the number of young people who*  
10            *may thereby gain at any early age an appreciation*  
11            *for the culture, society, and history of the United*  
12            *States; and*

13            (3) *increase the number of young people who*  
14            *may thereby improve their proficiency in the English*  
15            *language.*

16       **(c) PILOT PROGRAM AUTHORIZED.**—*The Secretary of*  
17       *State, acting through the Director of the Office of Overseas*  
18       *Schools of the Department of State, may conduct a pilot*  
19       *program to make grants to American-sponsored elementary*  
20       *and secondary schools in predominantly Muslim countries*  
21       *for the purpose of providing full or partial merit-based*  
22       *scholarships to students from lower- and middle-income*  
23       *families of such countries to attend such schools.*

24       **(d) DETERMINATION OF ELIGIBLE STUDENTS.**—*For*  
25       *purposes of expending grant funds, an American-sponsored*



1 *elementary and secondary school that receives a grant*  
2 *under subsection (c) is authorized to establish criteria to*  
3 *be implemented by such school to determine what constitutes*  
4 *lower- and middle-income families in the country (or region*  
5 *of the country, if regional variations in income levels in*  
6 *the country are significant) in which such school is located.*

7       *(e) RESTRICTION ON USE OF FUNDS.—Amounts ap-*  
8 *propriated to the Secretary of State pursuant to the author-*  
9 *ization of appropriations in subsection (h) shall be used for*  
10 *the sole purpose of making grants under this section, and*  
11 *may not be used for the administration of the Office of*  
12 *Overseas Schools of the Department of State or for any*  
13 *other activity of the Office.*

14       *(f) VOLUNTARY PARTICIPATION.—Nothing in this sec-*  
15 *tion shall be construed to require participation in the pilot*  
16 *program by an American-sponsored elementary or sec-*  
17 *ondary school in a predominantly Muslim country.*

18       *(g) REPORT.—Not later than April 15, 2006, the Sec-*  
19 *retary shall submit to the Committee on International Rela-*  
20 *tions of the House of Representatives and the Committee*  
21 *on Foreign Relations of the Senate a report on the pilot*  
22 *program. The report shall assess the success of the program,*  
23 *examine any obstacles encountered in its implementation,*  
24 *and address whether it should be continued, and if so, pro-*  
25 *vide recommendations to increase its effectiveness.*





1       (h) *FUNDING.*—*There are authorized to be appro-*  
2 *priated to the Secretary of State such sums as may be nec-*  
3 *essary for each of fiscal years 2005, 2006, and 2007 to carry*  
4 *out this section.*

5 **SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

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

7           (1) *Freedom of speech and freedom of the press*  
8 *are fundamental human rights.*

9           (2) *The United States has a national interest in*  
10 *promoting these freedoms by supporting free media*  
11 *abroad, which is essential to the development of free*  
12 *and democratic societies consistent with our own.*

13           (3) *Free media is undermined, endangered, or*  
14 *nonexistent in many repressive and transitional soci-*  
15 *eties around the world, including in Eurasia, Africa,*  
16 *and the Middle East.*

17           (4) *Individuals lacking access to a plurality of*  
18 *free media are vulnerable to misinformation and*  
19 *propaganda and are potentially more likely to adopt*  
20 *anti-American views.*

21           (5) *Foreign governments have a responsibility to*  
22 *actively and publicly discourage and rebut unpro-*  
23 *fessional and unethical media while respecting jour-*  
24 *nalistic integrity and editorial independence.*



1       **(b) STATEMENTS OF POLICY.**—*It shall be the policy*  
2 *of the United States, acting through the Secretary of State,*  
3 *to—*

4           (1) *ensure that the promotion of press freedoms*  
5 *and free media worldwide is a priority of United*  
6 *States foreign policy and an integral component of*  
7 *United States public diplomacy;*

8           (2) *respect the journalistic integrity and edi-*  
9 *torial independence of free media worldwide; and*

10          (3) *ensure that widely accepted standards for*  
11 *professional and ethical journalistic and editorial*  
12 *practices are employed when assessing international*  
13 *media.*

14       **(c) GRANTS TO PRIVATE SECTOR GROUP TO ESTAB-**  
15 **LISH MEDIA NETWORK.**—

16           (1) **IN GENERAL.**—*Grants made available to the*  
17 *National Endowment for Democracy (NED) pursuant*  
18 *to paragraph (3) shall be used by NED to provide*  
19 *funding to a private sector group to establish and*  
20 *manage a free and independent media network in ac-*  
21 *cordance with paragraph (2).*

22           (2) **PURPOSE.**—*The purpose of the network shall*  
23 *be to provide an effective forum to convene a broad*  
24 *range of individuals, organizations, and governmental*



1        *participants involved in journalistic activities and*  
2        *the development of free and independent media to—*

3                *(A) fund a clearinghouse to collect and*  
4                *share information concerning international*  
5                *media development and training;*

6                *(B) improve research in the field of media*  
7                *assistance and program evaluation to better in-*  
8                *form decisions regarding funding and program*  
9                *design for government and private donors;*

10               *(C) explore the most appropriate use of ex-*  
11               *isting means to more effectively encourage the in-*  
12               *volvement of the private sector in the field of*  
13               *media assistance; and*

14               *(D) identify effective methods for the devel-*  
15               *opment of a free and independent media in soci-*  
16               *eties in transition.*

17               *(3) FUNDING.—For grants made by the Depart-*  
18               *ment of State to NED as authorized by the National*  
19               *Endowment for Democracy Act (Pub. L. 98–164, 97*  
20               *Stat. 1039), there are authorized to be appropriated*  
21               *to the Secretary of State such sums as may be nec-*  
22               *essary for each of fiscal years 2005, 2006, and 2007*  
23               *to carry out this section.*



1 **SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA**  
2 **COVERAGE OF THE UNITED STATES.**

3 (a) *FINDINGS.*—Congress finds the following:

4 (1) *Biased or false media coverage of the United*  
5 *States and its allies is a significant factor encour-*  
6 *aging terrorist acts against the people of the United*  
7 *States.*

8 (2) *Public diplomacy efforts designed to encour-*  
9 *age an accurate understanding of the people of the*  
10 *United States and the policies of the United States*  
11 *are unlikely to succeed if foreign publics are subjected*  
12 *to unrelenting biased or false local media coverage of*  
13 *the United States.*

14 (3) *Where freedom of the press exists in foreign*  
15 *countries the United States can combat biased or false*  
16 *media coverage by responding in the foreign media or*  
17 *by communicating directly to foreign publics in such*  
18 *countries.*

19 (4) *Foreign governments which encourage biased*  
20 *or false media coverage of the United States bear a*  
21 *significant degree of responsibility for creating a cli-*  
22 *mate within which terrorism can flourish. Such gov-*  
23 *ernments are responsible for encouraging biased or*  
24 *false media coverage if they—*



1           (A) issue direct or indirect instructions to  
2           the media to publish biased or false information  
3           regarding the United States;

4           (B) make deliberately biased or false charges  
5           expecting that such charges will be disseminated;  
6           or

7           (C) so severely constrain the ability of the  
8           media to express criticism of any such govern-  
9           ment that one of the few means of political ex-  
10          pression available is criticism of the United  
11          States.

12          (b) STATEMENTS OF POLICY.—

13           (1) FOREIGN GOVERNMENTS.—It shall be the pol-  
14          icy of the United States to regard foreign governments  
15          as knowingly engaged in unfriendly acts toward the  
16          United States if such governments—

17           (A) instruct their state-owned or influenced  
18          media to include content that is anti-American  
19          or prejudicial to the foreign and security policies  
20          of the United States; or

21           (B) make deliberately false charges regard-  
22          ing the United States or permit false or biased  
23          charges against the United States to be made  
24          while constraining normal political discourse.



1           (2) *SEEKING MEDIA ACCESS; RESPONDING TO*  
2           *FALSE CHARGES.—It shall be the policy of the United*  
3           *States to—*

4                   (A) *seek access to the media in foreign coun-*  
5                   *tries on terms no less favorable than those af-*  
6                   *forded any other foreign entity or on terms*  
7                   *available to the foreign country in the United*  
8                   *States; and*

9                   (B) *combat biased or false media coverage*  
10                  *in foreign countries of the United States and its*  
11                  *allies by responding in the foreign media or by*  
12                  *communicating directly to foreign publics.*

13           (c) *RESPONSIBILITIES REGARDING BIASED OR FALSE*  
14           *MEDIA COVERAGE.—*

15                   (1) *SECRETARY OF STATE.—The Secretary of*  
16                   *State shall instruct chiefs of mission to report on and*  
17                   *combat biased or false media coverage originating in*  
18                   *or received in foreign countries to which such chiefs*  
19                   *are posted. Based on such reports and other informa-*  
20                   *tion available to the Secretary, the Secretary shall*  
21                   *prioritize efforts to combat such media coverage, giv-*  
22                   *ing special attention to audiences where fostering*  
23                   *popular opposition to terrorism is most important*  
24                   *and such media coverage is most prevalent.*



1           (2) *CHIEFS OF MISSION.*—*Chiefs of mission shall*  
2           *have the following responsibilities:*

3                   (A) *Chiefs of mission shall give strong pri-*  
4                   *ority to combatting biased or false media reports*  
5                   *in foreign countries to which such chiefs are*  
6                   *posted regarding the United States.*

7                   (B) *Chiefs of mission posted to foreign*  
8                   *countries in which freedom of the press exists*  
9                   *shall inform the governments of such countries of*  
10                  *the policies of the United States regarding biased*  
11                  *or false media coverage of the United States, and*  
12                  *shall make strong efforts to persuade such gov-*  
13                  *ernments to change policies that encourage such*  
14                  *media coverage.*

15           (d) *REPORTS.*—*Not later than 120 days after the date*  
16           *of the enactment of this Act and at least annually thereafter*  
17           *until January 1, 2015, the Secretary shall submit to the*  
18           *Committee on International Relations of the House of Rep-*  
19           *resentatives and the Committee on Foreign Relations of the*  
20           *Senate a report regarding the major themes of biased or*  
21           *false media coverage of the United States in foreign coun-*  
22           *tries, the actions taken to persuade foreign governments to*  
23           *change policies that encourage such media coverage (and*  
24           *the results of such actions), and any other actions taken*  
25           *to combat such media coverage in foreign countries.*



1 **SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.**

2 (a) *REPORT.*—Not later than 180 days after the date  
3 of the enactment of this Act, the President shall transmit  
4 to the Committee on International Relations of the House  
5 of Representatives and the Committee on Foreign Relations  
6 of the Senate a report on the strategy of the United States  
7 to expand its outreach to foreign Muslim audiences through  
8 broadcast media.

9 (b) *CONTENT.*—The report required under subsection  
10 (a) shall contain the following:

11 (1) *An assessment of the Broadcasting Board of*  
12 *Governors and the public diplomacy activities of the*  
13 *Department of State with respect to outreach to for-*  
14 *ign Muslim audiences through broadcast media.*

15 (2) *An outline of recommended actions that the*  
16 *United States should take to more regularly and com-*  
17 *prehensively present a United States point of view*  
18 *through indigenous broadcast media in countries with*  
19 *sizeable Muslim populations, including increasing ap-*  
20 *pearances by United States Government officials, ex-*  
21 *perts, and citizens.*

22 (3) *An assessment of potential incentives for, and*  
23 *costs associated with, encouraging United States*  
24 *broadcasters to dub or subtitle into Arabic and other*  
25 *relevant languages their news and public affairs pro-*  
26 *grams broadcast in Muslim countries in order to*







1 *lished by the Community's Convening Group, should*  
2 *work to ensure that the criteria are part of a legally*  
3 *binding document, and should urge other donor coun-*  
4 *tries to use compliance with the criteria as a basis for*  
5 *determining diplomatic and economic relations (in-*  
6 *cluding assistance programs) with such participating*  
7 *countries; and*

8 *(3) should seek support for international con-*  
9 *tributions to the Community of Democracies and*  
10 *should seek authority for the Community's Convening*  
11 *Group to oversee adherence and compliance of partici-*  
12 *pating countries with the criteria.*

13 *(b) MIDDLE EAST PARTNERSHIP INITIATIVE AND*  
14 *BROADER MIDDLE EAST AND NORTH AFRICA INITIATIVE*  
15 *.—Amounts made available to carry out the Middle East*  
16 *Partnership Initiative and the Broader Middle East and*  
17 *North Africa Initiative may be made available to the Com-*  
18 *munity of Democracies in order to strengthen and expand*  
19 *its work with Muslim countries.*

20 *(c) REPORT.—The Secretary of State shall include in*  
21 *the annual report entitled "Supporting Human Rights and*  
22 *Democracy: The U.S. Record" a description of efforts by*  
23 *the Community of Democracies to support and promote po-*  
24 *litical, economic, judicial, educational, and social reforms*  
25 *in Muslim countries and the extent to which such countries*



1 *meet the criteria for participation in the Community of De-*  
2 *mocracies.*

3 ***Subtitle C—Reform of Designation***  
4 ***of Foreign Terrorist Organizations***

5 ***SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANI-***  
6 ***ZATIONS.***

7 *(a) PERIOD OF DESIGNATION.—Section 219(a)(4) of*  
8 *the Immigration and Nationality Act (8 U.S.C. 1189(a)(4))*  
9 *is amended—*

10 *(1) in subparagraph (A)—*

11 *(A) by striking “Subject to paragraphs (5)*  
12 *and (6), a” and inserting “A”; and*

13 *(B) by striking “for a period of 2 years be-*  
14 *ginning on the effective date of the designation*  
15 *under paragraph (2)(B)” and inserting “until*  
16 *revoked under paragraph (5) or (6) or set aside*  
17 *pursuant to subsection (c)”;*

18 *(2) by striking subparagraph (B) and inserting*  
19 *the following:*

20 *“(B) REVIEW OF DESIGNATION UPON PETI-*  
21 *TION.—*

22 *“(i) IN GENERAL.—The Secretary shall*  
23 *review the designation of a foreign terrorist*  
24 *organization under the procedures set forth*  
25 *in clauses (iii) and (iv) if the designated or-*



1            *ganization files a petition for revocation*  
2            *within the petition period described in*  
3            *clause (ii).*

4            “(ii) *PETITION PERIOD.*—*For purposes*  
5            *of clause (i)—*

6            “(I) *if the designated organization*  
7            *has not previously filed a petition for*  
8            *revocation under this subparagraph,*  
9            *the petition period begins 2 years after*  
10           *the date on which the designation was*  
11           *made; or*

12           “(II) *if the designated organiza-*  
13           *tion has previously filed a petition for*  
14           *revocation under this subparagraph,*  
15           *the petition period begins 2 years after*  
16           *the date of the determination made*  
17           *under clause (iv) on that petition.*

18           “(iii) *PROCEDURES.*—*Any foreign ter-*  
19           *rorist organization that submits a petition*  
20           *for revocation under this subparagraph*  
21           *must provide evidence in that petition that*  
22           *the relevant circumstances described in*  
23           *paragraph (1) have changed in such a man-*  
24           *ner as to warrant revocation with respect to*  
25           *the organization.*



1 “(iv) *DETERMINATION.*—

2 “(I) *IN GENERAL.*—Not later than  
3 180 days after receiving a petition for  
4 revocation submitted under this sub-  
5 paragraph, the Secretary shall make a  
6 determination as to such revocation.

7 “(II) *CLASSIFIED INFORMA-*  
8 *TION.*—The Secretary may consider  
9 classified information in making a de-  
10 termination in response to a petition  
11 for revocation. Classified information  
12 shall not be subject to disclosure for  
13 such time as it remains classified, ex-  
14 cept that such information may be dis-  
15 closed to a court *ex parte* and in cam-  
16 era for purposes of judicial review  
17 under subsection (c).

18 “(III) *PUBLICATION OF DETER-*  
19 *MINATION.*—A determination made by  
20 the Secretary under this clause shall be  
21 published in the *Federal Register*.

22 “(IV) *PROCEDURES.*—Any revoca-  
23 tion by the Secretary shall be made in  
24 accordance with paragraph (6).”; and

25 (3) by adding at the end the following:



1                   “(C) *OTHER REVIEW OF DESIGNATION.*—

2                   “(i) *IN GENERAL.*—*If in a 6-year pe-*  
3                   *riod no review has taken place under sub-*  
4                   *paragraph (B), the Secretary shall review*  
5                   *the designation of the foreign terrorist orga-*  
6                   *nization in order to determine whether such*  
7                   *designation should be revoked pursuant to*  
8                   *paragraph (6).*

9                   “(ii) *PROCEDURES.*—*If a review does*  
10                   *not take place pursuant to subparagraph*  
11                   *(B) in response to a petition for revocation*  
12                   *that is filed in accordance with that sub-*  
13                   *paragraph, then the review shall be con-*  
14                   *ducted pursuant to procedures established*  
15                   *by the Secretary. The results of such review*  
16                   *and the applicable procedures shall not be*  
17                   *reviewable in any court.*

18                   “(iii) *PUBLICATION OF RESULTS OF*  
19                   *REVIEW.*—*The Secretary shall publish any*  
20                   *determination made pursuant to this sub-*  
21                   *paragraph in the Federal Register.”.*

22                   (b) *ALIASES.*—*Section 219 of the Immigration and*  
23                   *Nationality Act (8 U.S.C. 1189) is amended—*

24                   (1) *by redesignating subsections (b) and (c) as*  
25                   *subsections (c) and (d), respectively; and*



1           (2) *by inserting after subsection (a) the following*  
2           *new subsection (b):*

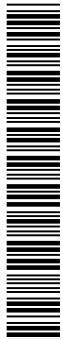
3           “(b) *AMENDMENTS TO A DESIGNATION.—*

4           “(1) *IN GENERAL.—The Secretary may amend a*  
5           *designation under this subsection if the Secretary*  
6           *finds that the organization has changed its name,*  
7           *adopted a new alias, dissolved and then reconstituted*  
8           *itself under a different name or names, or merged*  
9           *with another organization.*

10          “(2) *PROCEDURE.—Amendments made to a des-*  
11          *ignation in accordance with paragraph (1) shall be*  
12          *effective upon publication in the Federal Register.*  
13          *Subparagraphs (B) and (C) of subsection (a)(2) shall*  
14          *apply to an amended designation upon such publica-*  
15          *tion. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8)*  
16          *of subsection (a) shall also apply to an amended des-*  
17          *ignation.*

18          “(3) *ADMINISTRATIVE RECORD.—The adminis-*  
19          *trative record shall be corrected to include the amend-*  
20          *ments as well as any additional relevant information*  
21          *that supports those amendments.*

22          “(4) *CLASSIFIED INFORMATION.—The Secretary*  
23          *may consider classified information in amending a*  
24          *designation in accordance with this subsection. Clas-*  
25          *sified information shall not be subject to disclosure for*



1        *such time as it remains classified, except that such*  
2        *information may be disclosed to a court ex parte and*  
3        *in camera for purposes of judicial review under sub-*  
4        *section (c).”.*

5        *(c) TECHNICAL AND CONFORMING AMENDMENTS.—*  
6        *Section 219 of the Immigration and Nationality Act (8*  
7        *U.S.C. 1189) is amended—*

8                *(1) in subsection (a)—*

9                        *(A) in paragraph (3)(B), by striking “sub-*  
10                        *section (b)” and inserting “subsection (c)”;*

11                        *(B) in paragraph (6)(A)—*

12                                *(i) in the matter preceding clause (i),*  
13                                *by striking “or a redesignation made under*  
14                                *paragraph (4)(B)” and inserting “at any*  
15                                *time, and shall revoke a designation upon*  
16                                *completion of a review conducted pursuant*  
17                                *to subparagraphs (B) and (C) of paragraph*  
18                                *(4)”;* and

19                                *(ii) in clause (i), by striking “or redesi-*  
20                                *gnation”;*

21                                *(C) in paragraph (7), by striking “, or the*  
22                                *revocation of a redesignation under paragraph*  
23                                *(6),”;* and

24                                *(D) in paragraph (8)—*





1                   (i) by striking “, or if a redesignation  
2                   under this subsection has become effective  
3                   under paragraph (4)(B),”; and

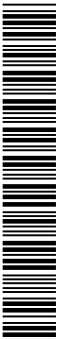
4                   (ii) by striking “or redesignation”; and  
5                   (2) in subsection (c), as so redesignated—

6                   (A) in paragraph (1), by striking “of the  
7                   designation in the Federal Register,” and all  
8                   that follows through “review of the designation”  
9                   and inserting “in the Federal Register of a des-  
10                  ignation, an amended designation, or a deter-  
11                  mination in response to a petition for revoca-  
12                  tion, the designated organization may seek judi-  
13                  cial review”;

14                  (B) in paragraph (2), by inserting “,  
15                  amended designation, or determination in re-  
16                  sponse to a petition for revocation” after “des-  
17                  ignation”;

18                  (C) in paragraph (3), by inserting “,  
19                  amended designation, or determination in re-  
20                  sponse to a petition for revocation” after “des-  
21                  ignation”; and

22                  (D) in paragraph (4), by inserting “,  
23                  amended designation, or determination in re-  
24                  sponse to a petition for revocation” after “des-  
25                  ignation” each place that term appears.



1           (d) *SAVINGS PROVISION.*—For purposes of applying  
2 section 219 of the Immigration and Nationality Act on or  
3 after the date of enactment of this Act, the term “designa-  
4 tion”, as used in that section, includes all redesignations  
5 made pursuant to section 219(a)(4)(B) of the Immigration  
6 and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the  
7 date of enactment of this Act, and such redesignations shall  
8 continue to be effective until revoked as provided in para-  
9 graph (5) or (6) of section 219(a) of the Immigration and  
10 Nationality Act (8 U.S.C. 1189(a)).

11 **SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE**  
12                           **COUNTRY REPORTS ON TERRORISM OF IN-**  
13                           **FORMATION ON TERRORIST GROUPS THAT**  
14                           **SEEK WEAPONS OF MASS DESTRUCTION AND**  
15                           **GROUPS THAT HAVE BEEN DESIGNATED AS**  
16                           **FOREIGN TERRORIST ORGANIZATIONS.**

17           (a) *INCLUSION IN REPORTS.*—Section 140 of the For-  
18 eign Relations Authorization Act, Fiscal Years 1988 and  
19 1989 (22 U.S.C. 2656f) is amended—

20                   (1) in subsection (a)(2)—

21                           (A) by inserting “any terrorist group  
22 known to have obtained or developed, or to have  
23 attempted to obtain or develop, weapons of mass  
24 destruction,” after “during the preceding five  
25 years,”; and



1           (B) by inserting “any group designated by  
2           the Secretary as a foreign terrorist organization  
3           under section 219 of the Immigration and Na-  
4           tionality Act (8 U.S.C. 1189),” after “Export  
5           Administration Act of 1979,”;

6           (2) in subsection (b)(1)(C)(iii), by striking  
7           “and” at the end;

8           (3) in subsection (b)(1)(C)—

9           (A) by redesignating clause (iv) as clause  
10          (v); and

11          (B) by inserting after clause (iii) the fol-  
12          lowing new clause:

13                 “(iv) providing weapons of mass de-  
14                 struction, or assistance in obtaining or de-  
15                 veloping such weapons, to terrorists or ter-  
16                 rorist groups; and”;

17          (4) in subsection (b)(3) (as redesignated by sec-  
18          tion 4002(b)(2)(B) of this Act)—

19                 (A) by redesignating subparagraphs (C),  
20                 (D), and (E) as (D), (E), and (F), respectively;  
21                 and

22                 (B) by inserting after subparagraph (B) the  
23                 following new subparagraph:

24                         “(C) efforts by those groups to obtain or de-  
25                         velop weapons of mass destruction;”.





1           (b) *DESIGNATION OF COORDINATOR.*—Section 104(a)  
2 *of the Afghanistan Freedom Support Act of 2002 (22 U.S.C.*  
3 *7514(a)) is amended in the matter preceding paragraph (1)*  
4 *by striking “is strongly urged to” and inserting “shall”.*

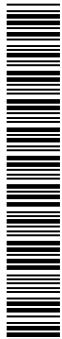
5           (c) *OTHER MATTERS.*—Section 104 of such Act (22  
6 *U.S.C. 7514) is amended by adding at the end the following:*

7           “(c) *PROGRAM PLAN.*—The coordinator designated  
8 *under subsection (a) shall annually submit to the Commit-*  
9 *tees on International Relations and Appropriations of the*  
10 *House of Representatives and the Committees on Foreign*  
11 *Relations and Appropriations of the Senate the Adminis-*  
12 *tration’s plan for assistance to Afghanistan together with*  
13 *a description of such assistance in prior years.*

14           “(d) *COORDINATION WITH INTERNATIONAL COMMU-*  
15 *NITY.*—The coordinator designated under subsection (a)  
16 *shall work with the international community, including*  
17 *multilateral organizations and international financial in-*  
18 *stitutions, and the Government of Afghanistan to ensure*  
19 *that assistance to Afghanistan is implemented in a coher-*  
20 *ent, consistent, and efficient manner to prevent duplication*  
21 *and waste.”.*

22 **SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-**  
23 **GHANISTAN FREEDOM SUPPORT ACT OF 2002.**

24           (a) *ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL*  
25 *AND SOCIAL DEVELOPMENT.*—



1           (1) *DECLARATION OF POLICY.*—Congress reaffirms the authorities contained in title I of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.; relating to economic and democratic development assistance for Afghanistan).

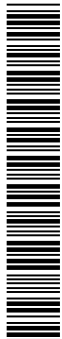
2  
3  
4  
5  
6           (2) *PROVISION OF ASSISTANCE.*—Section 103(a) of such Act (22 U.S.C. 7513(a)) is amended in the matter preceding paragraph (1) by striking “section 512 of Public Law 107–115 or any other similar” and inserting “any other”.

7  
8  
9  
10          (b) *DECLARATIONS OF POLICY.*—Congress makes the following declarations:

11  
12  
13           (1) *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.*

14  
15  
16  
17  
18  
19  
20           (2) *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 by warlords or narcotics traffickers.*

21  
22  
23  
24           (3)(A) *The United States continues to urge North Atlantic Treaty Organization members and*

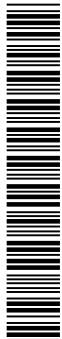




1        *dent shall formulate and transmit to the Committee*  
2        *on International Relations of the House of Represent-*  
3        *atives and the Committee on Foreign Relations of the*  
4        *Senate a 5-year strategy for Afghanistan that in-*  
5        *cludes specific and measurable goals, timeframes for*  
6        *accomplishing such goals, and specific resource levels*  
7        *necessary for accomplishing such goals for addressing*  
8        *the long-term development and security needs of Af-*  
9        *ghanistan, including sectors such as agriculture and*  
10       *irrigation, parliamentary and democratic develop-*  
11       *ment, the judicial system and rule of law, human*  
12       *rights, education, health, telecommunications, elec-*  
13       *tricity, women's rights, counternarcotics, police, bor-*  
14       *der security, anti-corruption, and other law-enforce-*  
15       *ment activities.*

16            *“(2) ADDITIONAL REQUIREMENT.—The strategy*  
17        *shall also delineate responsibilities for achieving such*  
18        *goals and identify and address possible external fac-*  
19        *tors that could significantly affect the achievement of*  
20        *such goals.*

21            *“(b) IMPLEMENTATION.—Not later than 30 days after*  
22        *the date of the transmission of the strategy required by sub-*  
23        *section (a), the Secretary of State, the Administrator of the*  
24        *United States Agency for International Development, and*  
25        *the Secretary of Defense shall submit to the Committee on*





1 *International Relations of the House of Representatives and*  
2 *the Committee on Foreign Relations of the Senate a written*  
3 *5-year action plan to implement the strategy developed pur-*  
4 *suant to subsection (a). Such action plan shall include a*  
5 *description and schedule of the program evaluations that*  
6 *will monitor progress toward achieving the goals described*  
7 *in subsection (a).*

8       “(c) *REVIEW.*—*The Secretary of State, the Adminis-*  
9 *trator of the United States Agency for International Devel-*  
10 *opment, and the Secretary of Defense shall carry out an*  
11 *annual review of the strategy required by subsection (a) and*  
12 *the action plan required by subsection (b).*

13       “(d) *MONITORING.*—*The report required by section*  
14 *206(c)(2) of this Act shall include—*

15               “(1) *a description of progress toward implemen-*  
16 *tation of both the strategy required by subsection (a)*  
17 *and the action plan required by subsection (b); and*

18               “(2) *a description of any changes to the strategy*  
19 *or action plan since the date of the submission of the*  
20 *last report required by such section.*”.

21               “(2) *CLERICAL AMENDMENT.*—*The table of con-*  
22 *tents for such Act (22 U.S.C. 7501 note) is amended*  
23 *by adding after the item relating to section 303 the*  
24 *following:*

“*Sec. 304. Formulation of long-term strategy for Afghanistan.*”.



1 **SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

2 *Section 103(a)(5)(A) of the Afghanistan Freedom Sup-*  
3 *port Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amended—*

4 *(1) in clause (v), to read as follows:*

5 *“(v) support for the activities of the*  
6 *Government of Afghanistan to develop mod-*  
7 *ern legal codes and court rules, to provide*  
8 *for the creation of legal assistance pro-*  
9 *grams, and other initiatives to promote the*  
10 *rule of law in Afghanistan;”;*

11 *(2) in clause (xii), to read as follows:*

12 *“(xii) support for the effective adminis-*  
13 *tration of justice at the national, regional,*  
14 *and local levels, including programs to im-*  
15 *prove penal institutions and the rehabilita-*  
16 *tion of prisoners, to establish a responsible*  
17 *and community-based police force, and to*  
18 *rehabilitate or construct courthouses and de-*  
19 *tention facilities;”;* and

20 *(3) in clause (xiii), by striking “and” at the end;*

21 *(4) in clause (xiv), by striking the period at the*  
22 *end and inserting “; and”;* and

23 *(5) by adding at the end the following:*

24 *“(xv) assistance for the protection of*  
25 *Afghanistan’s culture, history, and national*  
26 *identity, including with the rehabilitation*



1                   *of Afghanistan's museums and sites of cul-*  
2                   *tural significance."*

3 **SEC. 4065. MONITORING OF ASSISTANCE.**

4           *Section 108 of the Afghanistan Freedom Support Act*  
5 *of 2002 (22 U.S.C. 7518) is amended by adding at the end*  
6 *the following:*

7           “(c) *MONITORING OF ASSISTANCE FOR AFGHANI-*  
8 *STAN.—*

9                   “(1) *REPORT.—Not later than January 15,*  
10 *2005, and every six months thereafter, the Secretary*  
11 *of State, in consultation with the Administrator for*  
12 *the United States Agency for International Develop-*  
13 *ment, shall submit to the Committee on International*  
14 *Relations of the House of Representatives and the*  
15 *Committee on Foreign Relations of the Senate a re-*  
16 *port on the obligations and expenditures of United*  
17 *States assistance for Afghanistan from all United*  
18 *States Government agencies.*

19                   “(2) *SUBMISSION OF INFORMATION FOR RE-*  
20 *PORT.—The head of each United States Government*  
21 *agency referred to in paragraph (1) shall provide on*  
22 *a timely basis to the Secretary of State such informa-*  
23 *tion as the Secretary may reasonably require to allow*  
24 *the Secretary to prepare and submit the report re-*  
25 *quired by such paragraph."*



1 **SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-**  
2 **MAMENT OF PRIVATE MILITIAS AND TO SUP-**  
3 **PORT EXPANSION OF INTERNATIONAL**  
4 **PEACEKEEPING AND SECURITY OPERATIONS**  
5 **IN AFGHANISTAN.**

6 (a) *DISARMAMENT OF PRIVATE MILITIAS.*—Section  
7 103 of the Afghanistan Freedom Support Act of 2002 (22  
8 U.S.C. 7513) is amended by adding at the end the following:

9 “(d) *UNITED STATES POLICY RELATING TO DISAR-*  
10 *MAMENT OF PRIVATE MILITIAS.*—

11 “(1) *IN GENERAL.*—It shall be the policy of the  
12 United States to take immediate steps to provide ac-  
13 tive support for the disarmament, demobilization, and  
14 reintegration of armed soldiers, particularly child sol-  
15 diers, in Afghanistan, in close consultation with the  
16 President of Afghanistan.

17 “(2) *REPORT.*—The report required by section  
18 206(c)(2) of this Act shall include a description of the  
19 progress to implement paragraph (1).”.

20 (b) *INTERNATIONAL PEACEKEEPING AND SECURITY*  
21 *OPERATIONS.*—Section 103 of such Act (22 U.S.C.  
22 7513(d)), as amended by subsection (a), is further amended  
23 by adding at the end the following:

24 “(e) *UNITED STATES POLICY RELATING TO INTER-*  
25 *NATIONAL PEACEKEEPING AND SECURITY OPERATIONS.*—  
26 It shall be the policy of the United States to make every



1 *effort to support the expansion of international peace-*  
2 *keeping and security operations in Afghanistan in order*  
3 *to—*

4           “(1) *increase the area in which security is pro-*  
5 *vided and undertake vital tasks related to promoting*  
6 *security, such as disarming warlords, militias, and*  
7 *irregulars, and disrupting opium production; and*

8           “(2) *safeguard highways in order to allow the*  
9 *free flow of commerce and to allow material assist-*  
10 *ance to the people of Afghanistan, and aid personnel*  
11 *in Afghanistan, to move more freely.”.*

12 **SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACE-**  
13 **KEEPING AND SECURITY OPERATIONS IN AF-**  
14 **GHANISTAN.**

15           *Section 206(d)(1) of the Afghanistan Freedom Support*  
16 *Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as*  
17 *follows:*

18           “(1) *EFFORTS TO EXPAND INTERNATIONAL*  
19 *PEACEKEEPING AND SECURITY OPERATIONS IN AF-*  
20 *GHANISTAN.—*

21           “(A) *EFFORTS.—The President shall en-*  
22 *courage, and, as authorized by law, enable other*  
23 *countries to actively participate in expanded*  
24 *international peacekeeping and security oper-*  
25 *ations in Afghanistan, especially through the*



1           *provision of military personnel for extended pe-*  
2           *riods of time.*

3           “(B) *REPORTS.*—*The President shall pre-*  
4           *pare and transmit to the Committee on Inter-*  
5           *national Relations of the House of Representa-*  
6           *tives and the Committee on Foreign Relations of*  
7           *the Senate a report on efforts carried out pursu-*  
8           *ant to subparagraph (A). The first report under*  
9           *this subparagraph shall be transmitted not later*  
10          *than 60 days after the date of the enactment of*  
11          *the Afghanistan Freedom Support Act Amend-*  
12          *ments of 2004 and subsequent reports shall be*  
13          *transmitted every six months thereafter and may*  
14          *be included in the report required by section*  
15          *206(c)(2) of this Act.”.*

16   **SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS**  
17                           **EFFORTS IN AFGHANISTAN.**

18          (a) *COUNTERNARCOTICS EFFORTS.*—*The Afghanistan*  
19          *Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) is*  
20          *amended—*

21               (1) *by redesignating—*

22                       (A) *title III as title IV; and*

23                       (B) *sections 301 through 304 as sections*  
24                       *401 through 404, respectively; and*

25               (2) *by inserting after title II the following:*



1 **“TITLE III—PROVISIONS RELAT-**  
2 **ING TO COUNTERNARCOTICS**  
3 **EFFORTS IN AFGHANISTAN**

4 **“SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EF-**  
5 **FORTS.**

6 *“In addition to programs established pursuant to sec-*  
7 *tion 103(a)(3) of this Act or other similar programs, the*  
8 *President is authorized and encouraged to implement spe-*  
9 *cific initiatives to assist in the eradication of poppy cul-*  
10 *tivation and the disruption of heroin production in Afghan-*  
11 *istan, such as—*

12 *“(1) promoting alternatives to poppy cultivation,*  
13 *including the introduction of high value crops that*  
14 *are suitable for export and the provision of appro-*  
15 *priate technical assistance and credit mechanisms for*  
16 *farmers;*

17 *“(2) enhancing the ability of farmers to bring le-*  
18 *gitimate agricultural goods to market;*

19 *“(3) notwithstanding section 660 of the Foreign*  
20 *Assistance Act of 1961 (22 U.S.C. 2420), assistance,*  
21 *including nonlethal equipment, training (including*  
22 *training in internationally recognized standards of*  
23 *human rights, the rule of law, anti-corruption, and*  
24 *the promotion of civilian police roles that support de-*  
25 *mocracy), and payments, during fiscal years 2006*



1 *through 2008, for salaries for special counternarcotics*  
2 *police and supporting units;*

3 *“(4) training the Afghan National Army in*  
4 *counternarcotics activities; and*

5 *“(5) creating special counternarcotics courts,*  
6 *prosecutors, and places of incarceration.”.*

7 *(b) CLERICAL AMENDMENTS.—The table of contents for*  
8 *such Act (22 U.S.C. 7501 note) is amended—*

9 *(1) by redesignating—*

10 *(A) the item relating to title III as the item*  
11 *relating to title IV; and*

12 *(B) the items relating to sections 301*  
13 *through 304 as the items relating to sections 401*  
14 *through 404; and*

15 *(2) by inserting after the items relating to title*  
16 *II the following:*

*“TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS*  
*EFFORTS IN AFGHANISTAN*

*“Sec. 301. Assistance for counternarcotics efforts.”.*

17 ***SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANI-***  
18 ***STAN FREEDOM SUPPORT ACT OF 2002.***

19 *(a) TECHNICAL AMENDMENT.—Section*  
20 *103(a)(7)(A)(xii) of the Afghanistan Freedom Support Act*  
21 *of 2002 (22 U.S.C. 7513(a)(7)(A)(xii)) is amended by strik-*  
22 *ing “National” and inserting “Afghan Independent”.*





1           (b) *REPORTING REQUIREMENT.*—Section 206(c)(2) of  
2 such Act (22 U.S.C. 7536(c)(2)) is amended in the matter  
3 preceding subparagraph (A) by striking “2007” and insert-  
4 ing “2012”.

5 **SEC. 4070. REPEAL.**

6           Section 620D of the Foreign Assistance Act of 1961  
7 (22 U.S.C. 2374; relating to prohibition on assistance to  
8 Afghanistan) is hereby repealed.

9           **Subtitle E—Provisions Relating to**  
10           **Saudi Arabia and Pakistan**

11 **SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATION-**  
12           **SHIP WITH SAUDI ARABIA.**

13           (a) *SENSE OF CONGRESS.*—It is the sense of Congress  
14 that the relationship between the United States and Saudi  
15 Arabia should include a more robust dialogue between the  
16 people and Government of the United States and the people  
17 and Government of Saudi Arabia in order to provide for  
18 a reevaluation of, and improvements to, the relationship by  
19 both sides.

20           (b) *REPORT.*—

21           (1) *IN GENERAL.*— Not later than one year after  
22 the date of the enactment of this Act, the President  
23 shall transmit to the Committee on International Re-  
24 lations of the House of Representatives and the Com-  
25 mittee on Foreign Relations of the Senate a strategy



1       *for collaboration with the people and Government of*  
2       *Saudi Arabia on subjects of mutual interest and im-*  
3       *portance to the United States.*

4               (2) *CONTENTS.—The strategy required under*  
5       *paragraph (1) shall include the following provisions:*

6               (A) *A framework for security cooperation in*  
7       *the fight against terrorism, with special reference*  
8       *to combating terrorist financing and an exam-*  
9       *ination of the origins of modern terrorism.*

10              (B) *A framework for political and economic*  
11       *reform in Saudi Arabia and throughout the Mid-*  
12       *dle East.*

13              (C) *An examination of steps that should be*  
14       *taken to reverse the trend toward extremism in*  
15       *Saudi Arabia and other Muslim countries and*  
16       *throughout the Middle East.*

17              (D) *A framework for promoting greater tol-*  
18       *erance and respect for cultural and religious di-*  
19       *versity in Saudi Arabia and throughout the*  
20       *Middle East.*

21       **SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE**  
22               **OF PAKISTAN.**

23              (a) *SENSE OF CONGRESS.—It is the sense of Congress*  
24       *that the United States should, over a long-term period, help*  
25       *to ensure a promising, stable, and secure future for Paki-*



1 *stan, and should in particular provide assistance to encour-*  
2 *age and enable Pakistan—*

3 *(1) to continue and improve upon its commit-*  
4 *ment to combating extremists;*

5 *(2) to seek to resolve any outstanding difficulties*  
6 *with its neighbors and other countries in its region;*

7 *(3) to continue to make efforts to fully control its*  
8 *territory and borders;*

9 *(4) to progress towards becoming a more effective*  
10 *and participatory democracy;*

11 *(5) to participate more vigorously in the global*  
12 *marketplace and to continue to modernize its econ-*  
13 *omy;*

14 *(6) to take all necessary steps to halt the spread*  
15 *of weapons of mass destruction;*

16 *(7) to continue to reform its education system;*  
17 *and*

18 *(8) to, in other ways, implement a general strat-*  
19 *egy of moderation.*

20 *(b) STRATEGY.—Not later than 180 days after the date*  
21 *of the enactment of this Act, the President shall transmit*  
22 *to Congress a detailed proposed strategy for the future, long-*  
23 *term, engagement of the United States with Pakistan.*



1 **SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.**

2 *The Act entitled “An Act to authorize the President*  
3 *to exercise waivers of foreign assistance restrictions with re-*  
4 *spect to Pakistan through September 30, 2003, and for other*  
5 *purposes”, approved October 27, 2001 (Public Law 107–*  
6 *57; 115 Stat. 403), as amended by section 2213 of the Emer-*  
7 *gency Supplemental Appropriations Act for Defense and for*  
8 *the Reconstruction of Iraq and Afghanistan, 2004 (Public*  
9 *Law 108–106; 117 Stat. 1232), is further amended—*

10 *(1) in section 1(b)—*

11 *(A) in the heading, by striking “FISCAL*  
12 *YEAR 2004” and inserting “FISCAL YEARS 2005*  
13 *AND 2006”; and*

14 *(B) in paragraph (1), by striking “2004”*  
15 *and inserting “2005 or 2006”;*

16 *(2) in section 3(2), by striking “and 2004,” and*  
17 *inserting “2004, 2005, and 2006”; and*

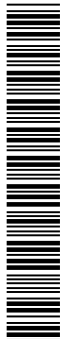
18 *(3) in section 6, by striking “2004” and insert-*  
19 *ing “2006”.*

20 **Subtitle F—Oversight Provisions**

21 **SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

22 *(a) AVAILABILITY OF TREATIES AND INTERNATIONAL*  
23 *AGREEMENTS.—Section 112a of title 1, United States Code,*  
24 *is amended by adding at the end the following:*

25 *“(d) The Secretary of State shall cause to be published*  
26 *in slip form or otherwise made publicly available through*



1 *the Internet website of the Department of State each treaty*  
2 *or international agreement proposed to be published in the*  
3 *compilation entitled ‘United States Treaties and Other*  
4 *International Agreements’ not later than 180 days after the*  
5 *date on which the treaty or agreement enters into force.”.*

6 (b) *TRANSMISSION TO CONGRESS.*—Section 112b(a) of  
7 *title 1, United States Code (commonly referred to as the*  
8 *“Case-Zablocki Act”), is amended—*

9 (1) *in the first sentence, by striking “has entered*  
10 *into force” and inserting “has been signed or entered*  
11 *into force”; and*

12 (2) *in the second sentence, by striking “Com-*  
13 *mittee on Foreign Affairs” and inserting “Committee*  
14 *on International Relations”.*

15 (c) *REPORT.*—Section 112b of title 1, United States  
16 *Code, is amended—*

17 (1) *by redesignating subsections (d) and (e) as*  
18 *subsections (e) and (f), respectively; and*

19 (2) *by inserting after subsection (c) the fol-*  
20 *lowing:*

21 “(d)(1) *The Secretary of State shall submit to Congress*  
22 *on an annual basis a report that contains an index of all*  
23 *international agreements (including oral agreements), list-*  
24 *ed by country, date, title, and summary of each such agree-*  
25 *ment (including a description of the duration of activities*



1 *under the agreement and the agreement itself), that the*  
2 *United States—*

3           “(A) *has signed, proclaimed, or with reference to*  
4 *which any other final formality has been executed, or*  
5 *that has been extended or otherwise modified, during*  
6 *the preceding calendar year; and*

7           “(B) *has not been published, or is not proposed*  
8 *to be published, in the compilation entitled ‘United*  
9 *States Treaties and Other International Agreements’.*

10          “(2) *The report described in paragraph (1) may be*  
11 *submitted in classified form.”.*

12          (d) *DETERMINATION OF INTERNATIONAL AGREE-*  
13 *MENT.—Subsection (e) of section 112b of title 1, United*  
14 *States Code, (as redesignated) is amended—*

15           (1) *by striking “(e) The Secretary of State” and*  
16 *inserting “(e)(1) Subject to paragraph (2), the Sec-*  
17 *retary of State”; and*

18           (2) *by adding at the end the following:*

19          “(2)(A) *An arrangement shall constitute an inter-*  
20 *national agreement within the meaning of this section*  
21 *(other than subsection (c) of this section) irrespective of the*  
22 *duration of activities under the arrangement or the ar-*  
23 *rangement itself.*

24          “(B) *Arrangements that constitute an international*  
25 *agreement within the meaning of this section (other than*



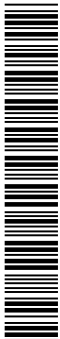
1 subsection (c) of this section) include, but are not limited  
2 to, the following:

3           “(i) A bilateral or multilateral counterterrorism  
4 agreement.

5           “(ii) A bilateral agreement with a country that  
6 is subject to a determination under section 6(j)(1)(A)  
7 of the Export Administration Act of 1979 (50 U.S.C.  
8 App. 2405(j)(1)(A)), section 620A(a) of the Foreign  
9 Assistance Act of 1961 (22 U.S.C. 2371(a)), or section  
10 40(d) of the Arms Export Control Act (22 U.S.C.  
11 2780(d)).”.

12       (e) *ENFORCEMENT OF REQUIREMENTS.*—Section  
13 139(b) of the Foreign Relations Authorization Act, Fiscal  
14 Years 1988 and 1989 is amended to read as follows:

15           “(b) *EFFECTIVE DATE.*—Subsection (a) shall take ef-  
16 fect 60 days after the date of the enactment of the 9/11 Rec-  
17 ommendations Implementation Act and shall apply during  
18 fiscal years 2005, 2006, and 2007.”.



1 ***Subtitle G—Additional Protections***  
2 ***of United States Aviation System***  
3 ***from Terrorist Attacks***

4 **SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**  
5 **IMUM DEPLOYMENT OF FEDERAL FLIGHT**  
6 **DECK OFFICERS.**

7 *The President is encouraged to pursue aggressively*  
8 *international agreements with foreign governments to allow*  
9 *the maximum deployment of Federal air marshals and Fed-*  
10 *eral flight deck officers on international flights.*

11 **SEC. 4102. FEDERAL AIR MARSHAL TRAINING.**

12 *Section 44917 of title 49, United States Code, is*  
13 *amended by adding at the end the following:*

14 *“(d) TRAINING FOR FOREIGN LAW ENFORCEMENT*  
15 *PERSONNEL.—*

16 *“(1) IN GENERAL.—The Assistant Secretary for*  
17 *Immigration and Customs Enforcement of the De-*  
18 *partment of Homeland Security, after consultation*  
19 *with the Secretary of State, may direct the Federal*  
20 *Air Marshal Service to provide appropriate air mar-*  
21 *shal training to law enforcement personnel of foreign*  
22 *countries.*

23 *“(2) WATCHLIST SCREENING.—The Federal Air*  
24 *Marshal Service may only provide appropriate air*  
25 *marshal training to law enforcement personnel of for-*





1        *foreign countries after comparing the identifying infor-*  
2        *mation and records of law enforcement personnel of*  
3        *foreign countries against appropriate records in the*  
4        *consolidated and integrated terrorist watchlists of the*  
5        *Federal Government.*

6                *“(3) FEES.—The Assistant Secretary shall estab-*  
7        *lish reasonable fees and charges to pay expenses in-*  
8        *curring in carrying out this subsection. Funds col-*  
9        *lected under this subsection shall be credited to the ac-*  
10        *count in the Treasury from which the expenses were*  
11        *incurred and shall be available to the Assistant Sec-*  
12        *retary for purposes for which amounts in such ac-*  
13        *count are available.”.*

14    **SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS**  
15                **(MANPADS).**

16        *(a) UNITED STATES POLICY ON NONPROLIFERATION*  
17    *AND EXPORT CONTROL.—*

18                *(1) TO LIMIT AVAILABILITY AND TRANSFER OF*  
19        *MANPADS.—The President shall pursue, on an urgent*  
20        *basis, further strong international diplomatic and co-*  
21        *operative efforts, including bilateral and multilateral*  
22        *treaties, in the appropriate forum to limit the avail-*  
23        *ability, transfer, and proliferation of MANPADSs*  
24        *worldwide.*



1           (2) *TO LIMIT THE PROLIFERATION OF*  
2 *MANPADS.—The President is encouraged to seek to*  
3 *enter into agreements with the governments of foreign*  
4 *countries that, at a minimum, would—*

5           (A) *prohibit the entry into force of a*  
6 *MANPADS manufacturing license agreement*  
7 *and MANPADS co-production agreement, other*  
8 *than the entry into force of a manufacturing li-*  
9 *cence or co-production agreement with a country*  
10 *that is party to such an agreement;*

11           (B) *prohibit, except pursuant to transfers*  
12 *between governments, the export of a MANPADS,*  
13 *including any component, part, accessory, or at-*  
14 *tachment thereof, without an individual vali-*  
15 *dated license; and*

16           (C) *prohibit the reexport or retransfer of a*  
17 *MANPADS, including any component, part, ac-*  
18 *cessory, or attachment thereof, to a third person,*  
19 *organization, or government unless the written*  
20 *consent of the government that approved the*  
21 *original export or transfer is first obtained.*

22           (3) *TO ACHIEVE DESTRUCTION OF MANPADS.—*  
23 *The President should continue to pursue further*  
24 *strong international diplomatic and cooperative ef-*  
25 *forts, including bilateral and multilateral treaties, in*



1        *the appropriate forum to assure the destruction of ex-*  
2        *cess, obsolete, and illicit stocks of MANPADSs world-*  
3        *wide.*

4            (4) *REPORTING AND BRIEFING REQUIREMENT.—*

5                    (A) *PRESIDENT’S REPORT.—Not later than*  
6                    *180 days after the date of enactment of this Act,*  
7                    *the President shall transmit to the appropriate*  
8                    *congressional committees a report that contains*  
9                    *a detailed description of the status of diplomatic*  
10                   *efforts under paragraphs (1), (2), and (3) and of*  
11                   *efforts by the appropriate United States agencies*  
12                   *to comply with the recommendations of the Gen-*  
13                   *eral Accounting Office set forth in its report*  
14                   *GAO–04–519, entitled “Nonproliferation: Fur-*  
15                   *ther Improvements Needed in U.S. Efforts to*  
16                   *Counter Threats from Man-Portable Air Defense*  
17                   *Systems”.*

18                   (B) *ANNUAL BRIEFINGS.—Annually after*  
19                   *the date of submission of the report under sub-*  
20                   *paragraph (A) and until completion of the diplo-*  
21                   *matic and compliance efforts referred to in sub-*  
22                   *paragraph (A), the Secretary of State shall brief*  
23                   *the appropriate congressional committees on the*  
24                   *status of such efforts.*



1           **(b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE**  
2 **DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—**

3           **(1) IN GENERAL.—***As soon as practicable, but*  
4 *not later than the date of completion of Phase II of*  
5 *the Department of Homeland Security's counter-man-*  
6 *portable air defense system (MANPADS) development*  
7 *and demonstration program, the Administrator of the*  
8 *Federal Aviation Administration shall establish a*  
9 *process for conducting airworthiness and safety cer-*  
10 *tification of missile defense systems for commercial*  
11 *aircraft certified as effective and functional by the*  
12 *Department of Homeland Security. The process shall*  
13 *require a certification by the Administrator that such*  
14 *systems can be safely integrated into aircraft systems*  
15 *and ensure airworthiness and aircraft system integ-*  
16 *riety.*

17           **(2) CERTIFICATION ACCEPTANCE.—***Under the*  
18 *process, the Administrator shall accept the certifi-*  
19 *cation of the Department of Homeland Security that*  
20 *a missile defense system is effective and functional to*  
21 *defend commercial aircraft against MANPADSs.*

22           **(3) EXPEDITIOUS CERTIFICATION.—***Under the*  
23 *process, the Administrator shall expedite the air-*  
24 *worthiness and safety certification of missile defense*



1        *systems for commercial aircraft certified by the De-*  
2        *partment of Homeland Security.*

3            (4) *REPORTS.*—*Not later than 90 days after the*  
4        *first airworthiness and safety certification for a mis-*  
5        *sile defense system for commercial aircraft is issued*  
6        *by the Administrator, and annually thereafter until*  
7        *December 31, 2008, the Federal Aviation Administra-*  
8        *tion shall transmit to the Committee on Transpor-*  
9        *tation and Infrastructure of the House of Representa-*  
10       *tives and the Committee on Commerce, Science, and*  
11       *Transportation of the Senate a report that contains*  
12       *a detailed description of each airworthiness and safe-*  
13       *ty certification issued for a missile defense system for*  
14       *commercial aircraft.*

15        (c) *PROGRAMS TO REDUCE MANPADS.*—

16            (1) *IN GENERAL.*—*The President is encouraged*  
17        *to pursue strong programs to reduce the number of*  
18        *MANPADSs worldwide so that fewer MANPADSs*  
19        *will be available for trade, proliferation, and sale.*

20            (2) *REPORTING AND BRIEFING REQUIRE-*  
21        *MENTS.*—*Not later than 180 days after the date of en-*  
22        *actment of this Act, the President shall transmit to*  
23        *the appropriate congressional committees a report*  
24        *that contains a detailed description of the status of*  
25        *the programs being pursued under subsection (a). An-*



1 *nually thereafter until the programs are no longer*  
2 *needed, the Secretary of State shall brief the appro-*  
3 *priate congressional committees on the status of pro-*  
4 *grams.*

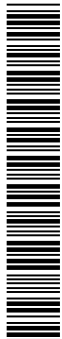
5 (3) *FUNDING.*—*There are authorized to be ap-*  
6 *propriated such sums as may be necessary to carry*  
7 *out this section.*

8 (d) *MANPADS VULNERABILITY ASSESSMENTS RE-*  
9 *PORT.*—

10 (1) *IN GENERAL.*—*Not later than one year after*  
11 *the date of enactment of this Act, the Secretary of*  
12 *Homeland Security shall transmit to the Committee*  
13 *on Transportation and Infrastructure of the House of*  
14 *Representatives and the Committee on Commerce,*  
15 *Science, and Transportation of the Senate a report*  
16 *describing the Department of Homeland Security's*  
17 *plans to secure airports and the aircraft arriving and*  
18 *departing from airports against MANPADSs attacks.*

19 (2) *MATTERS TO BE ADDRESSED.*—*The Sec-*  
20 *retary's report shall address, at a minimum, the fol-*  
21 *lowing:*

22 (A) *The status of the Department's efforts to*  
23 *conduct MANPADSs vulnerability assessments*  
24 *at United States airports at which the Depart-*  
25 *ment is conducting assessments.*



1           (B) *How intelligence is shared between the*  
2           *United States intelligence agencies and Federal,*  
3           *State, and local law enforcement to address the*  
4           *MANPADS threat and potential ways to im-*  
5           *prove such intelligence sharing.*

6           (C) *Contingency plans that the Department*  
7           *has developed in the event that it receives intel-*  
8           *ligence indicating a high threat of a MANPADS*  
9           *attack on aircraft at or near United States air-*  
10          *ports.*

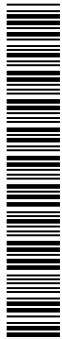
11          (D) *The feasibility and effectiveness of im-*  
12          *plementing public education and neighborhood*  
13          *watch programs in areas surrounding United*  
14          *States airports in cases in which intelligence re-*  
15          *ports indicate there is a high risk of MANPADS*  
16          *attacks on aircraft.*

17          (E) *Any other issues that the Secretary*  
18          *deems relevant.*

19          (3) *FORMAT.*—*The report required by this sub-*  
20          *section may be submitted in a classified format.*

21          (e) *DEFINITIONS.*—*In this section, the following defini-*  
22          *tions apply:*

23               (1) *APPROPRIATE CONGRESSIONAL COMMIT-*  
24               *TEES.*—*The term “appropriate congressional commit-*  
25               *tees” means—*



1           (A) *the Committee on Armed Services, the*  
2           *Committee on International Relations, and the*  
3           *Committee on Transportation and Infrastructure*  
4           *of the House of Representatives; and*

5           (B) *the Committee on Armed Services, the*  
6           *Committee on Foreign Relations, and the Com-*  
7           *mittee on Commerce, Science, and Transpor-*  
8           *tation of the Senate.*

9           (2) *MANPADS.—The term “MANPADS”*  
10          *means—*

11           (A) *a surface-to-air missile system designed*  
12           *to be man-portable and carried and fired by a*  
13           *single individual; and*

14           (B) *any other surface-to-air missile system*  
15           *designed to be operated and fired by more than*  
16           *one individual acting as a crew and portable by*  
17           *several individuals.*

18          ***Subtitle H—Improving Inter-***  
19          ***national Standards and Co-***  
20          ***operation to Fight Terrorist Fi-***  
21          ***nancing***

22          ***SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS***  
23          ***IN MULTILATERAL ORGANIZATIONS.***

24           (a) *COMMENDATION.—The Congress commends the*  
25          *Secretary of the Treasury for success and leadership in es-*





1 *tablishing international standards for fighting terrorist fi-*  
2 *nance through multilateral organizations, including the Fi-*  
3 *ncial Action Task Force (FATF) at the Organization for*  
4 *Economic Cooperation and Development, the International*  
5 *Monetary Fund, the International Bank for Reconstruction*  
6 *and Development, and the regional multilateral develop-*  
7 *ment banks.*

8 (b) *POLICY GUIDANCE.*—*The Congress encourages the*  
9 *Secretary of the Treasury to direct the United States Execu-*  
10 *tive Director at each international financial institution to*  
11 *use the voice and vote of the United States to urge the insti-*  
12 *tution, and encourages the Secretary of the Treasury to use*  
13 *the voice and vote of the United States in other multilateral*  
14 *financial policymaking bodies, to—*

15 (1) *provide funding for the implementation of*  
16 *FATF anti-money laundering and anti-terrorist fi-*  
17 *nancing standards; and*

18 (2) *promote economic development in the Middle*  
19 *East.*

20 **SEC. 4112. EXPANDED REPORTING REQUIREMENT FOR THE**  
21 **SECRETARY OF THE TREASURY.**

22 (a) *IN GENERAL.*—*Section 1701(b) of the Inter-*  
23 *national Financial Institutions Act (22 U.S.C. 262r(b)) is*  
24 *amended—*



1           (1) *by striking “and” at the end of paragraph*  
2           *(10); and*

3           (2) *by redesignating paragraph (11) as para-*  
4           *graph (12) and inserting after paragraph (10) the fol-*  
5           *lowing:*

6           “(11) *an assessment of—*

7                   “(A) *the progress made by the International*  
8                   *Terrorist Finance Coordinating Council in de-*  
9                   *veloping policies to be pursued with the inter-*  
10                   *national financial institutions and other multi-*  
11                   *lateral financial policymaking bodies regarding*  
12                   *anti-terrorist financing initiatives;*

13                   “(B) *the progress made by the United*  
14                   *States in negotiations with the international fi-*  
15                   *ancial institutions and other multilateral fi-*  
16                   *nancial policymaking bodies to set common anti-*  
17                   *terrorist financing standards;*

18                   “(C) *the extent to which the international*  
19                   *financial institutions and other multilateral fi-*  
20                   *nancial policymaking bodies have adopted anti-*  
21                   *terrorist financing standards advocated by the*  
22                   *United States; and*

23                   “(D) *whether and how the international fi-*  
24                   *nancial institutions are contributing to the fight*



1           *against the financing of terrorist activities;*  
2           *and”.*

3           **(b) OTHER MULTILATERAL POLICYMAKING BODIES**  
4    *DEFINED.—Section 1701(c) of such Act (22 U.S.C. 262r(c))*  
5    *is amended by adding at the end the following:*

6           “(5) **OTHER MULTILATERAL FINANCIAL POLICY-**  
7           **MAKING BODIES.—***The term ‘other multilateral finan-*  
8           *cial policymaking bodies’ means—*

9                   “(A) *the Financial Action Task Force at the*  
10                   *Organization for Economic Cooperation and De-*  
11                   *velopment;*

12                   “(B) *the international network of financial*  
13                   *intelligence units known as the ‘Egmont Group’;*

14                   “(C) *the United States, Canada, the United*  
15                   *Kingdom, France, Germany, Italy, Japan, and*  
16                   *Russia, when meeting as the Group of Eight;*  
17                   *and*

18                   “(D) *any other multilateral financial pol-*  
19                   *icymaking group in which the Secretary of the*  
20                   *Treasury represents the United States.”.*

21    **SEC. 4113. INTERNATIONAL TERRORIST FINANCE COORDI-**  
22                   **NATING COUNCIL.**

23           **(a) ESTABLISHMENT.—***The Secretary of the Treasury*  
24    *shall establish and convene an interagency council, to be*  
25    *known as the “International Terrorist Finance Coordi-*



1 *nating Council” (in this section referred to as the “Coun-*  
2 *cil”), which shall advise the Secretary on policies to be pur-*  
3 *sued by the United States at meetings of the international*  
4 *financial institutions and other multilateral financial pol-*  
5 *icymaking bodies, regarding the development of inter-*  
6 *national anti-terrorist financing standards.*

7 (b) *MEETINGS.—*

8 (1) *ATTENDEES.—*

9 (A) *GENERAL ATTENDEES.—The Secretary*  
10 *of the Treasury (or a representative of the Sec-*  
11 *retary of the Treasury) and the Secretary of*  
12 *State (or a representative of the Secretary of*  
13 *State) shall attend each Council meeting.*

14 (B) *OTHER ATTENDEES.—The Secretary of*  
15 *the Treasury shall determine which other officers*  
16 *of the Federal Government shall attend a Council*  
17 *meeting, on the basis of the issues to be raised*  
18 *for consideration at the meeting. The Secretary*  
19 *shall include in the meeting representatives from*  
20 *all relevant Federal agencies with authority to*  
21 *address the issues.*

22 (2) *SCHEDULE.—Not less frequently than annu-*  
23 *ally, the Secretary of the Treasury shall convene*  
24 *Council meetings at such times as the Secretary*  
25 *deems appropriate, based on the notice, schedule, and*



1        *agenda items of the international financial institu-*  
2        *tions and other multilateral financial policymaking*  
3        *bodies.*

4        **SEC. 4114. DEFINITIONS.**

5        *In this subtitle:*

6                (1) *INTERNATIONAL FINANCIAL INSTITUTIONS.—*  
7        *The term “international financial institutions” has*  
8        *the meaning given in section 1701(c)(2) of the Inter-*  
9        *national Financial Institutions Act.*

10                (2) *OTHER MULTILATERAL FINANCIAL POLICY-*  
11        *MAKING BODIES.—The term “other multilateral fi-*  
12        *nancial policymaking bodies” means—*

13                        (A) *the Financial Action Task Force at the*  
14        *Organization for Economic Cooperation and De-*  
15        *velopment;*

16                        (B) *the international network of financial*  
17        *intelligence units known as the “Egmont*  
18        *Group”;*

19                        (C) *the United States, Canada, the United*  
20        *Kingdom, France, Germany, Italy, Japan, and*  
21        *Russia, when meeting as the Group of Eight;*  
22        *and*

23                        (D) *any other multilateral financial policy-*  
24        *making group in which the Secretary of the*  
25        *Treasury represents the United States.*



1                   **TITLE V—GOVERNMENT**  
2                               **RESTRUCTURING**  
3           **Subtitle A—Faster and Smarter**  
4           **Funding for First Responders**

5   **SEC. 5001. SHORT TITLE.**

6           *This subtitle may be cited as the “Faster and Smarter*  
7 *Funding for First Responders Act of 2004”.*

8   **SEC. 5002. FINDINGS.**

9           *The Congress finds the following:*

10                   (1) *In order to achieve its objective of mini-*  
11 *mizing the damage, and assisting in the recovery,*  
12 *from terrorist attacks, the Department of Homeland*  
13 *Security must play a leading role in assisting com-*  
14 *munities to reach the level of preparedness they need*  
15 *to respond to a terrorist attack.*

16                   (2) *First responder funding is not reaching the*  
17 *men and women of our Nation’s first response teams*  
18 *quickly enough, and sometimes not at all.*

19                   (3) *To reform the current bureaucratic process so*  
20 *that homeland security dollars reach the first respond-*  
21 *ers who need it most, it is necessary to clarify and*  
22 *consolidate the authority and procedures of the De-*  
23 *partment of Homeland Security that support first re-*  
24 *sponders.*



1           (4) *Ensuring adequate resources for the new na-*  
2           *tional mission of homeland security, without degrad-*  
3           *ing the ability to address effectively other types of*  
4           *major disasters and emergencies, requires a discrete*  
5           *and separate grant making process for homeland se-*  
6           *curity funds for first response to terrorist acts, on the*  
7           *one hand, and for first responder programs designed*  
8           *to meet pre-September 11 priorities, on the other.*

9           (5) *While a discrete homeland security grant*  
10          *making process is necessary to ensure proper focus on*  
11          *the unique aspects of terrorism prevention, prepared-*  
12          *ness, and response, it is essential that State and local*  
13          *strategies for utilizing such grants be integrated, to*  
14          *the greatest extent practicable, with existing State*  
15          *and local emergency management plans.*

16          (6) *Homeland security grants to first responders*  
17          *must be based on the best intelligence concerning the*  
18          *capabilities and intentions of our terrorist enemies,*  
19          *and that intelligence must be used to target resources*  
20          *to the Nation's greatest threats, vulnerabilities, and*  
21          *consequences.*

22          (7) *The Nation's first response capabilities will*  
23          *be improved by sharing resources, training, planning,*  
24          *personnel, and equipment among neighboring juris-*  
25          *dictions through mutual aid agreements and regional*



1        *cooperation. Such regional cooperation should be sup-*  
2        *ported, where appropriate, through direct grants from*  
3        *the Department of Homeland Security.*

4            (8) *An essential prerequisite to achieving the Na-*  
5        *tion's homeland security objectives for first responders*  
6        *is the establishment of well-defined national goals for*  
7        *terrorism preparedness. These goals should delineate*  
8        *the essential capabilities that every jurisdiction in the*  
9        *United States should possess or to which it should*  
10       *have access.*

11           (9) *A national determination of essential capa-*  
12       *bilities is needed to identify levels of State and local*  
13       *government terrorism preparedness, to determine the*  
14       *nature and extent of State and local first responder*  
15       *needs, to identify the human and financial resources*  
16       *required to fulfill them, and to direct funding to meet*  
17       *those needs and to measure preparedness levels on a*  
18       *national scale.*

19           (10) *To facilitate progress in achieving, main-*  
20       *taining, and enhancing essential capabilities for*  
21       *State and local first responders, the Department of*  
22       *Homeland Security should seek to allocate homeland*  
23       *security funding for first responders to meet nation-*  
24       *wide needs.*





1           (11) *Private sector resources and citizen volun-*  
2           *teers can perform critical functions in assisting in*  
3           *preventing and responding to terrorist attacks, and*  
4           *should be integrated into State and local planning ef-*  
5           *forts to ensure that their capabilities and roles are*  
6           *understood, so as to provide enhanced State and local*  
7           *operational capability and surge capacity.*

8           (12) *Public-private partnerships, such as the*  
9           *partnerships between the Business Executives for Na-*  
10          *tional Security and the States of New Jersey and*  
11          *Georgia, can be useful to identify and coordinate pri-*  
12          *vate sector support for State and local first respond-*  
13          *ers. Such models should be expanded to cover all*  
14          *States and territories.*

15          (13) *An important aspect of essential capabili-*  
16          *ties is measurability, so that it is possible to deter-*  
17          *mine how prepared a State or local government is*  
18          *now, and what additional steps it needs to take, in*  
19          *order to respond to acts of terrorism.*

20          (14) *The Department of Homeland Security*  
21          *should establish, publish, and regularly update na-*  
22          *tional voluntary consensus standards for both equip-*  
23          *ment and training, in cooperation with both public*  
24          *and private sector standard setting organizations, to*  
25          *assist State and local governments in obtaining the*



1 *equipment and training to attain the essential capa-*  
2 *bilities for first response to acts of terrorism, and to*  
3 *ensure that first responder funds are spent wisely.*

4 **SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST RE-**  
5 **SPONDERS.**

6 (a) *IN GENERAL.—The Homeland Security Act of*  
7 *2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is*  
8 *amended—*

9 (1) *in section 1(b) in the table of contents by*  
10 *adding at the end the following:*

*“TITLE XVIII—FUNDING FOR FIRST RESPONDERS*

*“Sec. 1801. Definitions.*

*“Sec. 1802. Faster and smarter funding for first responders.*

*“Sec. 1803. Essential capabilities for first responders.*

*“Sec. 1804. Task Force on Essential Capabilities for First Responders.*

*“Sec. 1805. Covered grant eligibility and criteria.*

*“Sec. 1806. Use of funds and accountability requirements.*

*“Sec. 1807. National standards for first responder equipment and train-*  
*ing.”; and*

11 (2) *by adding at the end the following:*

12 **“TITLE XVIII—FUNDING FOR**  
13 **FIRST RESPONDERS**

14 **“SEC. 1801. DEFINITIONS.**

15 *“In this title:*

16 (1) *BOARD.—The term ‘Board’ means the First*  
17 *Responder Grants Board established under section*  
18 *1805(f).*



1           “(2) *COVERED GRANT.*—*The term ‘covered grant’*  
2           *means any grant to which this title applies under sec-*  
3           *tion 1802.*

4           “(3) *DIRECTLY ELIGIBLE TRIBE.*—*The term ‘di-*  
5           *rectly eligible tribe’ means any Indian tribe or con-*  
6           *sortium of Indian tribes that—*

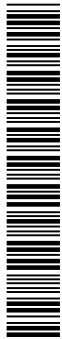
7                   “(A) *meets the criteria for inclusion in the*  
8                   *qualified applicant pool for Self-Governance that*  
9                   *are set forth in section 402(c) of the Indian Self-*  
10                   *Determination and Education Assistance Act (25*  
11                   *U.S.C. 458bb(c));*

12                   “(B) *employs at least 10 full-time personnel*  
13                   *in a law enforcement or emergency response*  
14                   *agency with the capacity to respond to calls for*  
15                   *law enforcement or emergency services; and*

16                   “(C)(i) *is located on, or within 5 miles of,*  
17                   *an international border or waterway;*

18                   “(ii) *is located within 5 miles of a facility*  
19                   *within a critical infrastructure sector identified*  
20                   *in section 1803(c)(2);*

21                   “(iii) *is located within or contiguous to one*  
22                   *of the 50 largest metropolitan statistical areas in*  
23                   *the United States; or*



1           “(iv) has more than 1,000 square miles of  
2           Indian country, as that term is defined in sec-  
3           tion 1151 of title 18, United States Code.

4           “(4) *ELEVATIONS IN THE THREAT ALERT*  
5           *LEVEL.*—The term ‘elevations in the threat alert level’  
6           means any designation (including those that are less  
7           than national in scope) that raises the homeland secu-  
8           rity threat level to either the highest or second highest  
9           threat level under the Homeland Security Advisory  
10          System referred to in section 201(d)(7).

11          “(5) *EMERGENCY PREPAREDNESS.*—The term  
12          ‘emergency preparedness’ shall have the same mean-  
13          ing that term has under section 602 of the Robert T.  
14          Stafford Disaster Relief and Emergency Assistance  
15          Act (42 U.S.C. 5195a).

16          “(6) *ESSENTIAL CAPABILITIES.*—The term ‘es-  
17          sential capabilities’ means the levels, availability, and  
18          competence of emergency personnel, planning, train-  
19          ing, and equipment across a variety of disciplines  
20          needed to effectively and efficiently prevent, prepare  
21          for, and respond to acts of terrorism consistent with  
22          established practices.

23          “(7) *FIRST RESPONDER.*—The term ‘first re-  
24          sponder’ shall have the same meaning as the term  
25          ‘emergency response provider’.



1           “(8) *INDIAN TRIBE*.—*The term ‘Indian tribe’*  
2           *means any Indian tribe, band, nation, or other orga-*  
3           *nized group or community, including any Alaskan*  
4           *Native village or regional or village corporation as*  
5           *defined in or established pursuant to the Alaskan Na-*  
6           *tive Claims Settlement Act (43 U.S.C. 1601 et seq.),*  
7           *which is recognized as eligible for the special pro-*  
8           *grams and services provided by the United States to*  
9           *Indians because of their status as Indians.*

10           “(9) *REGION*.—*The term ‘region’ means—*

11                   “(A) *any geographic area consisting of all*  
12                   *or parts of 2 or more contiguous States, counties,*  
13                   *municipalities, or other local governments that*  
14                   *have a combined population of at least 1,650,000*  
15                   *or have an area of not less than 20,000 square*  
16                   *miles, and that, for purposes of an application*  
17                   *for a covered grant, is represented by 1 or more*  
18                   *governments or governmental agencies within*  
19                   *such geographic area, and that is established by*  
20                   *law or by agreement of 2 or more such govern-*  
21                   *ments or governmental agencies in a mutual aid*  
22                   *agreement; or*

23                   “(B) *any other combination of contiguous*  
24                   *local government units (including such a com-*  
25                   *bination established by law or agreement of two*



1           *or more governments or governmental agencies*  
2           *in a mutual aid agreement) that is formally cer-*  
3           *tified by the Secretary as a region for purposes*  
4           *of this Act with the consent of—*

5                     *“(i) the State or States in which they*  
6                     *are located, including a multi-State entity*  
7                     *established by a compact between two or*  
8                     *more States; and*

9                     *“(ii) the incorporated municipalities,*  
10                    *counties, and parishes that they encompass.*

11                    *“(10) TASK FORCE.—The term ‘Task Force’*  
12                    *means the Task Force on Essential Capabilities for*  
13                    *First Responders established under section 1804.*

14            **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**  
15                                **SPONDERS.**

16                    *“(a) COVERED GRANTS.—This title applies to grants*  
17                    *provided by the Department to States, regions, or directly*  
18                    *eligible tribes for the primary purpose of improving the*  
19                    *ability of first responders to prevent, prepare for, respond*  
20                    *to, or mitigate threatened or actual terrorist attacks, espe-*  
21                    *cially those involving weapons of mass destruction, admin-*  
22                    *istered under the following:*

23                                *“(1) STATE HOMELAND SECURITY GRANT PRO-*  
24                                *GRAM.—The State Homeland Security Grant Pro-*



1        *gram of the Department, or any successor to such*  
2        *grant program.*

3            “(2) *URBAN AREA SECURITY INITIATIVE.—The*  
4        *Urban Area Security Initiative of the Department, or*  
5        *any successor to such grant program.*

6            “(3) *LAW ENFORCEMENT TERRORISM PREVEN-*  
7        *TION PROGRAM.—The Law Enforcement Terrorism*  
8        *Prevention Program of the Department, or any suc-*  
9        *cessor to such grant program.*

10           “(4) *CITIZEN CORPS PROGRAM.—The Citizen*  
11        *Corps Program of the Department, or any successor*  
12        *to such grant program.*

13           “(b) *EXCLUDED PROGRAMS.—This title does not apply*  
14        *to or otherwise affect the following Federal grant programs*  
15        *or any grant under such a program:*

16           “(1) *NONDEPARTMENT PROGRAMS.—Any Federal*  
17        *grant program that is not administered by the De-*  
18        *partment.*

19           “(2) *FIRE GRANT PROGRAMS.—The fire grant*  
20        *programs authorized by sections 33 and 34 of the*  
21        *Federal Fire Prevention and Control Act of 1974 (15*  
22        *U.S.C. 2229, 2229a).*

23           “(3) *EMERGENCY MANAGEMENT PLANNING AND*  
24        *ASSISTANCE ACCOUNT GRANTS.—The Emergency*  
25        *Management Performance Grant program and the*







1           “(C) *the Secretary of Health and Human*  
2           *Services;*

3           “(D) *other appropriate Federal agencies;*

4           “(E) *State and local first responder agen-*  
5           *cies and officials; and*

6           “(F) *consensus-based standard making or-*  
7           *ganizations responsible for setting standards rel-*  
8           *evant to the first responder community.*

9           “(2) *DEADLINES.—The Secretary shall—*

10           “(A) *establish essential capabilities under*  
11           *paragraph (1) within 30 days after receipt of the*  
12           *report under section 1804(b); and*

13           “(B) *regularly update such essential capa-*  
14           *bilities as necessary, but not less than every 3*  
15           *years.*

16           “(3) *PROVISION OF ESSENTIAL CAPABILITIES.—*  
17           *The Secretary shall ensure that a detailed description*  
18           *of the essential capabilities established under para-*  
19           *graph (1) is provided promptly to the States and to*  
20           *the Congress. The States shall make the essential ca-*  
21           *pabilities available as necessary and appropriate to*  
22           *local governments within their jurisdictions.*

23           “(b) *OBJECTIVES.—The Secretary shall ensure that es-*  
24           *sential capabilities established under subsection (a)(1) meet*  
25           *the following objectives:*



1           “(1) *SPECIFICITY.*—*The determination of essen-*  
2           *tial capabilities specifically shall describe the train-*  
3           *ing, planning, personnel, and equipment that dif-*  
4           *ferent types of communities in the Nation should pos-*  
5           *sess, or to which they should have access, in order to*  
6           *meet the Department’s goals for terrorism prepared-*  
7           *ness based upon—*

8                   “(A) *the most current risk assessment avail-*  
9                   *able by the Directorate for Information Analysis*  
10                  *and Infrastructure Protection of the threats of*  
11                  *terrorism against the United States;*

12                  “(B) *the types of threats, vulnerabilities, ge-*  
13                  *ography, size, and other factors that the Sec-*  
14                  *retary has determined to be applicable to each*  
15                  *different type of community; and*

16                  “(C) *the principles of regional coordination*  
17                  *and mutual aid among State and local govern-*  
18                  *ments.*

19           “(2) *FLEXIBILITY.*—*The establishment of essen-*  
20           *tial capabilities shall be sufficiently flexible to allow*  
21           *State and local government officials to set priorities*  
22           *based on particular needs, while reaching nationally*  
23           *determined terrorism preparedness levels within a*  
24           *specified time period.*



1           “(3) *MEASURABILITY.*—*The establishment of es-*  
2           *sential capabilities shall be designed to enable meas-*  
3           *urement of progress towards specific terrorism pre-*  
4           *paredness goals.*

5           “(4) *COMPREHENSIVENESS.*—*The determination*  
6           *of essential capabilities for terrorism preparedness*  
7           *shall be made within the context of a comprehensive*  
8           *State emergency management system.*

9           “(c) *FACTORS TO BE CONSIDERED.*—

10           “(1) *IN GENERAL.*—*In establishing essential ca-*  
11           *pabilities under subsection (a)(1), the Secretary spe-*  
12           *cifically shall consider the variables of threat, vulner-*  
13           *ability, and consequences with respect to the Nation’s*  
14           *population (including transient commuting and tour-*  
15           *ist populations) and critical infrastructure. Such con-*  
16           *sideration shall be based upon the most current risk*  
17           *assessment available by the Directorate for Informa-*  
18           *tion Analysis and Infrastructure Protection of the*  
19           *threats of terrorism against the United States.*

20           “(2) *CRITICAL INFRASTRUCTURE SECTORS.*—*The*  
21           *Secretary specifically shall consider threats of ter-*  
22           *rorism against the following critical infrastructure*  
23           *sectors in all areas of the Nation, urban and rural:*

24                   “(A) *Agriculture.*

25                   “(B) *Banking and finance.*



1                   “(C) *Chemical industries.*

2                   “(D) *The defense industrial base.*

3                   “(E) *Emergency services.*

4                   “(F) *Energy.*

5                   “(G) *Food.*

6                   “(H) *Government.*

7                   “(I) *Postal and shipping.*

8                   “(J) *Public health.*

9                   “(K) *Information and telecommunications*  
10                   *networks.*

11                   “(L) *Transportation.*

12                   “(M) *Water.*

13                   *The order in which the critical infrastructure sectors*  
14                   *are listed in this paragraph shall not be construed as*  
15                   *an order of priority for consideration of the impor-*  
16                   *tance of such sectors.*

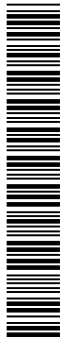
17                   “(3) *TYPES OF THREAT.—The Secretary specifi-*  
18                   *cally shall consider the following types of threat to the*  
19                   *critical infrastructure sectors described in paragraph*  
20                   *(2), and to populations in all areas of the Nation,*  
21                   *urban and rural:*

22                   “(A) *Biological threats.*

23                   “(B) *Nuclear threats.*

24                   “(C) *Radiological threats.*

25                   “(D) *Incendiary threats.*





1 *enactment of this section, which shall be known as the Task*  
2 *Force on Essential Capabilities for First Responders.*

3 “(b) *REPORT.*—

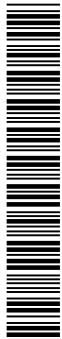
4 “(1) *IN GENERAL.*—*The Task Force shall submit*  
5 *to the Secretary, not later than 9 months after its es-*  
6 *tablishment by the Secretary under subsection (a) and*  
7 *every 3 years thereafter, a report on its recommenda-*  
8 *tions for essential capabilities for preparedness for*  
9 *terrorism.*

10 “(2) *CONTENTS.*—*The report shall—*

11 “(A) *include a priority ranking of essential*  
12 *capabilities in order to provide guidance to the*  
13 *Secretary and to the Congress on determining*  
14 *the appropriate allocation of, and funding levels*  
15 *for, first responder needs;*

16 “(B) *set forth a methodology by which any*  
17 *State or local government will be able to deter-*  
18 *mine the extent to which it possesses or has ac-*  
19 *cess to the essential capabilities that States and*  
20 *local governments having similar risks should*  
21 *obtain;*

22 “(C) *describe the availability of national*  
23 *voluntary consensus standards, and whether*  
24 *there is a need for new national voluntary con-*



1           *sensus standards, with respect to first responder*  
2           *training and equipment;*

3           “(D) *include such additional matters as the*  
4           *Secretary may specify in order to further the ter-*  
5           *rorism preparedness capabilities of first respond-*  
6           *ers; and*

7           “(E) *include such revisions to the contents*  
8           *of past reports as are necessary to take into ac-*  
9           *count changes in the most current risk assess-*  
10          *ment available by the Directorate for Informa-*  
11          *tion Analysis and Infrastructure Protection or*  
12          *other relevant information as determined by the*  
13          *Secretary.*

14          “(3) *CONSISTENCY WITH FEDERAL WORKING*  
15          *GROUP.—The Task Force shall ensure that its rec-*  
16          *ommendations for essential capabilities are, to the ex-*  
17          *tent feasible, consistent with any preparedness goals*  
18          *or recommendations of the Federal working group es-*  
19          *tablished under section 319F(a) of the Public Health*  
20          *Service Act (42 U.S.C. 247d–6(a)).*

21          “(4) *COMPREHENSIVENESS.—The Task Force*  
22          *shall ensure that its recommendations regarding es-*  
23          *sential capabilities for terrorism preparedness are*  
24          *made within the context of a comprehensive State*  
25          *emergency management system.*



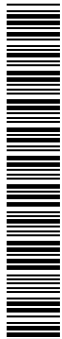
1           “(5) *PRIOR MEASURES.*—*The Task Force shall*  
2           *ensure that its recommendations regarding essential*  
3           *capabilities for terrorism preparedness take into ac-*  
4           *count any capabilities that State or local officials*  
5           *have determined to be essential and have undertaken*  
6           *since September 11, 2001, to prevent or prepare for*  
7           *terrorist attacks.*

8           “(c) *MEMBERSHIP.*—

9           “(1) *IN GENERAL.*—*The Task Force shall consist*  
10           *of 25 members appointed by the Secretary, and shall,*  
11           *to the extent practicable, represent a geographic and*  
12           *substantive cross section of governmental and non-*  
13           *governmental first responder disciplines from the*  
14           *State and local levels, including as appropriate—*

15           “(A) *members selected from the emergency*  
16           *response field, including fire service and law en-*  
17           *forcement, hazardous materials response, emer-*  
18           *gency medical services, and emergency manage-*  
19           *ment personnel (including public works per-*  
20           *sonnel routinely engaged in emergency response);*

21           “(B) *health scientists, emergency and inpa-*  
22           *tient medical providers, and public health profes-*  
23           *sionals, including experts in emergency health*  
24           *care response to chemical, biological, radio-*  
25           *logical, and nuclear terrorism, and experts in*





1           *providing mental health care during emergency*  
2           *response operations;*

3           “(C) *experts from Federal, State, and local*  
4           *governments, and the private sector, representing*  
5           *standards-setting organizations, including rep-*  
6           *resentation from the voluntary consensus codes*  
7           *and standards development community, particu-*  
8           *larly those with expertise in first responder dis-*  
9           *ciplines; and*

10           “(D) *State and local officials with expertise*  
11           *in terrorism preparedness, subject to the condi-*  
12           *tion that if any such official is an elected official*  
13           *representing one of the two major political par-*  
14           *ties, an equal number of elected officials shall be*  
15           *selected from each such party.*

16           “(2) *COORDINATION WITH THE DEPARTMENT OF*  
17           *HEALTH AND HEALTH SERVICES.—In the selection of*  
18           *members of the Task Force who are health profes-*  
19           *sionals, including emergency medical professionals,*  
20           *the Secretary shall coordinate the selection with the*  
21           *Secretary of Health and Human Services.*

22           “(3) *EX OFFICIO MEMBERS.—The Secretary and*  
23           *the Secretary of Health and Human Services shall*  
24           *each designate one or more officers of their respective*  
25           *Departments to serve as ex officio members of the*



1       *Task Force. One of the ex officio members from the*  
2       *Department of Homeland Security shall be the des-*  
3       *ignated officer of the Federal Government for pur-*  
4       *poses of subsection (e) of section 10 of the Federal Ad-*  
5       *visory Committee Act (5 App. U.S.C.).*

6       “(d) *APPLICABILITY OF FEDERAL ADVISORY COM-*  
7       *MITTEE ACT.—Notwithstanding section 871(a), the Federal*  
8       *Advisory Committee Act (5 U.S.C. App.), including sub-*  
9       *sections (a), (b), and (d) of section 10 of such Act, and sec-*  
10       *tion 552b(c) of title 5, United States Code, shall apply to*  
11       *the Task Force.*

12       **“SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.**

13       “(a) *GRANT ELIGIBILITY.—Any State, region, or di-*  
14       *rectly eligible tribe shall be eligible to apply for a covered*  
15       *grant.*

16       “(b) *GRANT CRITERIA.—In awarding covered grants,*  
17       *the Secretary shall assist States and local governments in*  
18       *achieving, maintaining, and enhancing the essential capa-*  
19       *bilities for first responders established by the Secretary*  
20       *under section 1803.*

21       “(c) *STATE HOMELAND SECURITY PLANS.—*

22               “(1) *SUBMISSION OF PLANS.—The Secretary*  
23       *shall require that any State applying to the Secretary*  
24       *for a covered grant must submit to the Secretary a*  
25       *3-year State homeland security plan that—*



1           “(A) demonstrates the extent to which the  
2           State has achieved the essential capabilities that  
3           apply to the State;

4           “(B) demonstrates the needs of the State  
5           necessary to achieve, maintain, or enhance the  
6           essential capabilities that apply to the State;

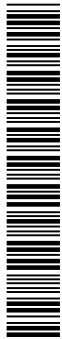
7           “(C) includes a prioritization of such needs  
8           based on threat, vulnerability, and consequence  
9           assessment factors applicable to the State;

10          “(D) describes how the State intends—

11           “(i) to address such needs at the city,  
12           county, regional, tribal, State, and inter-  
13           state level, including a precise description of  
14           any regional structure the State has estab-  
15           lished for the purpose of organizing home-  
16           land security preparedness activities funded  
17           by covered grants;

18           “(ii) to use all Federal, State, and  
19           local resources available for the purpose of  
20           addressing such needs; and

21           “(iii) to give particular emphasis to  
22           regional planning and cooperation, includ-  
23           ing the activities of multijurisdictional  
24           planning agencies governed by local offi-



1                   *cials, both within its jurisdictional borders*  
2                   *and with neighboring States;*

3                   *“(E) is developed in consultation with and*  
4                   *subject to appropriate comment by local govern-*  
5                   *ments within the State; and*

6                   *“(F) with respect to the emergency pre-*  
7                   *paredness of first responders, addresses the*  
8                   *unique aspects of terrorism as part of a com-*  
9                   *prehensive State emergency management plan.*

10                  *“(2) APPROVAL BY SECRETARY.—The Secretary*  
11                  *may not award any covered grant to a State unless*  
12                  *the Secretary has approved the applicable State home-*  
13                  *land security plan.*

14                  *“(d) CONSISTENCY WITH STATE PLANS.—The Sec-*  
15                  *retary shall ensure that each covered grant is used to sup-*  
16                  *plement and support, in a consistent and coordinated man-*  
17                  *ner, the applicable State homeland security plan or plans.*

18                  *“(e) APPLICATION FOR GRANT.—*

19                  *“(1) IN GENERAL.—Except as otherwise provided*  
20                  *in this subsection, any State, region, or directly eligi-*  
21                  *ble tribe may apply for a covered grant by submitting*  
22                  *to the Secretary an application at such time, in such*  
23                  *manner, and containing such information as is re-*  
24                  *quired under this subsection, or as the Secretary may*  
25                  *reasonably require.*



1           “(2) *DEADLINES FOR APPLICATIONS AND*  
2           *AWARDS.—All applications for covered grants must be*  
3           *submitted at such time as the Secretary may reason-*  
4           *ably require for the fiscal year for which they are sub-*  
5           *mitted. The Secretary shall award covered grants*  
6           *pursuant to all approved applications for such fiscal*  
7           *year as soon as practicable, but not later than March*  
8           *1 of such year.*

9           “(3) *AVAILABILITY OF FUNDS.—All funds award-*  
10           *ed by the Secretary under covered grants in a fiscal*  
11           *year shall be available for obligation through the end*  
12           *of the subsequent fiscal year.*

13           “(4) *MINIMUM CONTENTS OF APPLICATION.—The*  
14           *Secretary shall require that each applicant include in*  
15           *its application, at a minimum—*

16                   “(A) *the purpose for which the applicant*  
17                   *seeks covered grant funds and the reasons why*  
18                   *the applicant needs the covered grant to meet the*  
19                   *essential capabilities for terrorism preparedness*  
20                   *within the State, region, or directly eligible tribe*  
21                   *to which the application pertains;*

22                   “(B) *a description of how, by reference to*  
23                   *the applicable State homeland security plan or*  
24                   *plans under subsection (c), the allocation of*  
25                   *grant funding proposed in the application, in-*



1           *cluding, where applicable, the amount not passed*  
2           *through under section 1806(g)(1), would assist in*  
3           *fulfilling the essential capabilities specified in*  
4           *such plan or plans;*

5           *“(C) a statement of whether a mutual aid*  
6           *agreement applies to the use of all or any por-*  
7           *tion of the covered grant funds;*

8           *“(D) if the applicant is a State, a descrip-*  
9           *tion of how the State plans to allocate the cov-*  
10          *ered grant funds to regions, local governments,*  
11          *and Indian tribes;*

12          *“(E) if the applicant is a region—*

13            *“(i) a precise geographical description*  
14            *of the region and a specification of all par-*  
15            *ticipating and nonparticipating local gov-*  
16            *ernments within the geographical area com-*  
17            *prising that region;*

18            *“(ii) a specification of what govern-*  
19            *mental entity within the region will admin-*  
20            *ister the expenditure of funds under the cov-*  
21            *ered grant; and*

22            *“(iii) a designation of a specific indi-*  
23            *vidual to serve as regional liaison;*



1           “(F) a capital budget showing how the ap-  
2           plicant intends to allocate and expend the cov-  
3           ered grant funds;

4           “(G) if the applicant is a directly eligible  
5           tribe, a designation of a specific individual to  
6           serve as the tribal liaison; and

7           “(H) a statement of how the applicant in-  
8           tends to meet the matching requirement, if any,  
9           that applies under section 1806(g)(2).

10          “(5) REGIONAL APPLICATIONS.—

11           “(A) RELATIONSHIP TO STATE APPLICA-  
12           TIONS.—A regional application—

13           “(i) shall be coordinated with an ap-  
14           plication submitted by the State or States of  
15           which such region is a part;

16           “(ii) shall supplement and avoid du-  
17           plication with such State application; and

18           “(iii) shall address the unique regional  
19           aspects of such region’s terrorism prepared-  
20           ness needs beyond those provided for in the  
21           application of such State or States.

22           “(B) STATE REVIEW AND SUBMISSION.—To  
23           ensure the consistency required under subsection  
24           (d) and the coordination required under sub-  
25           paragraph (A) of this paragraph, an applicant



1           *that is a region must submit its application to*  
2           *each State of which any part is included in the*  
3           *region for review and concurrence prior to the*  
4           *submission of such application to the Secretary.*  
5           *The regional application shall be transmitted to*  
6           *the Secretary through each such State within 30*  
7           *days of its receipt, unless the Governor of such*  
8           *a State notifies the Secretary, in writing, that*  
9           *such regional application is inconsistent with the*  
10          *State's homeland security plan and provides an*  
11          *explanation of the reasons therefor.*

12           “(C)    *DISTRIBUTION    OF    REGIONAL*  
13          *AWARDS.—If the Secretary approves a regional*  
14          *application, then the Secretary shall distribute a*  
15          *regional award to the State or States submitting*  
16          *the applicable regional application under sub-*  
17          *paragraph (B), and each such State shall, not*  
18          *later than the end of the 45-day period beginning*  
19          *on the date after receiving a regional award,*  
20          *pass through to the region all covered grant*  
21          *funds or resources purchased with such funds, ex-*  
22          *cept those funds necessary for the State to carry*  
23          *out its responsibilities with respect to such re-*  
24          *gional application; Provided That, in no such*  
25          *case shall the State or States pass through to the*





1           *region less than 80 percent of the regional*  
2           *award.*

3           “(D) *CERTIFICATIONS REGARDING DIS-*  
4           *TRIBUTION OF GRANT FUNDS TO REGIONS.—Any*  
5           *State that receives a regional award under sub-*  
6           *paragraph (C) shall certify to the Secretary, by*  
7           *not later than 30 days after the expiration of the*  
8           *period described in subparagraph (C) with re-*  
9           *spect to the grant, that the State has made avail-*  
10           *able to the region the required funds and re-*  
11           *sources in accordance with subparagraph (C).*

12           “(E) *DIRECT PAYMENTS TO REGIONS.—If*  
13           *any State fails to pass through a regional award*  
14           *to a region as required by subparagraph (C)*  
15           *within 45 days after receiving such award and*  
16           *does not request or receive an extension of such*  
17           *period under section 1806(h)(2), the region may*  
18           *petition the Secretary to receive directly the por-*  
19           *tion of the regional award that is required to be*  
20           *passed through to such region under subpara-*  
21           *graph (C).*

22           “(F) *REGIONAL LIAISONS.—A regional liai-*  
23           *son designated under paragraph (4)(E)(iii)*  
24           *shall—*



1           “(i) coordinate with Federal, State,  
2           local, regional, and private officials within  
3           the region concerning terrorism prepared-  
4           ness;

5           “(ii) develop a process for receiving  
6           input from Federal, State, local, regional,  
7           and private sector officials within the re-  
8           gion to assist in the development of the re-  
9           gional application and to improve the re-  
10          gion’s access to covered grants; and

11          “(iii) administer, in consultation with  
12          State, local, regional, and private officials  
13          within the region, covered grants awarded  
14          to the region.

15          “(6) TRIBAL APPLICATIONS.—

16          “(A) SUBMISSION TO THE STATE OR  
17          STATES.—To ensure the consistency required  
18          under subsection (d), an applicant that is a di-  
19          rectly eligible tribe must submit its application  
20          to each State within the boundaries of which any  
21          part of such tribe is located for direct submission  
22          to the Department along with the application of  
23          such State or States.

24          “(B) OPPORTUNITY FOR STATE COMMENT.—  
25          Before awarding any covered grant to a directly



1           *eligible tribe, the Secretary shall provide an op-*  
2           *portunity to each State within the boundaries of*  
3           *which any part of such tribe is located to com-*  
4           *ment to the Secretary on the consistency of the*  
5           *tribe's application with the State's homeland se-*  
6           *curity plan. Any such comments shall be sub-*  
7           *mitted to the Secretary concurrently with the*  
8           *submission of the State and tribal applications.*

9           “(C) *FINAL AUTHORITY.*—*The Secretary*  
10          *shall have final authority to determine the con-*  
11          *sistency of any application of a directly eligible*  
12          *tribe with the applicable State homeland security*  
13          *plan or plans, and to approve any application*  
14          *of such tribe. The Secretary shall notify each*  
15          *State within the boundaries of which any part*  
16          *of such tribe is located of the approval of an ap-*  
17          *plication by such tribe.*

18          “(D) *TRIBAL LIAISON.*—*A tribal liaison*  
19          *designated under paragraph (4)(G) shall—*

20                 “(i) *coordinate with Federal, State,*  
21                 *local, regional, and private officials con-*  
22                 *cerning terrorism preparedness;*

23                 “(ii) *develop a process for receiving*  
24                 *input from Federal, State, local, regional,*  
25                 *and private sector officials to assist in the*



1           *development of the application of such tribe*  
2           *and to improve the tribe's access to covered*  
3           *grants; and*

4           *“(iii) administer, in consultation with*  
5           *State, local, regional, and private officials,*  
6           *covered grants awarded to such tribe.*

7           *“(E) LIMITATION ON THE NUMBER OF DI-*  
8           *RECT GRANTS.—The Secretary may make cov-*  
9           *ered grants directly to not more than 20 directly*  
10          *eligible tribes per fiscal year.*

11          *“(F) TRIBES NOT RECEIVING DIRECT*  
12          *GRANTS.—An Indian tribe that does not receive*  
13          *a grant directly under this section is eligible to*  
14          *receive funds under a covered grant from the*  
15          *State or States within the boundaries of which*  
16          *any part of such tribe is located, consistent with*  
17          *the homeland security plan of the State as de-*  
18          *scribed in subsection (c). If a State fails to com-*  
19          *ply with section 1806(g)(1), the tribe may re-*  
20          *quest payment under section 1806(h)(3) in the*  
21          *same manner as a local government.*

22          *“(7) EQUIPMENT STANDARDS.—If an applicant*  
23          *for a covered grant proposes to upgrade or purchase,*  
24          *with assistance provided under the grant, new equip-*  
25          *ment or systems that do not meet or exceed any appli-*



1        *cable national voluntary consensus standards estab-*  
2        *lished by the Secretary under section 1807(a), the ap-*  
3        *plicant shall include in the application an expla-*  
4        *nation of why such equipment or systems will serve*  
5        *the needs of the applicant better than equipment or*  
6        *systems that meet or exceed such standards.*

7        *“(f) FIRST RESPONDER GRANTS BOARD.—*

8                *“(1) ESTABLISHMENT OF BOARD.—The Sec-*  
9        *retary shall establish a First Responder Grants*  
10        *Board, consisting of—*

11                *“(A) the Secretary;*

12                *“(B) the Under Secretary for Emergency*  
13        *Preparedness and Response;*

14                *“(C) the Under Secretary for Border and*  
15        *Transportation Security;*

16                *“(D) the Under Secretary for Information*  
17        *Analysis and Infrastructure Protection;*

18                *“(E) the Under Secretary for Science and*  
19        *Technology; and*

20                *“(F) the Director of the Office for Domestic*  
21        *Preparedness.*

22        *“(2) CHAIRMAN.—*

23                *“(A) IN GENERAL.—The Secretary shall be*  
24        *the Chairman of the Board.*



1                   “(B) *EXERCISE OF AUTHORITIES BY DEP-*  
2                   *UTY SECRETARY.*—*The Deputy Secretary of*  
3                   *Homeland Security may exercise the authorities*  
4                   *of the Chairman, if the Secretary so directs.*

5                   “(3) *RANKING OF GRANT APPLICATIONS.*—

6                   “(A) *PRIORITIZATION OF GRANTS.*—*The*  
7                   *Board—*

8                   “(i) *shall evaluate and annually*  
9                   *prioritize all pending applications for cov-*  
10                   *ered grants based upon the degree to which*  
11                   *they would, by achieving, maintaining, or*  
12                   *enhancing the essential capabilities of the*  
13                   *applicants on a nationwide basis, lessen the*  
14                   *threat to, vulnerability of, and consequences*  
15                   *for persons and critical infrastructure; and*

16                   “(ii) *in evaluating the threat to per-*  
17                   *sons and critical infrastructure for purposes*  
18                   *of prioritizing covered grants, shall give*  
19                   *greater weight to threats of terrorism based*  
20                   *on their specificity and credibility, includ-*  
21                   *ing any pattern of repetition.*

22                   “(B) *MINIMUM AMOUNTS.*—*After evaluating*  
23                   *and prioritizing grant applications under sub-*  
24                   *paragraph (A), the Board shall ensure that, for*  
25                   *each fiscal year—*



1           “(i) each of the States, other than the  
2           Virgin Islands, American Samoa, Guam,  
3           and the Northern Mariana Islands, that has  
4           an approved State homeland security plan  
5           receives no less than 0.25 percent of the  
6           funds available for covered grants for that  
7           fiscal year for purposes of implementing its  
8           homeland security plan in accordance with  
9           the prioritization of needs under subsection  
10          (c)(1)(C);

11          “(ii) each of the States, other than the  
12          Virgin Islands, American Samoa, Guam,  
13          and the Northern Mariana Islands, that has  
14          an approved State homeland security plan  
15          and that meets one or both of the additional  
16          high-risk qualifying criteria under subpara-  
17          graph (C) receives no less than 0.45 percent  
18          of the funds available for covered grants for  
19          that fiscal year for purposes of imple-  
20          menting its homeland security plan in ac-  
21          cordance with the prioritization of needs  
22          under subsection (c)(1)(C);

23          “(iii) the Virgin Islands, American  
24          Samoa, Guam, and the Northern Mariana  
25          Islands each receives no less than 0.08 per-



1                   *cent of the funds available for covered*  
2                   *grants for that fiscal year for purposes of*  
3                   *implementing its approved State homeland*  
4                   *security plan in accordance with the*  
5                   *prioritization of needs under subsection*  
6                   *(c)(1)(C); and*

7                   *“(iv) directly eligible tribes collectively*  
8                   *receive no less than 0.08 percent of the*  
9                   *funds available for covered grants for such*  
10                  *fiscal year for purposes of addressing the*  
11                  *needs identified in the applications of such*  
12                  *tribes, consistent with the homeland security*  
13                  *plan of each State within the boundaries of*  
14                  *which any part of any such tribe is located,*  
15                  *except that this clause shall not apply with*  
16                  *respect to funds available for a fiscal year*  
17                  *if the Secretary receives less than 5 applica-*  
18                  *tions for such fiscal year from such tribes*  
19                  *under subsection (e)(6)(A) or does not ap-*  
20                  *prove at least one such application.*

21                  *“(C) ADDITIONAL HIGH-RISK QUALIFYING*  
22                  *CRITERIA.—For purposes of subparagraph*  
23                  *(B)(ii), additional high-risk qualifying criteria*  
24                  *consist of—*





1                   “(i) *having a significant international*  
2                   *land border; or*

3                   “(ii) *adjoining a body of water within*  
4                   *North America through which an inter-*  
5                   *national boundary line extends.*

6                   “(4) *EFFECT OF REGIONAL AWARDS ON STATE*  
7                   *MINIMUM.—Any regional award, or portion thereof,*  
8                   *provided to a State under subsection (e)(5)(C) shall*  
9                   *not be considered in calculating the minimum State*  
10                   *award under paragraph (3)(B) of this subsection.*

11                   “(5) *FUNCTIONS OF UNDER SECRETARIES.—The*  
12                   *Under Secretaries referred to in paragraph (1) shall*  
13                   *seek to ensure that the relevant expertise and input of*  
14                   *the staff of their directorates are available to and con-*  
15                   *sidered by the Board.*

16                   “**SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIRE-**  
17                   **MENTS.**

18                   “(a) *IN GENERAL.—A covered grant may be used for—*

19                   “(1) *purchasing or upgrading equipment, in-*  
20                   *cluding computer software, to enhance terrorism pre-*  
21                   *paredness and response;*

22                   “(2) *exercises to strengthen terrorism prepared-*  
23                   *ness and response;*

24                   “(3) *training for prevention (including detec-*  
25                   *tion) of, preparedness for, or response to attacks in-*



1        *volving weapons of mass destruction, including train-*  
2        *ing in the use of equipment and computer software;*  
3            *“(4) developing or updating response plans;*  
4            *“(5) establishing or enhancing mechanisms for*  
5        *sharing terrorism threat information;*  
6            *“(6) systems architecture and engineering, pro-*  
7        *gram planning and management, strategy formula-*  
8        *tion and strategic planning, life-cycle systems design,*  
9        *product and technology evaluation, and prototype de-*  
10       *velopment for terrorism preparedness and response*  
11       *purposes;*  
12            *“(7) additional personnel costs resulting from—*  
13            *“(A) elevations in the threat alert level of*  
14        *the Homeland Security Advisory System by the*  
15        *Secretary, or a similar elevation in threat alert*  
16        *level issued by a State, region, or local govern-*  
17        *ment with the approval of the Secretary;*  
18            *“(B) travel to and participation in exercises*  
19        *and training in the use of equipment and on*  
20        *prevention activities;*  
21            *“(C) the temporary replacement of per-*  
22        *sonnel during any period of travel to and par-*  
23        *ticipation in exercises and training in the use of*  
24        *equipment and on prevention activities; and*



1           “(D) personnel engaged exclusively in  
2           counterterrorism and intelligence activities not-  
3           withstanding the date such personnel were hired;

4           “(8) the costs of equipment (including software)  
5           required to receive, transmit, handle, and store classi-  
6           fied information;

7           “(9) protecting critical infrastructure against  
8           potential attack by the addition of barriers, fences,  
9           gates, and other such devices, except that the cost of  
10          such measures may not exceed the greater of—

11           “(A) \$1,000,000 per project; or

12           “(B) such greater amount as may be ap-  
13          proved by the Secretary, which may not exceed  
14          10 percent of the total amount of the covered  
15          grant;

16          “(10) the costs of commercially available inter-  
17          operable communications equipment (which, where  
18          applicable, is based on national, voluntary consensus  
19          standards) that the Secretary, in consultation with  
20          the Chairman of the Federal Communications Com-  
21          mission, deems best suited to facilitate interoper-  
22          ability, coordination, and integration between and  
23          among emergency communications systems, and that  
24          complies with prevailing grant guidance of the De-  
25          partment for interoperable communications;



1           “(11) educational curricula development for first  
2 responders to ensure that they are prepared for ter-  
3 rorist attacks;

4           “(12) training and exercises to assist public ele-  
5 mentary and secondary schools in developing and im-  
6 plementing programs to instruct students regarding  
7 age-appropriate skills to prepare for and respond to  
8 an act of terrorism;

9           “(13) paying of administrative expenses directly  
10 related to administration of the grant, except that  
11 such expenses may not exceed 3 percent of the amount  
12 of the grant;

13           “(14) reimbursement for overtime and other fixed  
14 costs incurred for homeland security purposes after  
15 September 11, 2001; and

16           “(15) other appropriate activities as determined  
17 by the Secretary.

18           “(b) *PROHIBITED USES.*—Funds provided as a cov-  
19 ered grant may not be used—

20           “(1) to supplant State or local funds;

21           “(2) to construct buildings or other physical fa-  
22 cilities;

23           “(3) to acquire land; or

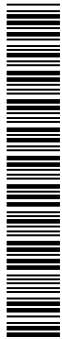
24           “(4) for any State or local government cost shar-  
25 ing contribution.



1           “(c) *MULTIPLE-PURPOSE FUNDS.*—*Nothing in this*  
2 *section shall be construed to preclude State and local gov-*  
3 *ernments from using covered grant funds in a manner that*  
4 *also enhances first responder preparedness for emergencies*  
5 *and disasters unrelated to acts of terrorism, if such use as-*  
6 *sists such governments in achieving essential capabilities*  
7 *for terrorism preparedness established by the Secretary*  
8 *under section 1803.*

9           “(d) *REIMBURSEMENT OF COSTS.*—*In addition to the*  
10 *activities described in subsection (a), a covered grant may*  
11 *be used to provide a reasonable stipend to paid-on-call or*  
12 *volunteer first responders who are not otherwise com-*  
13 *pensated for travel to or participation in training covered*  
14 *by this section. Any such reimbursement shall not be consid-*  
15 *ered compensation for purposes of rendering such a first*  
16 *responder an employee under the Fair Labor Standards Act*  
17 *of 1938 (29 U.S.C. 201 et seq.).*

18           “(e) *ASSISTANCE REQUIREMENT.*—*The Secretary may*  
19 *not request that equipment paid for, wholly or in part, with*  
20 *funds provided as a covered grant be made available for*  
21 *responding to emergencies in surrounding States, regions,*  
22 *and localities, unless the Secretary undertakes to pay the*  
23 *costs directly attributable to transporting and operating*  
24 *such equipment during such response.*



1           “(f) *FLEXIBILITY IN UNSPENT HOMELAND SECURITY*  
2 *GRANT FUNDS.*—Upon request by the recipient of a covered  
3 grant, the Secretary may authorize the grantee to transfer  
4 all or part of funds provided as the covered grant from uses  
5 specified in the grant agreement to other uses authorized  
6 under this section, if the Secretary determines that such  
7 transfer is in the interests of homeland security.

8           “(g) *STATE, REGIONAL, AND TRIBAL RESPONSIBIL-*  
9 *ITIES.*—

10           “(1) *PASS-THROUGH.*—The Secretary shall re-  
11 quire a recipient of a covered grant that is a State  
12 to obligate or otherwise make available to local gov-  
13 ernments, first responders, and other local groups, to  
14 the extent required under the State homeland security  
15 plan or plans specified in the application for the  
16 grant, not less than 80 percent of the grant funds, re-  
17 sources purchased with the grant funds having a  
18 value equal to at least 80 percent of the amount of  
19 the grant, or a combination thereof, by not later than  
20 the end of the 45-day period beginning on the date the  
21 grant recipient receives the grant funds.

22           “(2) *COST SHARING.*—

23           “(A) *IN GENERAL.*—The Federal share of  
24 the costs of an activity carried out with a cov-  
25 ered grant to a State, region, or directly eligible



1           *tribe awarded after the 2-year period beginning*  
2           *on the date of the enactment of this section shall*  
3           *not exceed 75 percent.*

4           “(B) *INTERIM RULE.—The Federal share of*  
5           *the costs of an activity carried out with a cov-*  
6           *ered grant awarded before the end of the 2-year*  
7           *period beginning on the date of the enactment of*  
8           *this section shall be 100 percent.*

9           “(C) *IN-KIND MATCHING.—Each recipient of*  
10          *a covered grant may meet the matching require-*  
11          *ment under subparagraph (A) by making in-*  
12          *kind contributions of goods or services that are*  
13          *directly linked with the purpose for which the*  
14          *grant is made, including, but not limited to, any*  
15          *necessary personnel overtime, contractor services,*  
16          *administrative costs, equipment fuel and mainte-*  
17          *nance, and rental space.*

18          “(3) *CERTIFICATIONS REGARDING DISTRIBUTION*  
19          *OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any*  
20          *State that receives a covered grant shall certify to the*  
21          *Secretary, by not later than 30 days after the expira-*  
22          *tion of the period described in paragraph (1) with re-*  
23          *spect to the grant, that the State has made available*  
24          *for expenditure by local governments, first responders,*



1        *and other local groups the required amount of grant*  
2        *funds pursuant to paragraph (1).*

3                *“(4) QUARTERLY REPORT ON HOMELAND SECUR-*  
4        *RITY SPENDING.—The Federal share described in*  
5        *paragraph (2)(A) may be increased by up to 2 per-*  
6        *cent for any State, region, or directly eligible tribe*  
7        *that, not later than 30 days after the end of each fis-*  
8        *cal quarter, submits to the Secretary a report on that*  
9        *fiscal quarter. Each such report must include, for*  
10       *each recipient of a covered grant or a pass-through*  
11       *under paragraph (1)—*

12                *“(A) the amount obligated to that recipient*  
13        *in that quarter;*

14                *“(B) the amount expended by that recipient*  
15        *in that quarter; and*

16                *“(C) a summary description of the items*  
17        *purchased by such recipient with such amount.*

18                *“(5) ANNUAL REPORT ON HOMELAND SECURITY*  
19        *SPENDING.—Each recipient of a covered grant shall*  
20        *submit an annual report to the Secretary not later*  
21        *than 60 days after the end of each fiscal year. Each*  
22        *recipient of a covered grant that is a region must si-*  
23        *multaneously submit its report to each State of which*  
24        *any part is included in the region. Each recipient of*  
25        *a covered grant that is a directly eligible tribe must*





1 *simultaneously submit its report to each State within*  
2 *the boundaries of which any part of such tribe is lo-*  
3 *cated. Each report must include the following:*

4 *“(A) The amount, ultimate recipients, and*  
5 *dates of receipt of all funds received under the*  
6 *grant during the previous fiscal year.*

7 *“(B) The amount and the dates of disburse-*  
8 *ments of all such funds expended in compliance*  
9 *with paragraph (1) or pursuant to mutual aid*  
10 *agreements or other sharing arrangements that*  
11 *apply within the State, region, or directly eligi-*  
12 *ble tribe, as applicable, during the previous fiscal*  
13 *year.*

14 *“(C) How the funds were utilized by each*  
15 *ultimate recipient or beneficiary during the pre-*  
16 *ceding fiscal year.*

17 *“(D) The extent to which essential capabili-*  
18 *ties identified in the applicable State homeland*  
19 *security plan or plans were achieved, main-*  
20 *tained, or enhanced as the result of the expendi-*  
21 *ture of grant funds during the preceding fiscal*  
22 *year.*

23 *“(E) The extent to which essential capabili-*  
24 *ties identified in the applicable State homeland*  
25 *security plan or plans remain unmet.*



1           “(6) *INCLUSION OF RESTRICTED ANNEXES.*—A  
2           *recipient of a covered grant may submit to the Sec-*  
3           *retary an annex to the annual report under para-*  
4           *graph (5) that is subject to appropriate handling re-*  
5           *strictions, if the recipient believes that discussion in*  
6           *the report of unmet needs would reveal sensitive but*  
7           *unclassified information.*

8           “(7) *PROVISION OF REPORTS.*—*The Secretary*  
9           *shall ensure that each annual report under paragraph*  
10          *(5) is provided to the Under Secretary for Emergency*  
11          *Preparedness and Response and the Director of the*  
12          *Office for Domestic Preparedness.*

13          “(h) *INCENTIVES TO EFFICIENT ADMINISTRATION OF*  
14          *HOMELAND SECURITY GRANTS.*—

15                 “(1) *PENALTIES FOR DELAY IN PASSING*  
16                 *THROUGH LOCAL SHARE.*—*If a recipient of a covered*  
17                 *grant that is a State fails to pass through to local*  
18                 *governments, first responders, and other local groups*  
19                 *funds or resources required by subsection (g)(1) with-*  
20                 *in 45 days after receiving funds under the grant, the*  
21                 *Secretary may—*

22                         “(A) *reduce grant payments to the grant re-*  
23                         *ipient from the portion of grant funds that is*  
24                         *not required to be passed through under sub-*  
25                         *section (g)(1);*



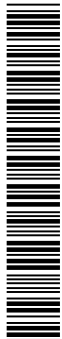
1           “(B) terminate payment of funds under the  
2 grant to the recipient, and transfer the appro-  
3 priate portion of those funds directly to local  
4 first responders that were intended to receive  
5 funding under that grant; or

6           “(C) impose additional restrictions or bur-  
7 dens on the recipient’s use of funds under the  
8 grant, which may include—

9                   “(i) prohibiting use of such funds to  
10 pay the grant recipient’s grant-related over-  
11 time or other expenses;

12                   “(ii) requiring the grant recipient to  
13 distribute to local government beneficiaries  
14 all or a portion of grant funds that are not  
15 required to be passed through under sub-  
16 section (g)(1); or

17                   “(iii) for each day that the grant re-  
18 cipient fails to pass through funds or re-  
19 sources in accordance with subsection  
20 (g)(1), reducing grant payments to the  
21 grant recipient from the portion of grant  
22 funds that is not required to be passed  
23 through under subsection (g)(1), except that  
24 the total amount of such reduction may not



1                   *exceed 20 percent of the total amount of the*  
2                   *grant.*

3                   “(2) *EXTENSION OF PERIOD.*—*The Governor of a*  
4                   *State may request in writing that the Secretary ex-*  
5                   *tend the 45-day period under section 1805(e)(5)(E) or*  
6                   *paragraph (1) for an additional 15-day period. The*  
7                   *Secretary may approve such a request, and may ex-*  
8                   *tend such period for additional 15-day periods, if the*  
9                   *Secretary determines that the resulting delay in pro-*  
10                   *viding grant funding to the local government entities*  
11                   *that will receive funding under the grant will not*  
12                   *have a significant detrimental impact on such enti-*  
13                   *ties’ terrorism preparedness efforts.*

14                   “(3) *PROVISION OF NON-LOCAL SHARE TO LOCAL*  
15                   *GOVERNMENT.*—

16                   “(A) *IN GENERAL.*—*The Secretary may*  
17                   *upon request by a local government pay to the*  
18                   *local government a portion of the amount of a*  
19                   *covered grant awarded to a State in which the*  
20                   *local government is located, if—*

21                   “(i) *the local government will use the*  
22                   *amount paid to expedite planned enhance-*  
23                   *ments to its terrorism preparedness as de-*  
24                   *scribed in any applicable State homeland*  
25                   *security plan or plans;*



1           “(ii) the State has failed to pass  
2           through funds or resources in accordance  
3           with subsection (g)(1); and

4           “(iii) the local government complies  
5           with subparagraphs (B) and (C).

6           “(B) *SHOWING REQUIRED.*—To receive a  
7           payment under this paragraph, a local govern-  
8           ment must demonstrate that—

9           “(i) it is identified explicitly as an ul-  
10          timate recipient or intended beneficiary in  
11          the approved grant application;

12          “(ii) it was intended by the grantee to  
13          receive a severable portion of the overall  
14          grant for a specific purpose that is identi-  
15          fied in the grant application;

16          “(iii) it petitioned the grantee for the  
17          funds or resources after expiration of the pe-  
18          riod within which the funds or resources  
19          were required to be passed through under  
20          subsection (g)(1); and

21          “(iv) it did not receive the portion of  
22          the overall grant that was earmarked or  
23          designated for its use or benefit.



1           “(C) *EFFECT OF PAYMENT.*—*Payment of*  
2           *grant funds to a local government under this*  
3           *paragraph—*

4                   “(i) *shall not affect any payment to*  
5                   *another local government under this para-*  
6                   *graph; and*

7                   “(ii) *shall not prejudice consideration*  
8                   *of a request for payment under this para-*  
9                   *graph that is submitted by another local*  
10                  *government.*

11           “(D) *DEADLINE FOR ACTION BY SEC-*  
12           *RETARY.*—*The Secretary shall approve or dis-*  
13           *approve each request for payment under this*  
14           *paragraph by not later than 15 days after the*  
15           *date the request is received by the Department.*

16           “(i) *REPORTS TO CONGRESS.*—*The Secretary shall*  
17           *submit an annual report to the Congress by December 31*  
18           *of each year—*

19                   “(1) *describing in detail the amount of Federal*  
20                   *funds provided as covered grants that were directed to*  
21                   *each State, region, and directly eligible tribe in the*  
22                   *preceding fiscal year;*

23                   “(2) *containing information on the use of such*  
24                   *grant funds by grantees; and*

25                   “(3) *describing—*



1           “(A) *the Nation’s progress in achieving,*  
2           *maintaining, and enhancing the essential capa-*  
3           *bilities established under section 1803(a) as a re-*  
4           *sult of the expenditure of covered grant funds*  
5           *during the preceding fiscal year; and*

6           “(B) *an estimate of the amount of expendi-*  
7           *tures required to attain across the United States*  
8           *the essential capabilities established under sec-*  
9           *tion 1803(a).*

10 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER**  
11 **EQUIPMENT AND TRAINING.**

12           “(a) *EQUIPMENT STANDARDS.—*

13           “(1) *IN GENERAL.—The Secretary, in consulta-*  
14           *tion with the Under Secretaries for Emergency Pre-*  
15           *paredness and Response and Science and Technology*  
16           *and the Director of the Office for Domestic Prepared-*  
17           *ness, shall, not later than 6 months after the date of*  
18           *enactment of this section, support the development of,*  
19           *promulgate, and update as necessary national vol-*  
20           *untary consensus standards for the performance, use,*  
21           *and validation of first responder equipment for pur-*  
22           *poses of section 1805(e)(7). Such standards—*

23           “(A) *shall be, to the maximum extent prac-*  
24           *ticable, consistent with any existing voluntary*  
25           *consensus standards;*



1           “(B) shall take into account, as appro-  
2           priate, new types of terrorism threats that may  
3           not have been contemplated when such existing  
4           standards were developed;

5           “(C) shall be focused on maximizing inter-  
6           operability, interchangeability, durability, flexi-  
7           bility, efficiency, efficacy, portability, sustain-  
8           ability, and safety; and

9           “(D) shall cover all appropriate uses of the  
10          equipment.

11          “(2) *REQUIRED CATEGORIES.*—In carrying out  
12          paragraph (1), the Secretary shall specifically con-  
13          sider the following categories of first responder equip-  
14          ment:

15               “(A) Thermal imaging equipment.

16               “(B) Radiation detection and analysis  
17               equipment.

18               “(C) Biological detection and analysis  
19               equipment.

20               “(D) Chemical detection and analysis  
21               equipment.

22               “(E) Decontamination and sterilization  
23               equipment.





1           “(F) *Personal protective equipment, includ-*  
2           *ing garments, boots, gloves, and hoods and other*  
3           *protective clothing.*

4           “(G) *Respiratory protection equipment.*

5           “(H) *Interoperable communications, includ-*  
6           *ing wireless and wireline voice, video, and data*  
7           *networks.*

8           “(I) *Explosive mitigation devices and explo-*  
9           *sive detection and analysis equipment.*

10          “(J) *Containment vessels.*

11          “(K) *Contaminant-resistant vehicles.*

12          “(L) *Such other equipment for which the*  
13          *Secretary determines that national voluntary*  
14          *consensus standards would be appropriate.*

15          “(b) *TRAINING STANDARDS.—*

16               “(1) *IN GENERAL.—The Secretary, in consulta-*  
17               *tion with the Under Secretaries for Emergency Pre-*  
18               *paredness and Response and Science and Technology*  
19               *and the Director of the Office for Domestic Prepared-*  
20               *ness, shall support the development of, promulgate,*  
21               *and regularly update as necessary national voluntary*  
22               *consensus standards for first responder training car-*  
23               *ried out with amounts provided under covered grant*  
24               *programs, that will enable State and local govern-*  
25               *ment first responders to achieve optimal levels of ter-*



1       rorism preparedness as quickly as practicable. Such  
2       standards shall give priority to providing training  
3       to—

4               “(A) enable first responders to prevent, pre-  
5       pare for, respond to, and mitigate terrorist  
6       threats, including threats from chemical, biologi-  
7       cal, nuclear, and radiological weapons and ex-  
8       plosive devices capable of inflicting significant  
9       human casualties; and

10              “(B) familiarize first responders with the  
11       proper use of equipment, including software, de-  
12       veloped pursuant to the standards established  
13       under subsection (a).

14              “(2) *REQUIRED CATEGORIES.*—In carrying out  
15       paragraph (1), the Secretary specifically shall include  
16       the following categories of first responder activities:

17              “(A) Regional planning.

18              “(B) Joint exercises.

19              “(C) Intelligence collection, analysis, and  
20       sharing.

21              “(D) Emergency notification of affected  
22       populations.

23              “(E) Detection of biological, nuclear, radio-  
24       logical, and chemical weapons of mass destruc-  
25       tion.



1                   “(F) *Such other activities for which the Sec-*  
2                   *retary determines that national voluntary con-*  
3                   *sensus training standards would be appropriate.*

4                   “(3) *CONSISTENCY.—In carrying out this sub-*  
5                   *section, the Secretary shall ensure that such training*  
6                   *standards are consistent with the principles of emer-*  
7                   *gency preparedness for all hazards.*

8                   “(c) *CONSULTATION WITH STANDARDS ORGANIZA-*  
9                   *TIONS.—In establishing national voluntary consensus*  
10                  *standards for first responder equipment and training under*  
11                  *this section, the Secretary shall consult with relevant public*  
12                  *and private sector groups, including—*

13                  “(1) *the National Institute of Standards and*  
14                  *Technology;*

15                  “(2) *the National Fire Protection Association;*

16                  “(3) *the National Association of County and*  
17                  *City Health Officials;*

18                  “(4) *the Association of State and Territorial*  
19                  *Health Officials;*

20                  “(5) *the American National Standards Institute;*

21                  “(6) *the National Institute of Justice;*

22                  “(7) *the Inter-Agency Board for Equipment*  
23                  *Standardization and Interoperability;*

24                  “(8) *the National Public Health Performance*  
25                  *Standards Program;*



1           “(9) *the National Institute for Occupational*  
2           *Safety and Health;*

3           “(10) *ASTM International;*

4           “(11) *the International Safety Equipment Asso-*  
5           *ciation;*

6           “(12) *the Emergency Management Accreditation*  
7           *Program; and*

8           “(13) *to the extent the Secretary considers ap-*  
9           *propriate, other national voluntary consensus stand-*  
10           *ards development organizations, other interested Fed-*  
11           *eral, State, and local agencies, and other interested*  
12           *persons.*

13           “(d) *COORDINATION WITH SECRETARY OF HHS.—In*  
14           *establishing any national voluntary consensus standards*  
15           *under this section for first responder equipment or training*  
16           *that involve or relate to health professionals, including*  
17           *emergency medical professionals, the Secretary shall coordi-*  
18           *nate activities under this section with the Secretary of*  
19           *Health and Human Services.”.*

20           “(b) *DEFINITION OF EMERGENCY RESPONSE PRO-*  
21           *VIDERS.—Paragraph (6) of section 2 of the Homeland Secu-*  
22           *rity Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6))*  
23           *is amended by striking “includes” and all that follows and*  
24           *inserting “includes Federal, State, and local governmental*  
25           *and nongovernmental emergency public safety, law enforce-*



1 *ment, fire, emergency response, emergency medical (includ-*  
2 *ing hospital emergency facilities), and related personnel, or-*  
3 *ganizations, agencies, and authorities.”.*

4 *(c) TEMPORARY LIMITATIONS ON APPLICATION.—*

5 *(1) 1-YEAR DELAY IN APPLICATION.—The fol-*  
6 *lowing provisions of title XVIII of the Homeland Se-*  
7 *curity Act of 2002, as amended by subsection (a),*  
8 *shall not apply during the 1-year period beginning on*  
9 *the date of the enactment of this Act:*

10 *(A) Subsections (b), (c), and (e)(4)(A) and*  
11 *(B) of section 1805.*

12 *(B) In section 1805(f)(3)(A), the phrase “,*  
13 *by enhancing the essential capabilities of the ap-*  
14 *plicants,”.*

15 *(2) 2-YEAR DELAY IN APPLICATION.—The fol-*  
16 *lowing provisions of title XVIII of the Homeland Se-*  
17 *curity Act of 2002, as amended by subsection (a),*  
18 *shall not apply during the 2-year period beginning on*  
19 *the date of the enactment of this Act:*

20 *(A) Subparagraphs (D) and (E) of section*  
21 *1806(g)(5).*

22 *(B) Section 1806(i)(3).*



1 **SEC. 5004. MODIFICATION OF HOMELAND SECURITY ADVI-**  
2 **SORY SYSTEM.**

3 (a) *IN GENERAL.*—*Subtitle A of title II of the Home-*  
4 *land Security Act of 2002 (Public Law 107–296; 6 U.S.C.*  
5 *121 et seq.) is amended by adding at the end the following:*

6 **“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

7 “(a) *IN GENERAL.*—*The Secretary shall revise the*  
8 *Homeland Security Advisory System referred to in section*  
9 *201(d)(7) to require that any designation of a threat level*  
10 *or other warning shall be accompanied by a designation*  
11 *of the geographic regions or economic sectors to which the*  
12 *designation applies.*

13 “(b) *REPORTS.*—*The Secretary shall report to the Con-*  
14 *gress annually by not later than December 31 each year*  
15 *regarding the geographic region-specific warnings and eco-*  
16 *nomie sector-specific warnings issued during the preceding*  
17 *fiscal year under the Homeland Security Advisory System*  
18 *referred to in section 201(d)(7), and the bases for such*  
19 *warnings. The report shall be submitted in unclassified*  
20 *form and may, as necessary, include a classified annex.”.*

21 (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
22 *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*  
23 *101 et seq.) is amended by inserting after the item relating*  
24 *to section 202 the following:*

“203. *Homeland Security Advisory System.*”.



1 **SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.**

2 *Section 102(f) of the Homeland Security Act of 2002*  
3 *(Public Law 107–296; 6 U.S.C. 112(f)) is amended by strik-*  
4 *ing “and” after the semicolon at the end of paragraph (6),*  
5 *by striking the period at the end of paragraph (7) and in-*  
6 *serting “; and”, and by adding at the end the following:*

7 *“(8) coordinating industry efforts, with respect*  
8 *to functions of the Department of Homeland Security,*  
9 *to identify private sector resources and capabilities*  
10 *that could be effective in supplementing Federal,*  
11 *State, and local government agency efforts to prevent*  
12 *or respond to a terrorist attack.”.*

13 **SEC. 5006. SUPERSEDED PROVISION.**

14 *This subtitle supersedes section 1014 of Public Law*  
15 *107–56.*

16 **SEC. 5007. SENSE OF CONGRESS REGARDING INTEROPER-**  
17 **ABLE COMMUNICATIONS.**

18 *(a) FINDING.—The Congress finds that—*

19 *(1) many first responders working in the same*  
20 *jurisdiction or in different jurisdictions cannot effec-*  
21 *tively and efficiently communicate with one another;*  
22 *and*

23 *(2) their inability to do so threatens the public’s*  
24 *safety and may result in unnecessary loss of lives and*  
25 *property.*



1           **(b) SENSE OF CONGRESS.**—*It is the sense of the Con-*  
2 *gress that interoperable emergency communications systems*  
3 *and radios should continue to be deployed as soon as prac-*  
4 *ticable for use by the first responder community, and that*  
5 *upgraded and new digital communications systems and*  
6 *new digital radios must meet prevailing national, vol-*  
7 *untary consensus standards for interoperability.*

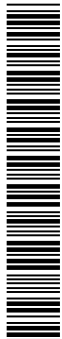
8   **SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN**  
9                                   **CORPS COUNCILS.**

10           **(a) FINDING.**—*The Congress finds that Citizen Corps*  
11 *councils help to enhance local citizen participation in ter-*  
12 *rorism preparedness by coordinating multiple Citizen*  
13 *Corps programs, developing community action plans, as-*  
14 *sessing possible threats, and identifying local resources.*

15           **(b) SENSE OF CONGRESS.**—*It is the sense of the Con-*  
16 *gress that individual Citizen Corps councils should seek to*  
17 *enhance the preparedness and response capabilities of all*  
18 *organizations participating in the councils, including by*  
19 *providing funding to as many of their participating orga-*  
20 *nizations as practicable to promote local terrorism pre-*  
21 *paredness programs.*

22   **SEC. 5009. STUDY REGARDING NATIONWIDE EMERGENCY**  
23                                   **NOTIFICATION SYSTEM.**

24           **(a) STUDY.**—*The Secretary of Homeland Security, in*  
25 *consultation with the heads of other appropriate Federal*





1 *agencies and representatives of providers and participants*  
2 *in the telecommunications industry, shall conduct a study*  
3 *to determine whether it is cost-effective, efficient, and fea-*  
4 *sible to establish and implement an emergency telephonic*  
5 *alert notification system that will—*

6           (1) *alert persons in the United States of immi-*  
7 *nent or current hazardous events caused by acts of*  
8 *terrorism; and*

9           (2) *provide information to individuals regarding*  
10 *appropriate measures that may be undertaken to al-*  
11 *leviate or minimize threats to their safety and welfare*  
12 *posed by such events.*

13       (b) *TECHNOLOGIES TO CONSIDER.—In conducting the*  
14 *study, the Secretary shall consider the use of the telephone,*  
15 *wireless communications, and other existing communica-*  
16 *tions networks to provide such notification.*

17       (c) *REPORT.—Not later than 9 months after the date*  
18 *of the enactment of this Act, the Secretary shall submit to*  
19 *the Congress a report regarding the conclusions of the study.*

20 **SEC. 5010. REQUIRED COORDINATION.**

21       *The Secretary of Homeland Security shall ensure that*  
22 *there is effective and ongoing coordination of Federal efforts*  
23 *to prevent, prepare for, and respond to acts of terrorism*  
24 *and other major disasters and emergencies among the divi-*  
25 *sions of the Department of Homeland Security, including*



1 *the Directorate of Emergency Preparedness and Response*  
2 *and the Office for State and Local Government Coordina-*  
3 *tion and Preparedness.*

4 ***Subtitle B—Government***  
5 ***Reorganization Authority***

6 ***SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY***

7 ***REORGANIZATION PLANS.***

8 *(a) REORGANIZATION PLANS.—Section 903(a)(2) of*  
9 *title 5, United States Code, is amended to read as follows:*

10 *“(2) the abolition of all or a part of the func-*  
11 *tions of an agency;”.*

12 *(b) REPEAL OF LIMITATIONS.—Section 905 of title 5,*  
13 *United States Code, is amended to read as follows:*

14 ***“§905. Limitation on authority.***

15 *“The authority to submit reorganization plans under*  
16 *this chapter is limited to the following organizational units:*

17 *“(1) The Office of the National Intelligence Di-*  
18 *rector.*

19 *“(2) The Central Intelligence Agency.*

20 *“(3) The National Security Agency.*

21 *“(4) The Defense Intelligence Agency.*

22 *“(5) The National Geospatial-Intelligence Agen-*  
23 *cy.*

24 *“(6) The National Reconnaissance Office.*



1           “(7) *Other offices within the Department of De-*  
2           *fense for the collection of specialized national intel-*  
3           *ligence through reconnaissance programs.*

4           “(8) *The intelligence elements of the Army, the*  
5           *Navy, the Air Force, the Marine Corps, the Federal*  
6           *Bureau of Investigation, and the Department of En-*  
7           *ergy.*

8           “(9) *The Bureau of Intelligence and Research of*  
9           *the Department of State.*

10           “(10) *The Office of Intelligence Analysis of the*  
11           *Department of Treasury.*

12           “(11) *The elements of the Department of Home-*  
13           *land Security concerned with the analysis of intel-*  
14           *ligence information, including the Office of Intel-*  
15           *ligence of the Coast Guard.*

16           “(12) *Such other elements of any other depart-*  
17           *ment or agency as may be designated by the Presi-*  
18           *dent, or designated jointly by the National Intel-*  
19           *ligence Director and the head of the department or*  
20           *agency concerned, as an element of the intelligence*  
21           *community.”.*

22           (c) *REORGANIZATION PLANS.*—903(a) of title 5,  
23 *United States Code, is amended—*

24           (1) *in paragraph (5), by striking “or” after the*  
25           *semicolon;*



1           (2) *in paragraph (6), by striking the period and*  
2           *inserting “; or”; and*

3           (3) *by inserting after paragraph (6) the fol-*  
4           *lowing:*

5           “*(7) the creation of an agency.*”.

6           (d) *APPLICATION OF CHAPTER.—Chapter 9 of title 5,*  
7           *United States Code, is amended by adding at the end the*  
8           *following:*

9           “**§913. Application of chapter**

10           “*This chapter shall apply to any reorganization plan*  
11           *transmitted to Congress in accordance with section 903(b)*  
12           *on or after the date of enactment of this section.*”.

13           (e) *TECHNICAL AND CONFORMING AMENDMENTS.—*

14           (1) *TABLE OF SECTIONS.—The table of sections*  
15           *for chapter 9 of title 5, United States Code, is amend-*  
16           *ed by adding after the item relating to section 912 the*  
17           *following:*

          “*913. Application of chapter.*”.

18           (2) *REFERENCES.—Chapter 9 of title 5, United*  
19           *States Code, is amended—*

20           (A) *in section 908(1), by striking “on or be-*  
21           *fore December 31, 1984”; and (B) in section 910,*  
22           *by striking “Government Operations” each place*  
23           *it appears and inserting “Government Reform”.*



1           (3) *DATE MODIFICATION.*—Section 909 of title 5,  
2           *United States Code, is amended in the first sentence*  
3           *by striking “19” and inserting “20”.*

4   **SEC. 5022. AUTHORITY TO ENTER INTO CONTRACTS AND**  
5           **ISSUE FEDERAL LOAN GUARANTEES.**

6           (a) *FINDING.*—Congress finds that there is a public in-  
7           *terest in protecting high-risk nonprofit organizations from*  
8           *international terrorist attacks that would disrupt the vital*  
9           *services such organizations provide to the people of the*  
10           *United States and threaten the lives and well-being of*  
11           *United States citizens who operate, utilize, and live or work*  
12           *in proximity to such organizations.*

13           (b) *PURPOSES.*—The purposes of this section are to—

14           (1) *establish within the Department of Home-*  
15           *land Security a program to protect United States*  
16           *citizens at or near high-risk nonprofit organizations*  
17           *from international terrorist attacks through loan*  
18           *guarantees and Federal contracts for security en-*  
19           *hancements and technical assistance;*

20           (2) *establish a program within the Department*  
21           *of Homeland Security to provide grants to local gov-*  
22           *ernments to assist with incremental costs associated*  
23           *with law enforcement in areas in which there are a*  
24           *high concentration of high-risk nonprofit organiza-*  
25           *tions vulnerable to international terrorist attacks; and*



1           (3) *establish an Office of Community Relations*  
2           *and Civic Affairs within the Department of Home-*  
3           *land Security to focus on security needs of high-risk*  
4           *nonprofit organizations with respect to international*  
5           *terrorist threats.*

6           (c) *AUTHORITY.—The Homeland Security Act of 2002*  
7           *(6 U.S.C. 101 et seq.), as amended by this Act, is further*  
8           *amended by adding at the end the following:*

9           **“TITLE XIX—PROTECTION OF**  
10           **CITIZENS AT HIGH-RISK NON-**  
11           **PROFIT ORGANIZATIONS**

12          **“SEC. 1901. DEFINITIONS.**

13          *“ In this title:*

14                *“(1) CONTRACT.—The term ‘contract’ means a*  
15                *contract between the Federal Government and a con-*  
16                *tractor selected from the list of certified contractors to*  
17                *perform security enhancements or provide technical*  
18                *assistance approved by the Secretary under this title.*

19                *“(2) FAVORABLE REPAYMENT TERMS.—The term*  
20                *‘favorable repayment terms’ means the repayment*  
21                *terms of loans offered to nonprofit organizations*  
22                *under this title that—*

23                        *“(A) are determined by the Secretary, in*  
24                        *consultation with the Secretary of the Treasury,*  
25                        *to be favorable under current market conditions;*



1           “(B) have interest rates at least 1 full per-  
2           centage point below the market rate; and

3           “(C) provide for repayment over a term not  
4           less than 25 years.

5           “(3) *NONPROFIT ORGANIZATION.*—*The term*  
6           *‘nonprofit organization’ means an organization*  
7           *that—*

8           “(A) is described under section 501(c)(3) of  
9           the Internal Revenue Code of 1986 and exempt  
10          from taxation under section 501(a) of such Code;  
11          and

12          “(B) is designated by the Secretary under  
13          section 1903(a).

14          “(4) *SECURITY ENHANCEMENTS.*—*The term ‘se-*  
15          *curity enhancements’—*

16          “(A) means the purchase and installation of  
17          security equipment in real property (including  
18          buildings and improvements), owned or leased by  
19          a nonprofit organization, specifically in response  
20          to the risk of attack at a nonprofit organization  
21          by an international terrorist organization;

22          “(B) includes software security measures;  
23          and



1           “(C) does not include enhancements that  
2           would otherwise have been reasonably necessary  
3           due to nonterrorist threats.

4           “(5) *TECHNICAL ASSISTANCE*.—The term ‘tech-  
5           nical assistance’—

6           “(A) means guidance, assessment, rec-  
7           ommendations, and any other provision of infor-  
8           mation or expertise which assists nonprofit orga-  
9           nizations in—

10           “(i) identifying security needs;

11           “(ii) purchasing and installing secu-  
12           rity enhancements;

13           “(iii) training employees to use and  
14           maintain security enhancements; or

15           “(iv) training employees to recognize  
16           and respond to international terrorist  
17           threats; and

18           “(B) does not include technical assistance  
19           that would otherwise have been reasonably nec-  
20           essary due to nonterrorist threats.

21   **“SEC. 1902. AUTHORITY TO ENTER INTO CONTRACTS AND**  
22           **ISSUE FEDERAL LOAN GUARANTEES.**

23           “(a) *IN GENERAL*.—The Secretary may—





1           “(1) *enter into contracts with certified contrac-*  
2           *tors for security enhancements and technical assist-*  
3           *ance for nonprofit organizations; and*

4           “(2) *issue Federal loan guarantees to financial*  
5           *institutions in connection with loans made by such*  
6           *institutions to nonprofit organizations for security*  
7           *enhancements and technical assistance.*

8           “(b) *LOANS.—The Secretary may guarantee loans*  
9           *under this title—*

10           “(1) *only to the extent provided for in advance*  
11           *by appropriations Acts; and*

12           “(2) *only to the extent such loans have favorable*  
13           *repayment terms.*

14           “**SEC. 1903. ELIGIBILITY CRITERIA.**

15           “(a) *IN GENERAL.—The Secretary shall designate non-*  
16           *profit organizations as high-risk nonprofit organizations el-*  
17           *igible for contracts or loans under this title based on the*  
18           *vulnerability of the specific site of the nonprofit organiza-*  
19           *tion to international terrorist attacks.*

20           “(b) *VULNERABILITY DETERMINATION.—In deter-*  
21           *mining vulnerability to international terrorist attacks and*  
22           *eligibility for security enhancements or technical assistance*  
23           *under this title, the Secretary shall consider—*

24           “(1) *threats of international terrorist organiza-*  
25           *tions (as designated by the State Department) against*



1        *any group of United States citizens who operate or*  
2        *are the principal beneficiaries or users of the non-*  
3        *profit organization;*

4            *“(2) prior attacks, within or outside the United*  
5        *States, by international terrorist organizations*  
6        *against the nonprofit organization or entities associ-*  
7        *ated with or similarly situated as the nonprofit orga-*  
8        *nization;*

9            *“(3) the symbolic value of the site as a highly*  
10       *recognized United States cultural or historical insti-*  
11       *tution that renders the site a possible target of inter-*  
12       *national terrorism;*

13           *“(4) the role of the nonprofit organization in re-*  
14       *sponding to international terrorist attacks; and*

15           *“(5) any recommendations of the applicable*  
16       *State Homeland Security Authority established under*  
17       *section 1906 or Federal, State, and local law enforce-*  
18       *ment authorities.*

19           *“(c) DOCUMENTATION.—In order to be eligible for se-*  
20       *curity enhancements, technical assistance or loan guaran-*  
21       *tees under this title, the nonprofit organization shall pro-*  
22       *vide the Secretary with documentation that—*

23           *“(1) the nonprofit organization hosted a gath-*  
24       *ering of at least 100 or more persons at least once*



1       *each month at the nonprofit organization site during*  
2       *the preceding 12 months; or*

3               “(2) *the nonprofit organization provides services*  
4       *to at least 500 persons each year at the nonprofit or-*  
5       *ganization site.*

6       “(d) **TECHNICAL ASSISTANCE ORGANIZATIONS.**—*If 2*  
7       *or more nonprofit organizations establish another nonprofit*  
8       *organization to provide technical assistance, that estab-*  
9       *lished organization shall be eligible to receive security en-*  
10       *hancements and technical assistance under this title based*  
11       *upon the collective risk of the nonprofit organizations it*  
12       *serves.*

13       **“SEC. 1904. USE OF LOAN GUARANTEES.**

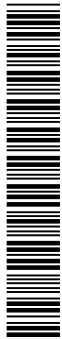
14               “*Funds borrowed from lending institutions, which are*  
15       *guaranteed by the Federal Government under this title, may*  
16       *be used for technical assistance and security enhancements.*

17       **“SEC. 1905. NONPROFIT ORGANIZATION APPLICATIONS.**

18               “(a) **IN GENERAL.**—*A nonprofit organization desiring*  
19       *assistance under this title shall submit a separate applica-*  
20       *tion for each specific site needing security enhancements or*  
21       *technical assistance.*

22               “(b) **CONTENT.**—*Each application shall include—*

23                       “(1) *a detailed request for security enhancements*  
24       *and technical assistance, from a list of approved en-*







1 *to a single application a combination of such contracts and*  
2 *loan guarantees.*

3       “(c) *JOINT APPLICATIONS.*—*Special preference shall be*  
4 *given to joint applications submitted on behalf of multiple*  
5 *nonprofit organizations located in contiguous settings.*

6       “(d) *MAXIMIZING AVAILABLE FUNDS.*—*Subject to sub-*  
7 *section (b), the Secretary shall execute security enhancement*  
8 *and technical assistance contracts in such amounts as to*  
9 *maximize the number of high-risk applicants nationwide*  
10 *receiving assistance under this title.*

11       “(e) *APPLICANT NOTIFICATION.*—*Upon selecting a*  
12 *nonprofit organization for assistance under this title, the*  
13 *Secretary shall notify the nonprofit organization that the*  
14 *Federal Government is prepared to enter into a contract*  
15 *with certified contractors to install specified security en-*  
16 *hancements or provide specified technical assistance at the*  
17 *site of the nonprofit organization.*

18       “(f) *CERTIFIED CONTRACTORS.*—

19               “(1) *IN GENERAL.*—*Upon receiving a notifica-*  
20 *tion under subsection (e), the nonprofit organization*  
21 *shall select a certified contractor to perform the speci-*  
22 *fied security enhancements, from a list of certified*  
23 *contractors issued and maintained by the Secretary*  
24 *under subsection (j).*



1           “(2) *LIST.*—*The list referred to in paragraph (1)*  
2           *shall be comprised of contractors selected on the basis*  
3           *of—*

4                     “(A) *technical expertise;*

5                     “(B) *performance record including quality*  
6                     *and timeliness of work performed;*

7                     “(C) *adequacy of employee criminal back-*  
8                     *ground checks; and*

9                     “(D) *price competitiveness.*

10           “(3) *OTHER CERTIFIED CONTRACTORS.*—*The*  
11           *Secretary shall include on the list of certified contrac-*  
12           *tors additional contractors selected by senior officials*  
13           *at State Homeland Security Authorities and the chief*  
14           *executives of county and other local jurisdictions.*  
15           *Such additional certified contractors shall be selected*  
16           *on the basis of the criteria under paragraph (2).*

17           “(g) *ENSURING THE AVAILABILITY OF CONTRAC-*  
18           *TORS.*—*If the list of certified contractors under this section*  
19           *does not include any contractors who can begin work on*  
20           *the security enhancements or technical assistance within 60*  
21           *days after applicant notification, the nonprofit organiza-*  
22           *tion may submit a contractor not currently on the list to*  
23           *the Secretary for the Secretary’s review. If the Secretary*  
24           *does not include the submitted contractor on the list of cer-*  
25           *tified contractors within 60 days after the submission and*



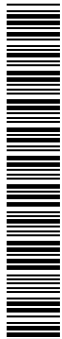
1 *does not place an alternative contractor on the list within*  
2 *the same time period (who would be available to begin the*  
3 *specified work within that 60-day period), the Secretary*  
4 *shall immediately place the submitted contractor on the list*  
5 *of certified contractors and such contractor shall remain on*  
6 *such list until—*

7           “(1) *the specified work is completed; or*

8           “(2) *the Secretary can show cause why such con-*  
9 *tractor may not retain certification, with such deter-*  
10 *minations subject to review by the Comptroller Gen-*  
11 *eral of the United States.*

12       “(h) *CONTRACTS.—Upon selecting a certified con-*  
13 *tractor to provide security enhancements and technical as-*  
14 *sistance approved by the Secretary under this title, the non-*  
15 *profit organization shall notify the Secretary of such selec-*  
16 *tion. The Secretary shall deliver a contract to such con-*  
17 *tractor within 10 business days after such notification.*

18       “(i) *CONTRACTS FOR ADDITIONAL WORK OR UP-*  
19 *GRADES.—A nonprofit organization, using its own funds,*  
20 *may enter into an additional contract with the certified*  
21 *contractor, for additional or upgraded security enhance-*  
22 *ments or technical assistance. Such additional contracts*  
23 *shall be separate contracts between the nonprofit organiza-*  
24 *tion and the contractor.*





1           “(j) *EXPEDITING ASSISTANCE.*—*In order to expedite*  
2 *assistance to nonprofit organizations, the Secretary shall—*

3                   “(1) *compile a list of approved technical assist-*  
4 *ance and security enhancement activities within 45*  
5 *days after the date of enactment of this title;*

6                   “(2) *publish in the Federal Register within 60*  
7 *days after such date of enactment a request for con-*  
8 *tractors to submit applications to be placed on the list*  
9 *of certified contractors under this section;*

10                   “(3) *after consultation with the Secretary of the*  
11 *Treasury, publish in the Federal Register within 60*  
12 *days after such date of enactment, prescribe regula-*  
13 *tions setting forth the conditions under which loan*  
14 *guarantees shall be issued under this title, including*  
15 *application procedures, expeditious review of applica-*  
16 *tions, underwriting criteria, assignment of loan guar-*  
17 *antees, modifications, commercial validity, defaults,*  
18 *and fees; and*

19                   “(4) *publish in the Federal Register within 120*  
20 *days after such date of enactment (and every 30 days*  
21 *thereafter) a list of certified contractors, including*  
22 *those selected by State Homeland Security Authori-*  
23 *ties, county, and local officials, with coverage of all*  
24 *50 States, the District of Columbia, and the terri-*  
25 *tories.*



1 **“SEC. 1908. LOCAL LAW ENFORCEMENT ASSISTANCE**  
2 **GRANTS.**

3 *“(a) IN GENERAL.—The Secretary may provide grants*  
4 *to units of local government to offset incremental costs asso-*  
5 *ciated with law enforcement in areas where there is a high*  
6 *concentration of nonprofit organizations.*

7 *“(b) USE.—Grant funds received under this section*  
8 *may be used only for personnel costs or for equipment needs*  
9 *specifically related to such incremental costs.*

10 *“(c) MAXIMIZATION OF IMPACT.—The Secretary shall*  
11 *award grants in such amounts as to maximize the impact*  
12 *of available funds in protecting nonprofit organizations na-*  
13 *tionwide from international terrorist attacks.*

14 **“SEC. 1909. OFFICE OF COMMUNITY RELATIONS AND CIVIC**  
15 **AFFAIRS.**

16 *“(a) IN GENERAL.—There is established within the De-*  
17 *partment, the Office of Community Relations and Civic Af-*  
18 *airs to administer grant programs for nonprofit organiza-*  
19 *tions and local law enforcement assistance.*

20 *“(b) ADDITIONAL RESPONSIBILITIES.—The Office of*  
21 *Community Relations and Civic Affairs shall—*

22 *“(1) coordinate community relations efforts of*  
23 *the Department;*

24 *“(2) serve as the official liaison of the Secretary*  
25 *to the nonprofit, human and social services, and*  
26 *faith-based communities; and*



1           “(3) assist in coordinating the needs of those  
2           communities with the Citizen Corps program.

3   **“SEC. 1910. AUTHORIZATION OF APPROPRIATIONS AND**  
4           **LOAN GUARANTEES.**

5           “(a) *NONPROFIT ORGANIZATIONS PROGRAM.*—There  
6 are authorized to be appropriated to the Department to  
7 carry out the nonprofit organization program under this  
8 title, \$100,000,000 for fiscal year 2005 and such sums as  
9 may be necessary for fiscal years 2006 and 2007.

10          “(b) *LOCAL LAW ENFORCEMENT ASSISTANCE*  
11 *GRANTS.*—There are authorized to be appropriated to the  
12 Department for local law enforcement assistance grants  
13 under section 1908, \$50,000,000 for fiscal year 2005 and  
14 such sums as may be necessary for fiscal years 2006 and  
15 2007.

16          “(c) *OFFICE OF COMMUNITY RELATIONS AND CIVIC*  
17 *AFFAIRS.*—There are authorized to be appropriated to the  
18 Department for the Office of Community Relations and  
19 Civic Affairs under section 1909, \$5,000,000 for fiscal year  
20 2005 and such sums as may be necessary for fiscal years  
21 2006 and 2007.

22          “(d) *LOAN GUARANTEES.*—

23               “(1) *AUTHORIZATION OF APPROPRIATIONS.*—  
24               There are authorized to be appropriated in each of  
25               fiscal years 2005, 2006, and 2007, such amounts as



1        *may be required under the Federal Credit Act with*  
2        *respect to Federal loan guarantees authorized by this*  
3        *title, which shall remain available until expended.*

4            “(2) *LIMITATION.—The aggregate value of all*  
5        *loans for which loan guarantees are issued under this*  
6        *title by the Secretary may not exceed \$250,000,000 in*  
7        *each of fiscal years 2005, 2006, and 2007.”.*

8        (d) *CLERICAL AMENDMENT.—The table of contents*  
9        *under section 1(b) of the Homeland Security Act of 2002*  
10       *(6 U.S.C. 101(b)) is amended by adding at the end the fol-*  
11       *lowing:*

“*TITLE XIX—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT  
ORGANIZATIONS*”

“*Sec. 1901. Definitions.*”

“*Sec. 1902. Authority to enter into contracts and issue Federal loan guarantees.*”

“*Sec. 1903. Eligibility criteria.*”

“*Sec. 1904. Use of loan guarantees.*”

“*Sec. 1905. Nonprofit organization applications.*”

“*Sec. 1906. Review by State Homeland Security Authorities.*”

“*Sec. 1907. Security enhancement and technical assistance contracts and loan  
guarantees.*”

“*Sec. 1908. Local law enforcement assistance grants.*”

“*Sec. 1909. Office of Community Relations and Civic Affairs.*”

“*Sec. 1910. Authorization of appropriations and loan guarantees.”.*”



1 ***Subtitle C—Restructuring Relating***  
2 ***to the Department of Homeland***  
3 ***Security and Congressional***  
4 ***Oversight***

5 ***SEC. 5025. RESPONSIBILITIES OF COUNTERNARCOTICS OF-***  
6 ***FICE.***

7 *(a) AMENDMENT.—Section 878 of the Homeland Secu-*  
8 *riety Act of 2002 (6 U.S.C. 458) is amended to read as fol-*  
9 *lows:*

10 ***“SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.***

11 *“(a) OFFICE.—There shall be in the Department an*  
12 *Office of Counternarcotics Enforcement, which shall be*  
13 *headed by a Director appointed by the President, by and*  
14 *with the advice and consent of the Senate.*

15 *“(b) ASSIGNMENT OF PERSONNEL.—(1) The Secretary*  
16 *shall assign to the Office permanent staff and other appro-*  
17 *priate personnel detailed from other subdivisions of the De-*  
18 *partment to carry out responsibilities under this section.*

19 *“(2) The Secretary shall designate senior employees*  
20 *from each appropriate subdivision of the Department that*  
21 *has significant counternarcotics responsibilities to act as a*  
22 *liaison between that subdivision and the Office of Counter-*  
23 *narcotics Enforcement.*

24 *“(c) LIMITATION ON CONCURRENT EMPLOYMENT.—*  
25 *Except as provided in subsection (d), the Director of the*



1 *Office of Counternarcotics Enforcement shall not be em-*  
2 *ployed by, assigned to, or serve as the head of, any other*  
3 *branch of the Federal Government, any State or local gov-*  
4 *ernment, or any subdivision of the Department other than*  
5 *the Office of Counternarcotics Enforcement.*

6       “(d) *ELIGIBILITY TO SERVE AS THE UNITED STATES*  
7 *INTERDICTION COORDINATOR.*—*The Director of the Office*  
8 *of Counternarcotics Enforcement may be appointed as the*  
9 *United States Interdiction Coordinator by the Director of*  
10 *the Office of National Drug Control Policy, and shall be*  
11 *the only person at the Department eligible to be so ap-*  
12 *pointed.*

13       “(e) *RESPONSIBILITIES.*—*The Secretary shall direct*  
14 *the Director of the Office of Counternarcotics*  
15 *Enforcement—*

16               “(1) *to coordinate policy and operations within*  
17 *the Department, between the Department and other*  
18 *Federal departments and agencies, and between the*  
19 *Department and State and local agencies with respect*  
20 *to stopping the entry of illegal drugs into the United*  
21 *States;*

22               “(2) *to ensure the adequacy of resources within*  
23 *the Department for stopping the entry of illegal drugs*  
24 *into the United States;*



1           “(3) to recommend the appropriate financial  
2           and personnel resources necessary to help the Depart-  
3           ment better fulfill its responsibility to stop the entry  
4           of illegal drugs into the United States;

5           “(4) within the JTTF construct to track and  
6           sever connections between illegal drug trafficking and  
7           terrorism; and

8           “(5) to be a representative of the Department on  
9           all task forces, committees, or other entities whose  
10          purpose is to coordinate the counternarcotics enforce-  
11          ment activities of the Department and other Federal,  
12          state or local agencies.

13          “(f) *REPORTS TO CONGRESS.*—

14                 “(1) *ANNUAL BUDGET REVIEW.*—*The Director of*  
15                 *the Office of Counternarcotics Enforcement shall, not*  
16                 *later than 30 days after the submission by the Presi-*  
17                 *dent to Congress of any request for expenditures for*  
18                 *the Department, submit to the Committees on Appro-*  
19                 *priations and the authorizing committees of jurisdic-*  
20                 *tion of the House of Representatives and the Senate*  
21                 *a review and evaluation of such request. The review*  
22                 *and evaluation shall—*

23                         “(A) identify any request or subpart of any  
24                         request that affects or may affect the counter-  
25                         narcotics activities of the Department or any of



1            *its subdivisions, or that affects the ability of the*  
2            *Department or any subdivision of the Depart-*  
3            *ment to meet its responsibility to stop the entry*  
4            *of illegal drugs into the United States;*

5            *“(B) describe with particularity how such*  
6            *requested funds would be or could be expended in*  
7            *furtherance of counternarcotics activities; and*

8            *“(C) compare such requests with requests for*  
9            *expenditures and amounts appropriated by Con-*  
10           *gress in the previous fiscal year.*

11           *“(2) EVALUATION OF COUNTERNARCOTICS AC-*  
12           *TIVITIES.—The Director of the Office of Counter-*  
13           *narcotics Enforcement shall, not later than February*  
14           *1 of each year, submit to the Committees on Appro-*  
15           *propriations and the authorizing committees of jurisdic-*  
16           *tion of the House of Representatives and the Senate*  
17           *a review and evaluation of the counternarcotics ac-*  
18           *tivities of the Department for the previous fiscal year.*  
19           *The review and evaluation shall—*

20           *“(A) describe the counternarcotics activities*  
21           *of the Department and each subdivision of the*  
22           *Department (whether individually or in coopera-*  
23           *tion with other subdivisions of the Department,*  
24           *or in cooperation with other branches of the Fed-*  
25           *eral Government or with State or local agencies),*





1           *including the methods, procedures, and systems*  
2           *(including computer systems) for collecting, ana-*  
3           *lyzing, sharing, and disseminating information*  
4           *concerning narcotics activity within the Depart-*  
5           *ment and between the Department and other*  
6           *Federal, State, and local agencies;*

7           “(B) *describe the results of those activities,*  
8           *using quantifiable data whenever possible;*

9           “(C) *state whether those activities were suf-*  
10          *ficient to meet the responsibility of the Depart-*  
11          *ment to stop the entry of illegal drugs into the*  
12          *United States, including a description of the per-*  
13          *formance measures of effectiveness that were used*  
14          *in making that determination; and*

15          “(D) *recommend, where appropriate,*  
16          *changes to those activities to improve the per-*  
17          *formance of the Department in meeting its re-*  
18          *sponsibility to stop the entry of illegal drugs into*  
19          *the United States.*

20          “(3) *CLASSIFIED OR LAW ENFORCEMENT SEN-*  
21          *SITIVE INFORMATION.—Any content of a review and*  
22          *evaluation described in the reports required in this*  
23          *subsection that involves information classified under*  
24          *criteria established by an Executive order, or whose*  
25          *public disclosure, as determined by the Secretary,*



1       *would be detrimental to the law enforcement or na-*  
2       *tional security activities of the Department or any*  
3       *other Federal, State, or local agency, shall be pre-*  
4       *sented to Congress separately from the rest of the re-*  
5       *view and evaluation.”.*

6       **(b) CONFORMING AMENDMENT.**—*Section 103(a) of the*  
7       *Homeland Security Act of 2002 (6 U.S.C. 113(a)) is*  
8       *amended—*

9               *(1) by redesignating paragraphs (8) and (9) as*  
10              *paragraphs (9) and (10), respectively; and*

11              *(2) by inserting after paragraph (7) the fol-*  
12              *lowing new paragraph (8):*

13              *“(8) A Director of the Office of Counternarcotics*  
14              *Enforcement.”.*

15       **(c) AUTHORIZATION OF APPROPRIATIONS.**—*Of the*  
16       *amounts appropriated for the Department of Homeland Se-*  
17       *curity for Departmental management and operations for*  
18       *fiscal year 2005, there is authorized up to \$6,000,000 to*  
19       *carry out section 878 of the Department of Homeland Secu-*  
20       *rity Act of 2002 (as amended by this section).*



1 **SEC. 5026. USE OF COUNTERNARCOTICS ENFORCEMENT AC-**  
2 **TIVITIES IN CERTAIN EMPLOYEE PERFORM-**  
3 **ANCE APPRAISALS.**

4 (a) *IN GENERAL.*—*Subtitle E of title VIII of the*  
5 *Homeland Security Act of 2002 (6 U.S.C. 411 and fol-*  
6 *lowing) is amended by adding at the end the following:*

7 **“SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT AC-**  
8 **TIVITIES IN CERTAIN EMPLOYEE PERFORM-**  
9 **ANCE APPRAISALS.**

10 *“(a) IN GENERAL.*—*Each subdivision of the Depart-*  
11 *ment that is a National Drug Control Program Agency*  
12 *shall include as one of the criteria in its performance ap-*  
13 *praisal system, for each employee directly or indirectly in-*  
14 *volved in the enforcement of Federal, State, or local nar-*  
15 *cotics laws, the performance of that employee with respect*  
16 *to the enforcement of Federal, State, or local narcotics laws,*  
17 *relying to the greatest extent practicable on objective per-*  
18 *formance measures, including—*

19 *“(1) the contribution of that employee to seizures*  
20 *of narcotics and arrests of violators of Federal, State,*  
21 *or local narcotics laws; and*

22 *“(2) the degree to which that employee cooper-*  
23 *ated with or contributed to the efforts of other employ-*  
24 *ees, either within the Department or other Federal,*  
25 *State, or local agencies, in counternarcotics enforce-*  
26 *ment.*



1       “(b) *DEFINITIONS.*—*For purposes of this section—*

2               “(1) *the term ‘National Drug Control Program*  
3 *Agency’ means—*

4                       “(A) *a National Drug Control Program*  
5 *Agency, as defined in section 702(7) of the Office*  
6 *of National Drug Control Policy Reauthorization*  
7 *Act of 1998 (as last in effect); and*

8                       “(B) *any subdivision of the Department*  
9 *that has a significant counternarcotics responsi-*  
10 *bility, as determined by—*

11                               “(i) *the counternarcotics officer, ap-*  
12 *pointed under section 878; or*

13                               “(ii) *if applicable, the counternarcotics*  
14 *officer’s successor in function (as deter-*  
15 *mined by the Secretary); and*

16               “(2) *the term ‘performance appraisal system’*  
17 *means a system under which periodic appraisals of*  
18 *job performance of employees are made, whether*  
19 *under chapter 43 of title 5, United States Code, or*  
20 *otherwise.”.*

21       “(b) *CLERICAL AMENDMENT.*—*The table of contents for*  
22 *the Homeland Security Act of 2002 is amended by inserting*  
23 *after the item relating to section 842 the following:*

      “*Sec. 843. Use of counternarcotics enforcement activities in certain employee per-*  
      *formance appraisals.”.*



1 **SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES ON**  
2 **ADDRESSING HOMELAND SECURITY FOR THE**  
3 **AMERICAN PEOPLE.**

4 (a) *FINDINGS.*—*The House of Representatives finds*  
5 *that—*

6 (1) *the House of Representatives created a Select*  
7 *Committee on Homeland Security at the start of the*  
8 *108th Congress to provide for vigorous congressional*  
9 *oversight for the implementation and operation of the*  
10 *Department of Homeland Security;*

11 (2) *the House of Representatives also charged the*  
12 *Select Committee on Homeland Security, including*  
13 *its Subcommittee on Rules, with undertaking a thor-*  
14 *ough and complete study of the operation and imple-*  
15 *mentation of the rules of the House, including the rule*  
16 *governing committee jurisdiction, with respect to the*  
17 *issue of homeland security and to make their rec-*  
18 *ommendations to the Committee on Rules;*

19 (3) *on February 11, 2003, the Committee on Ap-*  
20 *propriations of the House of Representatives created*  
21 *a new Subcommittee on Homeland Security with ju-*  
22 *risdiction over the Transportation Security Adminis-*  
23 *tration, the Coast Guard, and other entities within*  
24 *the Department of Homeland Security to help address*  
25 *the integration of the Department of Homeland Secu-*  
26 *riety's 22 legacy agencies; and*



1           (4) *during the 108th Congress, the House of Rep-*  
2           *resentatives has taken several steps to help ensure its*  
3           *continuity in the event of a terrorist attack,*  
4           *including—*

5                   (A) *adopting H.R. 2844, the Continuity of*  
6           *Representation Act, a bill to require States to*  
7           *hold expedited special elections to fill vacancies*  
8           *in the House of Representatives not later than 45*  
9           *days after the vacancy is announced by the*  
10          *Speaker in extraordinary circumstances;*

11                   (B) *granting authority for joint-leadership*  
12          *recalls from a period of adjournment to an alter-*  
13          *nate place;*

14                   (C) *allowing for anticipatory consent with*  
15          *the Senate to assemble in an alternate place;*

16                   (D) *establishing the requirement that the*  
17          *Speaker submit to the Clerk a list of Members in*  
18          *the order in which each shall act as Speaker pro*  
19          *tempore in the case of a vacancy in the Office of*  
20          *Speaker (including physical inability of the*  
21          *Speaker to discharge his duties) until the election*  
22          *of a Speaker or a Speaker pro tempore, exer-*  
23          *cising such authorities of the Speaker as may be*  
24          *necessary and appropriate to that end;*



1           (E) *granting authority for the Speaker to*  
2           *declare an emergency recess of the House subject*  
3           *to the call of the Chair when notified of an im-*  
4           *minent threat to the safety of the House;*

5           (F) *granting authority for the Speaker, dur-*  
6           *ing any recess or adjournment of not more than*  
7           *three days, in consultation with the Minority*  
8           *Leader, to postpone the time for reconvening or*  
9           *to reconvene before the time previously appointed*  
10          *solely to declare the House in recess, in each case*  
11          *within the constitutional three-day limit;*

12          (G) *establishing the authority for the Speak-*  
13          *er to convene the House in an alternate place*  
14          *within the seat of Government; and*

15          (H) *codifying the long-standing practice*  
16          *that the death, resignation, expulsion, disquali-*  
17          *fication, or removal of a Member results in an*  
18          *adjustment of the quorum of the House, which*  
19          *the Speaker shall announce to the House and*  
20          *which shall not be subject to appeal.*

21          (b) *SENSE OF THE HOUSE.—It is the sense of the*  
22          *House of Representatives that the Committee on Rules*  
23          *should act upon the recommendations provided by the Select*  
24          *Committee on Homeland Security, and other committees of*  
25          *existing jurisdiction, regarding the jurisdiction over pro-*



1 *posed legislation, messages, petitions, memorials and other*  
2 *matters relating to homeland security prior to or at the*  
3 *start of the 109th Congress.*

4           ***Subtitle D—Improvements to***  
5                           ***Information Security***

6 ***SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS***  
7                           ***TO ENHANCE AGENCY PLANNING FOR INFOR-***  
8                           ***MATION SECURITY NEEDS.***

9           *Chapter 113 of title 40, United States Code, is*  
10 *amended—*

11                   (1) *in section 11302(b), by inserting “security,”*  
12                   *after “use,”;*

13                   (2) *in section 11302(c), by inserting “, including*  
14 *information security risks,” after “risks” both places*  
15 *it appears;*

16                   (3) *in section 11312(b)(1), by striking “informa-*  
17 *tion technology investments” and inserting “invest-*  
18 *ments in information technology (including informa-*  
19 *tion security needs)”;* and

20                   (4) *in section 11315(b)(2), by inserting “, se-*  
21 *cure,” after “sound”.*





1 ***Subtitle E—Personnel Management***  
2 ***Improvements***

3 ***CHAPTER 1—APPOINTMENTS PROCESS***  
4 ***REFORM***

5 ***SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSI-***  
6 ***TIONS.***

7 *(a) DEFINITION OF NATIONAL SECURITY POSITION.—*

8 *For purposes of this section, the term “national security*  
9 *position” shall include—*

10 *(1) those positions that involve activities of the*  
11 *United States Government that are concerned with*  
12 *the protection of the Nation from foreign aggression,*  
13 *terrorism, or espionage, including development of de-*  
14 *fense plans or policies, intelligence or counterintel-*  
15 *ligence activities, and related activities concerned*  
16 *with the preservation of military strength of the*  
17 *United States and protection of the homeland; and*

18 *(2) positions that require regular use of, or ac-*  
19 *cess to, classified information.*

20 *(b) PUBLICATION IN THE FEDERAL REGISTER.—Not*

21 *later than 60 days after the effective date of this section,*  
22 *the Director of the Office of Personnel Management shall*  
23 *publish in the Federal Register a list of offices that con-*  
24 *stitute national security positions under section (a) for*  
25 *which Senate confirmation is required by law, and the Di-*



1 *rector shall revise such list from time to time as appro-*  
2 *priate.*

3       (c) *PRESIDENTIAL APPOINTMENTS.—(1) With respect*  
4 *to appointment of individuals to offices identified under*  
5 *section (b) and listed in sections 5315 or 5316 of title 5,*  
6 *United States Code, which shall arise after the publication*  
7 *of the list required by section (b), and notwithstanding any*  
8 *other provision of law, the advice and consent of the Senate*  
9 *shall not be required, but rather such appointment shall be*  
10 *made by the President alone.*

11       (2) *With respect to appointment of individuals to of-*  
12 *fices identified under section (b) and listed in sections 5313*  
13 *or 5314 of title 5, United States Code, which shall arise*  
14 *after the publication of the list required by section (b), and*  
15 *notwithstanding any other provision of law, the advice and*  
16 *consent of the Senate shall be required, except that if 30*  
17 *legislative days shall have expired from the date on which*  
18 *a nomination is submitted to the Senate without a con-*  
19 *firmation vote occurring in the Senate, such appointment*  
20 *shall be made by the President alone.*

21       (3) *For the purposes of this subsection, the term “legis-*  
22 *lative day” means a day on which the Senate is in session.*

23 **SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.**

24       *Subsections (a) and (b) of section 3349a of title 5,*  
25 *United States Code, are amended to read as follows:*



1       “(a) *As used in this section—*

2               “(1) *the term ‘inauguration day’ means the date*  
3       *on which any person swears or affirms the oath of of-*  
4       *fice as President; and*

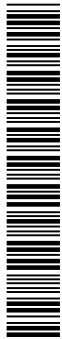
5               “(2) *the term ‘specified national security posi-*  
6       *tion’ shall mean not more than 20 positions requiring*  
7       *Senate confirmation, not to include more than 3*  
8       *heads of Executive Departments, which are designated*  
9       *by the President on or after an inauguration day as*  
10       *positions for which the duties involve substantial re-*  
11       *sponsibility for national security.*

12       “(b) *With respect to any vacancy that exists during*  
13       *the 60-day period beginning on an inauguration day, ex-*  
14       *cept where the person swearing or affirming the oath of of-*  
15       *fice was the President on the date preceding the date of*  
16       *swearing or affirming such oath of office, the 210-day pe-*  
17       *riod under section 3346 or 3348 shall be deemed to begin*  
18       *on the later of the date occurring—*

19               “(1) *90 days after such transitional inaugura-*  
20       *tion day; or*

21               “(2) *90 days after the date on which the vacancy*  
22       *occurs.*

23       “(c) *With respect to any vacancy in any specified na-*  
24       *tional security position that exists during the 60-day period*  
25       *beginning on an inauguration day, the requirements of sub-*



1 paragraphs (A) and (B) of section 3345(a)(3) shall not  
2 apply.”.

3 **SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE IN-**  
4 **TELLIGENCE COMMUNITY.**

5 (a) *IN GENERAL.*—*The Ethics in Government Act of*  
6 *1978 (5 U.S.C. App.) is amended by inserting before title*  
7 *IV the following:*

8 **“TITLE III—INTELLIGENCE PER-**  
9 **SONNEL FINANCIAL DISCLO-**  
10 **SURE REQUIREMENTS**

11 **“SEC. 301. PERSONS REQUIRED TO FILE.**

12 “(a) *Within 30 days of assuming the position of an*  
13 *officer or employee described in subsection (e), an indi-*  
14 *vidual shall file a report containing the information de-*  
15 *scribed in section 302(b) unless the individual has left an-*  
16 *other position described in subsection (e) within 30 days*  
17 *prior to assuming such new position or has already filed*  
18 *a report under this title with respect to nomination for the*  
19 *new position or as a candidate for the position.*

20 “(b)(1) *Within 5 days of the transmittal by the Presi-*  
21 *dent to the Senate of the nomination of an individual to*  
22 *a position in the executive branch, appointment to which*  
23 *requires the advice and consent of the Senate, such indi-*  
24 *vidual shall file a report containing the information de-*  
25 *scribed in section 302(b). Such individual shall, not later*



1 *than the date of the first hearing to consider the nomination*  
2 *of such individual, make current the report filed pursuant*  
3 *to this paragraph by filing the information required by sec-*  
4 *tion 302(a)(1)(A) with respect to income and honoraria re-*  
5 *ceived as of the date which occurs 5 days before the date*  
6 *of such hearing. Nothing in this Act shall prevent any con-*  
7 *gressional committee from requesting, as a condition of con-*  
8 *firmation, any additional financial information from any*  
9 *Presidential nominee whose nomination has been referred*  
10 *to that committee.*

11       “(2) *An individual whom the President or the Presi-*  
12 *dent-elect has publicly announced he intends to nominate*  
13 *to a position may file the report required by paragraph*  
14 *(1) at any time after that public announcement, but not*  
15 *later than is required under the first sentence of such para-*  
16 *graph.*

17       “(c) *Any individual who is an officer or employee de-*  
18 *scribed in subsection (e) during any calendar year and per-*  
19 *forms the duties of his position or office for a period in*  
20 *excess of 60 days in that calendar year shall file on or before*  
21 *May 15 of the succeeding year a report containing the infor-*  
22 *mation described in section 302(a).*

23       “(d) *Any individual who occupies a position described*  
24 *in subsection (e) shall, on or before the 30th day after termi-*  
25 *nation of employment in such position, file a report con-*



1 *taining the information described in section 302(a) cov-*  
2 *ering the preceding calendar year if the report required by*  
3 *subsection (c) has not been filed and covering the portion*  
4 *of the calendar year in which such termination occurs up*  
5 *to the date the individual left such office or position, unless*  
6 *such individual has accepted employment in or takes the*  
7 *oath of office for another position described in subsection*  
8 *(e) or section 101(f).*

9       “(e) *The officers and employees referred to in sub-*  
10 *sections (a), (c), and (d) are those employed in or under—*

11               “(1) *the Office of the National Intelligence Direc-*  
12 *tor; or*

13               “(2) *an element of the intelligence community,*  
14 *as defined in section 3(4) of the National Security*  
15 *Act of 1947 (50 U.S.C. 401a(4)).*

16       “(f)(1) *Reasonable extensions of time for filing any re-*  
17 *port may be granted under procedures prescribed by the Of-*  
18 *fice of Government Ethics, but the total of such extensions*  
19 *shall not exceed 90 days.*

20       “(2)(A) *In the case of an individual who is serving*  
21 *in the Armed Forces, or serving in support of the Armed*  
22 *Forces, in an area while that area is designated by the*  
23 *President by Executive order as a combat zone for purposes*  
24 *of section 112 of the Internal Revenue Code of 1986, the*



1 *date for the filing of any report shall be extended so that*  
2 *the date is 180 days after the later of—*

3 *“(i) the last day of the individual’s service*  
4 *in such area during such designated period; or*

5 *“(ii) the last day of the individual’s hos-*  
6 *pitalization as a result of injury received or dis-*  
7 *ease contracted while serving in such area.*

8 *“(B) The Office of Government Ethics, in consultation*  
9 *with the Secretary of Defense, may prescribe procedures*  
10 *under this paragraph.*

11 *“(g) The Director of the Office of Government Ethics*  
12 *may grant a publicly available request for a waiver of any*  
13 *reporting requirement under this title with respect to an*  
14 *individual if the Director determines that—*

15 *“(1) such individual is not a full-time employee*  
16 *of the Government;*

17 *“(2) such individual is able to provide special*  
18 *services needed by the Government;*

19 *“(3) it is unlikely that such individual’s outside*  
20 *employment or financial interests will create a con-*  
21 *flict of interest; and*

22 *“(4) public financial disclosure by such indi-*  
23 *vidual is not necessary in the circumstances.*

24 *“(h)(1) The Director of the Office of Government Eth-*  
25 *ics may establish procedures under which an incoming in-*



1 *dividual can take actions to avoid conflicts of interest while*  
2 *in office if the individual has holdings or other financial*  
3 *interests that raise conflict concerns.*

4       “(2) *The actions referenced in paragraph (1) may in-*  
5 *clude, but are not limited to, signed agreements with the*  
6 *individual’s employing agency, the establishment of blind*  
7 *trusts, or requirements for divesting interests or holdings*  
8 *while in office.*

9       **“SEC. 302. CONTENTS OF REPORTS.**

10       “(a) *Each report filed pursuant to section 301 (c) and*  
11 *(d) shall include a full and complete statement with respect*  
12 *to the following:*

13               “(1)(A) *The source, description, and category of*  
14 *value of income (other than income referred to in sub-*  
15 *paragraph (B)) from any source (other than from*  
16 *current employment by the United States Govern-*  
17 *ment), received during the preceding calendar year,*  
18 *aggregating more than \$500 in value, except that*  
19 *honoraria received during Government service by an*  
20 *officer or employee shall include, in addition to the*  
21 *source, the exact amount and the date it was received.*

22               “(B) *The source and description of investment*  
23 *income which may include but is not limited to divi-*  
24 *dends, rents, interest, and capital gains, received dur-*





1        *ing the preceding calendar year which exceeds \$500*  
2        *in amount or value.*

3            *“(C) The categories for reporting the amount for*  
4        *income covered in subparagraphs (A) and (B) are—*

5            *“(i) greater than \$500 but not more than*  
6        *\$20,000;*

7            *“(ii) greater than \$20,000 but not more*  
8        *than \$100,000;*

9            *“(iii) greater than \$100,000 but not more*  
10       *than \$1,000,000;*

11           *“(iv) greater than \$1,000,000 but not more*  
12       *than \$2,500,000; and*

13           *“(v) greater than \$2,500,000.*

14           *“(2)(A) The identity of the source, a brief de-*  
15       *scription, and the value of all gifts aggregating more*  
16       *than the minimal value as established by section*  
17       *7342(a)(5) of title 5, United States Code, or \$250,*  
18       *whichever is greater, received from any source other*  
19       *than a relative of the reporting individual during the*  
20       *preceding calendar year, except that any food, lodg-*  
21       *ing, or entertainment received as personal hospitality*  
22       *of an individual need not be reported, and any gift*  
23       *with a fair market value of \$100 or less, as adjusted*  
24       *at the same time and by the same percentage as the*



1        *minimal value is adjusted, need not be aggregated for*  
2        *purposes of this subparagraph.*

3            *“(B) The identity of the source and a brief de-*  
4        *scription (including dates of travel and nature of ex-*  
5        *penses provided) of reimbursements received from any*  
6        *source aggregating more than the minimal value as*  
7        *established by section 7342(a)(5) of title 5, United*  
8        *States Code, or \$250, whichever is greater and re-*  
9        *ceived during the preceding calendar year.*

10           *“(3) The identity and category of value of any*  
11        *interest in property held during the preceding cal-*  
12        *endar year in a trade or business, or for investment*  
13        *or the production of income, which has a fair market*  
14        *value which exceeds \$5,000 as of the close of the pre-*  
15        *ceding calendar year, excluding any personal liability*  
16        *owed to the reporting individual by a spouse, or by*  
17        *a parent, brother, sister, or child of the reporting in-*  
18        *dividual or of the reporting individual’s spouse, or*  
19        *any deposit accounts aggregating \$100,000 or less in*  
20        *a financial institution, or any Federal Government*  
21        *securities aggregating \$100,000 or less.*

22           *“(4) The identity and category of value of the*  
23        *total liabilities owed to any creditor other than a*  
24        *spouse, or a parent, brother, sister, or child of the re-*  
25        *porting individual or of the reporting individual’s*



1 spouse which exceed \$20,000 at any time during the  
2 preceding calendar year, excluding—

3 “(A) any mortgage secured by real property  
4 which is a personal residence of the reporting in-  
5 dividual or his spouse; and

6 “(B) any loan secured by a personal motor  
7 vehicle, household furniture, or appliances, which  
8 loan does not exceed the purchase price of the  
9 item which secures it.

10 With respect to revolving charge accounts, only those  
11 with an outstanding liability which exceeds \$20,000  
12 as of the close of the preceding calendar year need be  
13 reported under this paragraph. Notwithstanding the  
14 preceding sentence, individuals required to file pursu-  
15 ant to section 301(b) shall also report the aggregate  
16 sum of the outstanding balances of all revolving  
17 charge accounts as of any date that is within 30 days  
18 of the date of filing if the aggregate sum of those bal-  
19 ances exceeds \$20,000.

20 “(5) Except as provided in this paragraph, a  
21 brief description of any real property, other than  
22 property used solely as a personal residence of the re-  
23 porting individual or his spouse, or stocks, bonds,  
24 commodities futures, and other forms of securities,  
25 if—



1           “(A) purchased, sold, or exchanged during  
2           the preceding calendar year;

3           “(B) the value of the transaction exceeded  
4           \$5,000; and

5           “(C) the property or security is not already  
6           required to be reported as a source of income  
7           pursuant to paragraph (1)(B) or as an asset  
8           pursuant to paragraph (3).

9           “(6)(A) The identity of all positions held on or  
10          before the date of filing during the current calendar  
11          year (and, for the first report filed by an individual,  
12          during the 1-year period preceding such calendar  
13          year) as an officer, director, trustee, partner, propri-  
14          etor, representative, employee, or consultant of any  
15          corporation, company, firm, partnership, or other  
16          business enterprise, any nonprofit organization, any  
17          labor organization, or any educational or other insti-  
18          tution other than the United States Government. This  
19          subparagraph shall not require the reporting of posi-  
20          tions held in any religious, social, fraternal, or polit-  
21          ical entity and positions solely of an honorary na-  
22          ture.

23          “(B) If any person, other than a person reported  
24          as a source of income under paragraph (1)(A) or the  
25          United States Government, paid a nonelected report-



1        *ing individual compensation in excess of \$25,000 in*  
2        *the calendar year in which, or the calendar year*  
3        *prior to the calendar year in which, the individual*  
4        *files his first report under this title, the individual*  
5        *shall include in the report—*

6                *“(i) the identity of each source of such com-*  
7                *penetration; and*

8                *“(ii) a brief description of the nature of the*  
9                *duties performed or services rendered by the re-*  
10               *porting individual for each such source.*

11 *The preceding sentence shall not require any individual to*  
12 *include in such report any information which is considered*  
13 *confidential as a result of a privileged relationship, estab-*  
14 *lished by law, between such individual and any person or*  
15 *any information which the person for whom the services are*  
16 *provided has a reasonable expectation of privacy, nor shall*  
17 *it require an individual to report any information with*  
18 *respect to any person for whom services were provided by*  
19 *any firm or association of which such individual was a*  
20 *member, partner, or employee unless such individual was*  
21 *directly involved in the provision of such services.*

22                *“(7) A description of parties to and terms of any*  
23                *agreement or arrangement with respect to (A) future*  
24                *employment; (B) a leave of absence during the period*  
25                *of the reporting individual’s Government service; (C)*



1       *continuation of payments by a former employer other*  
2       *than the United States Government; and (D) con-*  
3       *tinuing participation in an employee welfare or ben-*  
4       *efit plan maintained by a former employer. The de-*  
5       *scription of any formal agreement for future employ-*  
6       *ment shall include the date on which that agreement*  
7       *was entered into.*

8               *“(8) The category of the total cash value of any*  
9       *interest of the reporting individual in a qualified*  
10       *blind trust.*

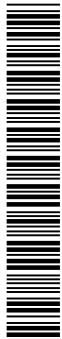
11       *“(b)(1) Each report filed pursuant to subsections (a)*  
12       *and (b) of section 301 shall include a full and complete*  
13       *statement with respect to the information required by—*

14               *“(A) paragraphs (1) and (6) of subsection (a) for*  
15       *the year of filing and the preceding calendar year,*

16               *“(B) paragraphs (3) and (4) of subsection (a) as*  
17       *of the date specified in the report but which is less*  
18       *than 31 days before the filing date, and*

19               *“(C) paragraph (7) of subsection (a) as of the fil-*  
20       *ing date but for periods described in such paragraph.*

21       *“(2)(A) In lieu of filling out 1 or more schedules of*  
22       *a financial disclosure form, an individual may supply the*  
23       *required information in an alternative format, pursuant to*  
24       *either rules adopted by the Office of Government Ethics or*  
25       *pursuant to a specific written determination by the Direc-*



1 *tor of the Office of Government Ethics for a reporting indi-*  
2 *vidual.*

3       “(B) *In lieu of indicating the category of amount or*  
4 *value of any item contained in any report filed under this*  
5 *title, a reporting individual may indicate the exact dollar*  
6 *amount of such item.*

7       “(c)(1) *In the case of any individual referred to in*  
8 *section 301(c), the Office of Government Ethics may by reg-*  
9 *ulation require a reporting period to include any period*  
10 *in which the individual served as an officer or employee*  
11 *described in section 301(e) and the period would not other-*  
12 *wise be covered by any public report filed pursuant to this*  
13 *title.*

14       “(2) *In the case of any individual referred to in section*  
15 *301(d), any reference to the preceding calendar year shall*  
16 *be considered also to include that part of the calendar year*  
17 *of filing up to the date of the termination of employment.*

18       “(d)(1) *The categories for reporting the amount or*  
19 *value of the items covered in subsection (a)(3) are—*

20               “(A) *greater than \$5,000 but not more than*  
21 *\$15,000;*

22               “(B) *greater than \$15,000 but not more than*  
23 *\$100,000;*

24               “(C) *greater than \$100,000 but not more than*  
25 *\$1,000,000;*



1           “(D) greater than \$1,000,000 but not more than  
2           \$2,500,000; and

3           “(E) greater than \$2,500,000.

4           “(2) For the purposes of subsection (a)(3) if the current  
5 value of an interest in real property (or an interest in a  
6 real estate partnership) is not ascertainable without an ap-  
7 praisal, an individual may list (A) the date of purchase  
8 and the purchase price of the interest in the real property,  
9 or (B) the assessed value of the real property for tax pur-  
10 poses, adjusted to reflect the market value of the property  
11 used for the assessment if the assessed value is computed  
12 at less than 100 percent of such market value, but such indi-  
13 vidual shall include in his report a full and complete de-  
14 scription of the method used to determine such assessed  
15 value, instead of specifying a category of value pursuant  
16 to paragraph (1). If the current value of any other item  
17 required to be reported under subsection (a)(3) is not ascer-  
18 tainable without an appraisal, such individual may list the  
19 book value of a corporation whose stock is not publicly trad-  
20 ed, the net worth of a business partnership, the equity value  
21 of an individually owned business, or with respect to other  
22 holdings, any recognized indication of value, but such indi-  
23 vidual shall include in his report a full and complete de-  
24 scription of the method used in determining such value. In  
25 lieu of any value referred to in the preceding sentence, an





1 *individual may list the assessed value of the item for tax*  
2 *purposes, adjusted to reflect the market value of the item*  
3 *used for the assessment if the assessed value is computed*  
4 *at less than 100 percent of such market value, but a full*  
5 *and complete description of the method used in determining*  
6 *such assessed value shall be included in the report.*

7       “(3) *The categories for reporting the amount or value*  
8 *of the items covered in paragraphs (4) and (8) of subsection*  
9 *(a) are—*

10           “(A) *greater than \$20,000 but not more than*  
11           *\$100,000;*

12           “(B) *greater than \$100,000 but not more than*  
13           *\$500,000;*

14           “(C) *greater than \$500,000 but not more than*  
15           *\$1,000,000; and*

16           “(D) *greater than \$1,000,000.*

17       “(e)(1) *Except as provided in subparagraph (F), each*  
18 *report required by section 301 shall also contain informa-*  
19 *tion listed in paragraphs (1) through (5) of subsection (a)*  
20 *respecting the spouse or dependent child of the reporting*  
21 *individual as follows:*

22           “(A) *The sources of earned income earned by a*  
23           *spouse including honoraria which exceed \$500 except*  
24           *that, with respect to earned income if the spouse is*



1 *self-employed in business or a profession, only the na-*  
2 *ture of such business or profession need be reported.*

3 *“(B) All information required to be reported in*  
4 *subsection (a)(1)(B) with respect to investment in-*  
5 *come derived by a spouse or dependent child.*

6 *“(C) In the case of any gifts received by a spouse*  
7 *or dependent child which are not received totally*  
8 *independent of the relationship of the spouse or de-*  
9 *pendent child to the reporting individual, the identity*  
10 *of the source and a brief description of gifts of trans-*  
11 *portation, lodging, food, or entertainment and a brief*  
12 *description and the value of other gifts.*

13 *“(D) In the case of any reimbursements received*  
14 *by a spouse or dependent child which are not received*  
15 *totally independent of the relationship of the spouse*  
16 *or dependent child to the reporting individual, the*  
17 *identity of the source and a brief description of each*  
18 *such reimbursement.*

19 *“(E) In the case of items described in para-*  
20 *graphs (3) through (5) of subsection (a), all informa-*  
21 *tion required to be reported under these paragraphs*  
22 *other than items which the reporting individual cer-*  
23 *tifies (i) represent the spouse’s or dependent child’s*  
24 *sole financial interest or responsibility and which the*  
25 *reporting individual has no knowledge of, (ii) are not*



1        *in any way, past or present, derived from the income,*  
2        *assets, or activities of the reporting individual, and*  
3        *(iii) that he neither derives, nor expects to derive, any*  
4        *financial or economic benefit.*

5            *“(F) Reports required by subsections (a), (b),*  
6        *and (c) of section 301 shall, with respect to the spouse*  
7        *and dependent child of the reporting individual, only*  
8        *contain information listed in paragraphs (1), (3),*  
9        *and (4) of subsection (a).*

10          *“(2) No report shall be required with respect to a*  
11        *spouse living separate and apart from the reporting indi-*  
12        *vidual with the intention of terminating the marriage or*  
13        *providing for permanent separation, or with respect to any*  
14        *income or obligations of an individual arising from the dis-*  
15        *solution of his marriage or the permanent separation from*  
16        *his spouse.*

17          *“(f)(1) Except as provided in paragraph (2), each re-*  
18        *porting individual shall report the information required to*  
19        *be reported pursuant to subsections (a), (b), and (c) with*  
20        *respect to the holdings of and the income from a trust or*  
21        *other financial arrangement from which income is received*  
22        *by, or with respect to which a beneficial interest in prin-*  
23        *cipal or income is held by, such individual, his spouse, or*  
24        *any dependent child.*



1       “(2) *A reporting individual need not report the hold-*  
2 *ings of or the source of income from any of the holdings*  
3 *of—*

4               “(A) *any qualified blind trust (as defined in*  
5 *paragraph (3));*

6               “(B) *a trust—*

7                       “(i) *which was not created directly by such*  
8 *individual, his spouse, or any dependent child,*  
9 *and*

10                      “(ii) *the holdings or sources of income of*  
11 *which such individual, his spouse, and any de-*  
12 *pendent child have no knowledge; or*

13               “(C) *an entity described under the provisions of*  
14 *paragraph (8), but such individual shall report the*  
15 *category of the amount of income received by him, his*  
16 *spouse, or any dependent child from the entity under*  
17 *subsection (a)(1)(B).*

18       “(3) *For purposes of this subsection, the term ‘qualified*  
19 *blind trust’ includes any trust in which a reporting indi-*  
20 *vidual, his spouse, or any minor or dependent child has*  
21 *a beneficial interest in the principal or income, and which*  
22 *meets the following requirements:*

23                      “(A)(i) *The trustee of the trust and any other en-*  
24 *tity designated in the trust instrument to perform fi-*  
25 *duciary duties is a financial institution, an attorney,*



1        *a certified public accountant, a broker, or an invest-*  
2        *ment advisor who—*

3                *“(I) is independent of and not associated*  
4                *with any interested party so that the trustee or*  
5                *other person cannot be controlled or influenced*  
6                *in the administration of the trust by any inter-*  
7                *ested party;*

8                *“(II) is not and has not been an employee*  
9                *of or affiliated with any interested party and is*  
10               *not a partner of, or involved in any joint ven-*  
11               *ture or other investment with, any interested*  
12               *party; and*

13               *“(III) is not a relative of any interested*  
14               *party.*

15               *“(ii) Any officer or employee of a trustee or other*  
16               *entity who is involved in the management or control*  
17               *of the trust—*

18               *“(I) is independent of and not associated*  
19               *with any interested party so that such officer or*  
20               *employee cannot be controlled or influenced in*  
21               *the administration of the trust by any interested*  
22               *party;*

23               *“(II) is not a partner of, or involved in any*  
24               *joint venture or other investment with, any in-*  
25               *terested party; and*



1           “(III) is not a relative of any interested  
2           party.

3           “(B) Any asset transferred to the trust by an in-  
4           terested party is free of any restriction with respect  
5           to its transfer or sale unless such restriction is ex-  
6           pressly approved by the Office of Government Ethics.

7           “(C) The trust instrument which establishes the  
8           trust provides that—

9           “(i) except to the extent provided in sub-  
10          paragraph (B), the trustee in the exercise of his  
11          authority and discretion to manage and control  
12          the assets of the trust shall not consult or notify  
13          any interested party;

14          “(ii) the trust shall not contain any asset  
15          the holding of which by an interested party is  
16          prohibited by any law or regulation;

17          “(iii) the trustee shall promptly notify the  
18          reporting individual and the Office of Govern-  
19          ment Ethics when the holdings of any particular  
20          asset transferred to the trust by any interested  
21          party are disposed of or when the value of such  
22          holding is less than \$1,000;

23          “(iv) the trust tax return shall be prepared  
24          by the trustee or his designee, and such return  
25          and any information relating thereto (other than



1           *the trust income summarized in appropriate cat-*  
2           *egories necessary to complete an interested par-*  
3           *ty's tax return), shall not be disclosed to any in-*  
4           *terested party;*

5           “(v) *an interested party shall not receive*  
6           *any report on the holdings and sources of income*  
7           *of the trust, except a report at the end of each*  
8           *calendar quarter with respect to the total cash*  
9           *value of the interest of the interested party in the*  
10          *trust or the net income or loss of the trust or any*  
11          *reports necessary to enable the interested party*  
12          *to complete an individual tax return required by*  
13          *law or to provide the information required by*  
14          *subsection (a)(1) of this section, but such report*  
15          *shall not identify any asset or holding;*

16          “(vi) *except for communications which sole-*  
17          *ly consist of requests for distributions of cash or*  
18          *other unspecified assets of the trust, there shall be*  
19          *no direct or indirect communication between the*  
20          *trustee and an interested party with respect to*  
21          *the trust unless such communication is in writ-*  
22          *ing and unless it relates only (I) to the general*  
23          *financial interest and needs of the interested*  
24          *party (including, but not limited to, an interest*  
25          *in maximizing income or long-term capital*



1           *gain), (II) to the notification of the trustee of a*  
2           *law or regulation subsequently applicable to the*  
3           *reporting individual which prohibits the inter-*  
4           *ested party from holding an asset, which notifi-*  
5           *cation directs that the asset not be held by the*  
6           *trust, or (III) to directions to the trustee to sell*  
7           *all of an asset initially placed in the trust by an*  
8           *interested party which in the determination of*  
9           *the reporting individual creates a conflict of in-*  
10          *terest or the appearance thereof due to the subse-*  
11          *quent assumption of duties by the reporting in-*  
12          *dividual (but nothing herein shall require any*  
13          *such direction); and*

14                 *“(vi) the interested parties shall make no*  
15                 *effort to obtain information with respect to the*  
16                 *holdings of the trust, including obtaining a copy*  
17                 *of any trust tax return filed or any information*  
18                 *relating thereto except as otherwise provided in*  
19                 *this subsection.*

20                 *“(D) The proposed trust instrument and the pro-*  
21                 *posed trustee is approved by the Office of Government*  
22                 *Ethics.*

23                 *“(E) For purposes of this subsection, ‘interested*  
24                 *party’ means a reporting individual, his spouse, and*  
25                 *any minor or dependent child; ‘broker’ has the mean-*





1        *ing set forth in section 3(a)(4) of the Securities and*  
2        *Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘in-*  
3        *vestment adviser’ includes any investment adviser*  
4        *who, as determined under regulations prescribed by*  
5        *the supervising ethics office, is generally involved in*  
6        *his role as such an adviser in the management or con-*  
7        *trol of trusts.*

8        *“(4)(A) An asset placed in a trust by an interested*  
9        *party shall be considered a financial interest of the report-*  
10       *ing individual, for the purposes of any applicable conflict*  
11       *of interest statutes, regulations, or rules of the Federal Gov-*  
12       *ernment (including section 208 of title 18, United States*  
13       *Code), until such time as the reporting individual is noti-*  
14       *fied by the trustee that such asset has been disposed of, or*  
15       *has a value of less than \$1,000.*

16       *“(B)(i) The provisions of subparagraph (A) shall not*  
17       *apply with respect to a trust created for the benefit of a*  
18       *reporting individual, or the spouse, dependent child, or*  
19       *minor child of such a person, if the Office of Government*  
20       *Ethics finds that—*

21                *“(I) the assets placed in the trust consist of a*  
22        *well-diversified portfolio of readily marketable securi-*  
23        *ties;*



1           “(II) none of the assets consist of securities of en-  
2           tities having substantial activities in the area of the  
3           reporting individual’s primary area of responsibility;

4           “(III) the trust instrument prohibits the trustee,  
5           notwithstanding the provisions of paragraph (3)(C)  
6           (iii) and (iv), from making public or informing any  
7           interested party of the sale of any securities;

8           “(IV) the trustee is given power of attorney, not-  
9           withstanding the provisions of paragraph (3)(C)(v),  
10          to prepare on behalf of any interested party the per-  
11          sonal income tax returns and similar returns which  
12          may contain information relating to the trust; and

13          “(V) except as otherwise provided in this para-  
14          graph, the trust instrument provides (or in the case  
15          of a trust which by its terms does not permit amend-  
16          ment, the trustee, the reporting individual, and any  
17          other interested party agree in writing) that the trust  
18          shall be administered in accordance with the require-  
19          ments of this subsection and the trustee of such trust  
20          meets the requirements of paragraph (3)(A).

21          “(ii) In any instance covered by subparagraph (B) in  
22          which the reporting individual is an individual whose nom-  
23          ination is being considered by a congressional committee,  
24          the reporting individual shall inform the congressional com-  
25          mittee considering his nomination before or during the pe-



1 *riod of such individual's confirmation hearing of his inten-*  
2 *tion to comply with this paragraph.*

3       “(5)(A) *The reporting individual shall, within 30 days*  
4 *after a qualified blind trust is approved by the Office of*  
5 *Government Ethics, file with such office a copy of—*

6               “(i) *the executed trust instrument of such trust*  
7 *(other than those provisions which relate to the testa-*  
8 *mentary disposition of the trust assets), and*

9               “(ii) *a list of the assets which were transferred*  
10 *to such trust, including the category of value of each*  
11 *asset as determined under subsection (d).*

12 *This subparagraph shall not apply with respect to a trust*  
13 *meeting the requirements for being considered a qualified*  
14 *blind trust under paragraph (7).*

15       “(B) *The reporting individual shall, within 30 days*  
16 *of transferring an asset (other than cash) to a previously*  
17 *established qualified blind trust, notify the Office of Govern-*  
18 *ment Ethics of the identity of each such asset and the cat-*  
19 *egory of value of each asset as determined under subsection*  
20 *(d) of this section.*

21       “(C) *Within 30 days of the dissolution of a qualified*  
22 *blind trust, a reporting individual shall notify the Office*  
23 *of Government Ethics of such dissolution.*

24       “(D) *Documents filed under subparagraphs (A), (B),*  
25 *and (C) and the lists provided by the trustee of assets placed*



1 *in the trust by an interested party which have been sold*  
2 *shall be made available to the public in the same manner*  
3 *as a report is made available under section 305 and the*  
4 *provisions of that section shall apply with respect to such*  
5 *documents and lists.*

6       “(E) *A copy of each written communication with re-*  
7 *spect to the trust under paragraph (3)(C)(vi) shall be filed*  
8 *by the person initiating the communication with the Office*  
9 *of Government Ethics within 5 days of the date of the com-*  
10 *munication.*

11       “(6)(A) *A trustee of a qualified blind trust shall not*  
12 *knowingly and willfully, or negligently, (i) disclose any in-*  
13 *formation to an interested party with respect to such trust*  
14 *that may not be disclosed under paragraph (3); (ii) acquire*  
15 *any holding the ownership of which is prohibited by the*  
16 *trust instrument; (iii) solicit advice from any interested*  
17 *party with respect to such trust, which solicitation is pro-*  
18 *hibited by paragraph (3) or the trust agreement; or (iv)*  
19 *fail to file any document required by this subsection.*

20       “(B) *A reporting individual shall not knowingly and*  
21 *willfully, or negligently, (i) solicit or receive any informa-*  
22 *tion with respect to a qualified blind trust of which he is*  
23 *an interested party that may not be disclosed under para-*  
24 *graph (3)(C) or (ii) fail to file any document required by*  
25 *this subsection.*

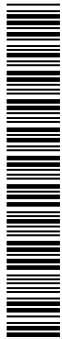


1           “(C)(i) *The Attorney General may bring a civil action*  
2 *in any appropriate United States district court against*  
3 *any individual who knowingly and willfully violates the*  
4 *provisions of subparagraph (A) or (B). The court in which*  
5 *such action is brought may assess against such individual*  
6 *a civil penalty in any amount not to exceed \$10,000.*

7           “(ii) *The Attorney General may bring a civil action*  
8 *in any appropriate United States district court against*  
9 *any individual who negligently violates the provisions of*  
10 *subparagraph (A) or (B). The court in which such action*  
11 *is brought may assess against such individual a civil pen-*  
12 *alty in any amount not to exceed \$5,000.*

13           “(7) *Any trust may be considered to be a qualified*  
14 *blind trust if—*

15           “(A) *the trust instrument is amended to comply*  
16 *with the requirements of paragraph (3) or, in the case*  
17 *of a trust instrument which does not by its terms per-*  
18 *mit amendment, the trustee, the reporting individual,*  
19 *and any other interested party agree in writing that*  
20 *the trust shall be administered in accordance with the*  
21 *requirements of this subsection and the trustee of such*  
22 *trust meets the requirements of paragraph (3)(A); ex-*  
23 *cept that in the case of any interested party who is*  
24 *a dependent child, a parent or guardian of such child*



1       *may execute the agreement referred to in this sub-*  
2       *paragraph;*

3               “(B) a copy of the trust instrument (except testa-  
4       *mentary provisions) and a copy of the agreement re-*  
5       *ferred to in subparagraph (A), and a list of the assets*  
6       *held by the trust at the time of approval by the Office*  
7       *of Government Ethics, including the category of value*  
8       *of each asset as determined under subsection (d), are*  
9       *filed with such office and made available to the public*  
10       *as provided under paragraph (5)(D); and*

11               “(C) the Director of the Office of Government  
12       *Ethics determines that approval of the trust arrange-*  
13       *ment as a qualified blind trust is in the particular*  
14       *case appropriate to assure compliance with applicable*  
15       *laws and regulations.*

16               “(8) A reporting individual shall not be required to  
17       *report the financial interests held by a widely held invest-*  
18       *ment fund (whether such fund is a mutual fund, regulated*  
19       *investment company, pension or deferred compensation*  
20       *plan, or other investment fund), if—*

21               “(A)(i) the fund is publicly traded; or

22               “(ii) the assets of the fund are widely diversified;

23       *and*



1           “(B) *the reporting individual neither exercises*  
2           *control over nor has the ability to exercise control*  
3           *over the financial interests held by the fund.*

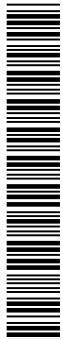
4           “(9)(A)(i) *A reporting individual described in sub-*  
5           *section (a) or (b) of section 301 shall not be required to*  
6           *report the holdings or sources of income of any trust or in-*  
7           *vestment fund where—*

8           “(I) *reporting would result in the disclosure of*  
9           *assets or sources of income of another person whose*  
10           *interests are not required to be reported by the report-*  
11           *ing individual under this title;*

12           “(II) *the disclosure of such assets and sources of*  
13           *income is prohibited by contract or the assets and*  
14           *sources of income are not otherwise publicly available;*  
15           *and*

16           “(III) *the reporting individual has executed a*  
17           *written ethics agreement which contains a general de-*  
18           *scription of the trust or investment fund and a com-*  
19           *mitment to divest the interest in the trust or invest-*  
20           *ment fund not later than 90 days after the date of the*  
21           *agreement.*

22           “(ii) *An agreement described under clause (i)(III)*  
23           *shall be attached to the public financial disclosure which*  
24           *would otherwise include a listing of the holdings or sources*  
25           *of income from this trust or investment fund.*



1       “(B)(i) *The provisions of subparagraph (A) shall*  
2 *apply to an individual described in subsection (c) or (d)*  
3 *of section 301 if—*

4               “(I) *the interest in the trust or investment fund*  
5 *is acquired involuntarily during the period to be cov-*  
6 *ered by the report, such as through marriage or inher-*  
7 *itance, and*

8               “(II) *for an individual described in subsection*  
9 *(c), the individual executes a written ethics agreement*  
10 *containing a commitment to divest the interest no*  
11 *later than 90 days after the date on which the report*  
12 *is due.*

13       “(ii) *An agreement described under clause (i)(II) shall*  
14 *be attached to the public financial disclosure which would*  
15 *otherwise include a listing of the holdings or sources of in-*  
16 *come from this trust or investment fund.*

17       “(iii) *Failure to divest within the time specified or*  
18 *after an extension granted by the Director of the Office of*  
19 *Government Ethics for good cause shown shall result in an*  
20 *immediate requirement to report as specified in paragraph*  
21 *(1).*

22       “(g) *Political campaign funds, including campaign re-*  
23 *ceipts and expenditures, need not be included in any report*  
24 *filed pursuant to this title.*





1       “(h) A report filed pursuant to subsection (a), (c), or  
2 (d) of section 301 need not contain the information de-  
3 scribed in subparagraphs (A), (B), and (C) of subsection  
4 (a)(2) with respect to gifts and reimbursements received in  
5 a period when the reporting individual was not an officer  
6 or employee of the Federal Government.

7       “(i) A reporting individual shall not be required under  
8 this title to report—

9               “(1) financial interests in or income derived  
10 from—

11                       “(A) any retirement system under title 5,  
12 United States Code (including the Thrift Sav-  
13 ings Plan under subchapter III of chapter 84 of  
14 such title); or

15                       “(B) any other retirement system main-  
16 tained by the United States for officers or em-  
17 ployees of the United States, including the Presi-  
18 dent, or for members of the uniformed services; or

19               “(2) benefits received under the Social Security  
20 Act (42 U.S.C. 301 et seq.).

21       “(j)(1) Every month, each designated agency ethics of-  
22 ficer shall submit to the Office of Government Ethics notifi-  
23 cation of any waiver of criminal conflict of interest laws  
24 granted to any individual in the preceding month with re-  
25 spect to a filing under this title that is not confidential.



1           “(2) *Every month, the Office of Government Ethics*  
2 *shall make publicly available on the Internet—*

3                   “(A) *all notifications of waivers submitted under*  
4 *paragraph (1) in the preceding month; and*

5                   “(B) *notification of all waivers granted by the*  
6 *Office of Government Ethics in the preceding month.*

7           “(k) *A full copy of any waiver of criminal conflict of*  
8 *interest laws granted shall be included with any filing re-*  
9 *quired under this title with respect to the year in which*  
10 *the waiver is granted.*

11           “(l) *The Office of Government Ethics shall provide*  
12 *upon request any waiver on file for which notice has been*  
13 *published.*

14   **“SEC. 303. FILING OF REPORTS.**

15           “(a) *Except as otherwise provided in this section, the*  
16 *reports required under this title shall be filed by the report-*  
17 *ing individual with the designated agency ethics official at*  
18 *the agency by which he is employed (or in the case of an*  
19 *individual described in section 301(d), was employed) or*  
20 *in which he will serve. The date any report is received (and*  
21 *the date of receipt of any supplemental report) shall be*  
22 *noted on such report by such official.*

23           “(b) *Reports required to be filed under this title by*  
24 *the Director of the Office of Government Ethics shall be filed*  
25 *in the Office of Government Ethics and, immediately after*



1 *being filed, shall be made available to the public in accord-*  
2 *ance with this title.*

3       “(c) *Reports required of members of the uniformed*  
4 *services shall be filed with the Secretary concerned.*

5       “(d) *The Office of Government Ethics shall develop and*  
6 *make available forms for reporting the information required*  
7 *by this title.*

8 **“SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

9       “(a) *The Attorney General may bring a civil action*  
10 *in any appropriate United States district court against*  
11 *any individual who knowingly and willfully falsifies or who*  
12 *knowingly and willfully fails to file or report any informa-*  
13 *tion that such individual is required to report pursuant to*  
14 *section 302. The court in which such action is brought may*  
15 *assess against such individual a civil penalty in any*  
16 *amount, not to exceed \$10,000.*

17       “(b) *The head of each agency, each Secretary con-*  
18 *cerned, or the Director of the Office of Government Ethics,*  
19 *as the case may be, shall refer to the Attorney General the*  
20 *name of any individual which such official has reasonable*  
21 *cause to believe has willfully failed to file a report or has*  
22 *willfully falsified or willfully failed to file information re-*  
23 *quired to be reported.*

24       “(c) *The President, the Vice President, the Secretary*  
25 *concerned, or the head of each agency may take any appro-*



1 *prate personnel or other action in accordance with appli-*  
2 *cable law or regulation against any individual failing to*  
3 *file a report or falsifying or failing to report information*  
4 *required to be reported.*

5       “(d)(1) *Any individual who files a report required to*  
6 *be filed under this title more than 30 days after the later*  
7 *of—*

8               “(A) *the date such report is required to be filed*  
9 *pursuant to the provisions of this title and the rules*  
10 *and regulations promulgated thereunder; or*

11               “(B) *if a filing extension is granted to such indi-*  
12 *vidual under section 301(g), the last day of the filing*  
13 *extension period, shall, at the direction of and pursu-*  
14 *ant to regulations issued by the Office of Government*  
15 *Ethics, pay a filing fee of \$500. All such fees shall be*  
16 *deposited in the miscellaneous receipts of the Treas-*  
17 *ury. The authority under this paragraph to direct the*  
18 *payment of a filing fee may be delegated by the Office*  
19 *of Government Ethics to other agencies in the execu-*  
20 *tive branch.*

21       “(2) *The Office of Government Ethics may waive the*  
22 *filing fee under this subsection for good cause shown.*

23 **“SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

24       “*Any report filed with or transmitted to an agency*  
25 *or the Office of Government Ethics pursuant to this title*

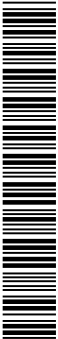


1 *shall be retained by such agency or Office, as the case may*  
2 *be, for a period of 6 years after receipt of the report. After*  
3 *such 6-year period the report shall be destroyed unless need-*  
4 *ed in an ongoing investigation, except that in the case of*  
5 *an individual who filed the report pursuant to section*  
6 *301(b) and was not subsequently confirmed by the Senate,*  
7 *such reports shall be destroyed 1 year after the individual*  
8 *is no longer under consideration by the Senate, unless need-*  
9 *ed in an ongoing investigation.*

10 **“SEC. 306. REVIEW OF REPORTS.**

11 *“(a) Each designated agency ethics official or Sec-*  
12 *retary concerned shall make provisions to ensure that each*  
13 *report filed with him under this title is reviewed within*  
14 *60 days after the date of such filing, except that the Director*  
15 *of the Office of Government Ethics shall review only those*  
16 *reports required to be transmitted to him under this title*  
17 *within 60 days after the date of transmittal.*

18 *“(b)(1) If after reviewing any report under subsection*  
19 *(a), the Director of the Office of Government Ethics, the*  
20 *Secretary concerned, or the designated agency ethics official,*  
21 *as the case may be, is of the opinion that on the basis of*  
22 *information contained in such report the individual sub-*  
23 *mitting such report is in compliance with applicable laws*  
24 *and regulations, he shall state such opinion on the report,*  
25 *and shall sign such report.*



1           “(2) *If the Director of the Office of Government Ethics,*  
2 *the Secretary concerned, or the designated agency ethics of-*  
3 *ficial after reviewing any report under subsection (a)—*

4           “(A) *believes additional information is required*  
5 *to be submitted to complete the form or to perform a*  
6 *conflict of interest analysis, he shall notify the indi-*  
7 *vidual submitting such report what additional infor-*  
8 *mation is required and the time by which it must be*  
9 *submitted, or*

10           “(B) *is of the opinion, on the basis of informa-*  
11 *tion submitted, that the individual is not in compli-*  
12 *ance with applicable laws and regulations, he shall*  
13 *notify the individual, afford a reasonable opportunity*  
14 *for a written or oral response, and after consideration*  
15 *of such response, reach an opinion as to whether or*  
16 *not, on the basis of information submitted, the indi-*  
17 *vidual is in compliance with such laws and regula-*  
18 *tions.*

19           “(3) *If the Director of the Office of Government Ethics,*  
20 *the Secretary concerned, or the designated agency ethics of-*  
21 *ficial reaches an opinion under paragraph (2)(B) that an*  
22 *individual is not in compliance with applicable laws and*  
23 *regulations, the official shall notify the individual of that*  
24 *opinion and, after an opportunity for personal consultation*  
25 *(if practicable), determine and notify the individual of*



1 *which steps, if any, would in the opinion of such official*  
2 *be appropriate for assuring compliance with such laws and*  
3 *regulations and the date by which such steps should be*  
4 *taken. Such steps may include, as appropriate—*

5           “(A) *divestiture,*

6           “(B) *restitution,*

7           “(C) *the establishment of a blind trust,*

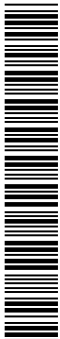
8           “(D) *request for an exemption under section*  
9 *208(b) of title 18, United States Code, or*

10           “(E) *voluntary request for transfer, reassign-*  
11 *ment, limitation of duties, or resignation.*

12 *The use of any such steps shall be in accordance with such*  
13 *rules or regulations as the Office of Government Ethics may*  
14 *prescribe.*

15           “(4) *If steps for assuring compliance with applicable*  
16 *laws and regulations are not taken by the date set under*  
17 *paragraph (3) by a member of the Foreign Service or the*  
18 *uniformed services, the Secretary concerned shall take ap-*  
19 *propriate action.*

20           “(5) *If steps for assuring compliance with applicable*  
21 *laws and regulations are not taken by the date set under*  
22 *paragraph (3) by any other officer or employee, the matter*  
23 *shall be referred to the head of the appropriate agency for*  
24 *appropriate action.*







1 *lations promulgated thereunder, or the authorized activities*  
2 *of such officers or employees. Any individual required to*  
3 *file a report pursuant to section 301 shall not be required*  
4 *to file a confidential report pursuant to this subsection, ex-*  
5 *cept with respect to information which is more extensive*  
6 *than information otherwise required by this title. Section*  
7 *305 shall not apply with respect to any such report.*

8       “(2) *Any information required to be provided by an*  
9 *individual under this subsection shall be confidential and*  
10 *shall not be disclosed to the public.*

11       “(3) *Nothing in this subsection exempts any indi-*  
12 *vidual otherwise covered by the requirement to file a public*  
13 *financial disclosure report under this title from such re-*  
14 *quirement.*

15       “(b) *The provisions of this title requiring the reporting*  
16 *of information shall supersede any general requirement*  
17 *under any other provision of law or regulation with respect*  
18 *to the reporting of information required for purposes of pre-*  
19 *venting conflicts of interest or apparent conflicts of interest.*  
20 *Such provisions of this title shall not supersede the require-*  
21 *ments of section 7342 of title 5, United States Code.*

22       “(c) *Nothing in this Act requiring reporting of infor-*  
23 *mation shall be deemed to authorize the receipt of income,*  
24 *gifts, or reimbursements; the holding of assets, liabilities,*



1 *or positions; or the participation in transactions that are*  
2 *prohibited by law, Executive order, rule, or regulation.*

3 **“SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.**

4 *“The Comptroller General shall have access to finan-*  
5 *cial disclosure reports filed under this title for the purposes*  
6 *of carrying out his statutory responsibilities.*

7 **“SEC. 309. DEFINITIONS.**

8 *“For the purposes of this title—*

9 *“(1) the term ‘dependent child’ means, when used*  
10 *with respect to any reporting individual, any indi-*  
11 *vidual who is a son, daughter, stepson, or step-*  
12 *daughter and who—*

13 *“(A) is unmarried and under age 21 and is*  
14 *living in the household of such reporting indi-*  
15 *vidual; or*

16 *“(B) is a dependent of such reporting indi-*  
17 *vidual within the meaning of section 152 of the*  
18 *Internal Revenue Code of 1986 (26 U.S.C. 152);*

19 *“(2) the term ‘designated agency ethics official’*  
20 *means an officer or employee who is designated to ad-*  
21 *minister the provisions of this title within an agency;*

22 *“(3) the term ‘executive branch’ includes—*

23 *“(A) each Executive agency (as defined in*  
24 *section 105 of title 5, United States Code), other*  
25 *than the General Accounting Office; and*



1           “(B) any other entity or administrative  
2           unit in the executive branch;

3           “(4) the term ‘gift’ means a payment, advance,  
4           forbearance, rendering, or deposit of money, or any  
5           thing of value, unless consideration of equal or greater  
6           value is received by the donor, but does not include—

7           “(A) bequests and other forms of inherit-  
8           ance;

9           “(B) suitable mementos of a function hon-  
10          oring the reporting individual;

11          “(C) food, lodging, transportation, and en-  
12          tertainment provided by a foreign government  
13          within a foreign country or by the United States  
14          Government, the District of Columbia, or a State  
15          or local government or political subdivision  
16          thereof;

17          “(D) food and beverages which are not con-  
18          sumed in connection with a gift of overnight  
19          lodging;

20          “(E) communications to the offices of a re-  
21          porting individual, including subscriptions to  
22          newspapers and periodicals; or

23          “(F) items that are accepted pursuant to or  
24          are required to be reported by the reporting indi-



1           *vidual under section 7342 of title 5, United*  
2           *States Code.*

3           “(5) the term ‘*honorarium*’ means a payment of  
4           *money or anything of value for an appearance,*  
5           *speech, or article;*

6           “(6) the term ‘*income*’ means all income from  
7           *whatever source derived, including but not limited to*  
8           *the following items: compensation for services, includ-*  
9           *ing fees, commissions, and similar items; gross in-*  
10          *come derived from business (and net income if the in-*  
11          *dividual elects to include it); gains derived from deal-*  
12          *ings in property; interest; rents; royalties; prizes and*  
13          *awards; dividends; annuities; income from life insur-*  
14          *ance and endowment contracts; pensions; income from*  
15          *discharge of indebtedness; distributive share of part-*  
16          *nership income; and income from an interest in an*  
17          *estate or trust;*

18          “(7) the term ‘*personal hospitality of any indi-*  
19          *vidual*’ means hospitality extended for a nonbusiness  
20          *purpose by an individual, not a corporation or orga-*  
21          *nization, at the personal residence of that individual*  
22          *or his family or on property or facilities owned by*  
23          *that individual or his family;*

24          “(8) the term ‘*reimbursement*’ means any pay-  
25          *ment or other thing of value received by the reporting*



1        *individual, other than gifts, to cover travel-related ex-*  
2        *penditures of such individual other than those which*  
3        *are—*

4                *“(A) provided by the United States Govern-*  
5                *ment, the District of Columbia, or a State or*  
6                *local government or political subdivision thereof;*

7                *“(B) required to be reported by the report-*  
8                *ing individual under section 7342 of title 5,*  
9                *United States Code; or*

10               *“(C) required to be reported under section*  
11               *304 of the Federal Election Campaign Act of*  
12               *1971 (2 U.S.C. 434);*

13               *“(9) the term ‘relative’ means an individual who*  
14               *is related to the reporting individual, as father, moth-*  
15               *er, son, daughter, brother, sister, uncle, aunt, great*  
16               *aunt, great uncle, first cousin, nephew, niece, hus-*  
17               *band, wife, grandfather, grandmother, grandson,*  
18               *granddaughter, father-in-law, mother-in-law, son-in-*  
19               *law, daughter-in-law, brother-in-law, sister-in-law,*  
20               *stepfather, stepmother, stepson, stepdaughter, step-*  
21               *brother, stepsister, half brother, half sister, or who is*  
22               *the grandfather or grandmother of the spouse of the*  
23               *reporting individual, and shall be deemed to include*  
24               *the fiancé or fiancée of the reporting individual;*





1 *such notification shall continue on a monthly basis there-*  
2 *after until the individual has met the terms of the agree-*  
3 *ment.*

4       “(b) *If an agreement described in subsection (a) re-*  
5 *quires that the individual recuse himself or herself from*  
6 *particular categories of agency or other official action, the*  
7 *individual shall reduce to writing those subjects regarding*  
8 *which the recusal agreement will apply and the process by*  
9 *which it will be determined whether the individual must*  
10 *recuse himself or herself in a specific instance. An indi-*  
11 *vidual shall be considered to have complied with the re-*  
12 *quirements of subsection (a) with respect to such recusal*  
13 *agreement if such individual files a copy of the document*  
14 *setting forth the information described in the preceding sen-*  
15 *tence with such individual’s designated agency ethics offi-*  
16 *cial or the Office of Government Ethics within the time pre-*  
17 *scribed in the penultimate sentence of subsection (a).*

18 **“SEC. 311. ADMINISTRATION OF PROVISIONS.**

19       *“The Office of Government Ethics shall issue regula-*  
20 *tions, develop forms, and provide such guidance as is nec-*  
21 *essary to implement and interpret this title.”.*

22       **(b) EXEMPTION FROM PUBLIC ACCESS TO FINANCIAL**  
23 **DISCLOSURES.**—*Section 105(a)(1) of such Act is amended*  
24 *by inserting “the Office of the National Intelligence Direc-*  
25 *tor,” before “the Central Intelligence Agency”.*



1           (c) *CONFORMING AMENDMENT.*—Section 101(f) of such  
2 *Act is amended—*

3                 (1) *in paragraph (12), by striking the period at*  
4 *the end and inserting a semicolon; and*

5                 (2) *by adding at the end the following:*  
6 *“but do not include any officer or employee of any depart-*  
7 *ment or agency listed in section 301(e).”.*

8 **SEC. 5044. REDUCTION OF POSITIONS REQUIRING APPOINT-**  
9 **MENT WITH SENATE CONFIRMATION.**

10           (a) *DEFINITION.*—*In this section, the term “agency”*  
11 *means an Executive agency, as defined under section 105*  
12 *of title 5, United States Code.*

13           (b) *REDUCTION PLAN.*—

14                 (1) *IN GENERAL.*—*Not later than 180 days after*  
15 *the date of enactment of this Act, the head of each*  
16 *agency shall submit a Presidential appointment re-*  
17 *duction plan to—*

18                         (A) *the President;*

19                         (B) *the Committee on Governmental Affairs*  
20 *of the Senate; and*

21                         (C) *the Committee on Government Reform*  
22 *of the House of Representatives.*

23                 (2) *CONTENT.*—*The plan under this subsection*  
24 *shall provide for the reduction of—*





1           (A) *the number of positions within that*  
2           *agency that require an appointment by the*  
3           *President, by and with the advice and consent of*  
4           *the Senate; and*

5           (B) *the number of levels of such positions*  
6           *within that agency.*

7 **SEC. 5045. EFFECTIVE DATES.**

8           (a) *SECTION 5043.—*

9           (1) *IN GENERAL.—Subject to paragraph (2), the*  
10           *amendments made by section 5043 shall take effect on*  
11           *January 1 of the year following the year in which oc-*  
12           *urs the date of enactment of this Act.*

13           (2) *LATER DATE.—If this Act is enacted on or*  
14           *after July 1 of a year, the amendments made by sec-*  
15           *tion 301 shall take effect on July 1 of the following*  
16           *year.*

17           (b) *SECTION 5044.—Section 5044 shall take effect on*  
18           *the date of enactment of this Act.*

19           **CHAPTER 2—FEDERAL BUREAU OF**  
20           **INVESTIGATION REVITALIZATION**

21 **SEC. 5051. MANDATORY SEPARATION AGE.**

22           (a) *CIVIL SERVICE RETIREMENT SYSTEM.—Section*  
23           *8335(b) of title 5, United States Code, is amended—*

24           (1) *by striking “(b)” and inserting “(b)(1)”;* and

25           (2) *by adding at the end the following:*



1           “(2) *In the case of employees of the Federal Bureau*  
2 *of Investigation, the second sentence of paragraph (1) shall*  
3 *be applied by substituting ‘65 years of age’ for ‘60 years*  
4 *of age’. The authority to grant exemptions in accordance*  
5 *with the preceding sentence shall cease to be available after*  
6 *December 31, 2009.’”.*

7           (b) *FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—*  
8 *Section 8425(b) of title 5, United States Code, is*  
9 *amended—*

10           (1) *by striking “(b)” and inserting “(b)(1)”;* and

11           (2) *by adding at the end the following:*

12           “(2) *In the case of employees of the Federal Bureau*  
13 *of Investigation, the second sentence of paragraph (1) shall*  
14 *be applied by substituting ‘65 years of age’ for ‘60 years*  
15 *of age’. The authority to grant exemptions in accordance*  
16 *with the preceding sentence shall cease to be available after*  
17 *December 31, 2009.’”.*

18 **SEC. 5052. RETENTION AND RELOCATION BONUSES.**

19           (a) *IN GENERAL.—Subchapter IV of chapter 57 of title*  
20 *5, United States Code, is amended by adding at the end*  
21 *the following:*

22 **“§5759. Retention and relocation bonuses for the Fed-**  
23 **eral Bureau of Investigation**

24           “(a) *AUTHORITY.—The Director of the Federal Bureau*  
25 *of Investigation, after consultation with the Director of the*



1 *Office of Personnel Management, may pay, on a case-by-*  
2 *case basis, a bonus under this section to an employee of*  
3 *the Bureau if—*

4           “(1)(A) *the unusually high or unique qualifica-*  
5 *tions of the employee or a special need of the Bureau*  
6 *for the employee’s services makes it essential to retain*  
7 *the employee; and*

8           “(B) *the Director of the Federal Bureau of Inves-*  
9 *tigation determines that, in the absence of such a*  
10 *bonus, the employee would be likely to leave—*

11           “(i) *the Federal service; or*

12           “(ii) *for a different position in the Federal*  
13 *service; or*

14           “(2) *the individual is transferred to a different*  
15 *geographic area with a higher cost of living (as deter-*  
16 *mined by the Director of the Federal Bureau of Inves-*  
17 *tigation).*

18           “(b) *SERVICE AGREEMENT.—Payment of a bonus*  
19 *under this section is contingent upon the employee entering*  
20 *into a written service agreement with the Bureau to com-*  
21 *plete a period of service with the Bureau. Such agreement*  
22 *shall include—*

23           “(1) *the period of service the individual shall be*  
24 *required to complete in return for the bonus; and*





1 “SUBCHAPTER VII—RETENTION OF RETIRED  
2 SPECIALIZED EMPLOYEES AT THE FEDERAL  
3 BUREAU OF INVESTIGATION

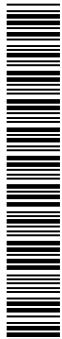
4 “§ 3598. *Federal Bureau of Investigation Reserve Serv-*  
5 *ice*

6 “(a) *ESTABLISHMENT.*—*The Director of the Federal*  
7 *Bureau of Investigation may provide for the establishment*  
8 *and training of a Federal Bureau of Investigation Reserve*  
9 *Service (hereinafter in this section referred to as the ‘FBI*  
10 *Reserve Service’)* for temporary reemployment of employees  
11 *in the Bureau during periods of emergency, as determined*  
12 *by the Director.*

13 “(b) *MEMBERSHIP.*—*Membership in the FBI Reserve*  
14 *Service shall be limited to individuals who previously*  
15 *served as full-time employees of the Bureau.*

16 “(c) *ANNUITANTS.*—*If an individual receiving an an-*  
17 *nuity from the Civil Service Retirement and Disability*  
18 *Fund on the basis of such individual’s service becomes tem-*  
19 *porarily reemployed pursuant to this section, such annuity*  
20 *shall not be discontinued thereby. An individual so reem-*  
21 *ployed shall not be considered an employee for the purposes*  
22 *of chapter 83 or 84.*

23 “(d) *NO IMPACT ON BUREAU PERSONNEL CEILING.*—  
24 *FBI Reserve Service members reemployed on a temporary*



1 *basis pursuant to this section shall not count against any*  
2 *personnel ceiling applicable to the Bureau.*

3       “(e) *EXPENSES.*—*The Director may provide members*  
4 *of the FBI Reserve Service transportation and per diem in*  
5 *lieu of subsistence, in accordance with applicable provisions*  
6 *of this title, for the purpose of participating in any training*  
7 *that relates to service as a member of the FBI Reserve Serv-*  
8 *ice.*

9       “(f) *LIMITATION ON MEMBERSHIP.*—*Membership of*  
10 *the FBI Reserve Service is not to exceed 500 members at*  
11 *any given time.”.*

12       (b) *CLERICAL AMENDMENT.*—*The analysis for chapter*  
13 *35 of title 5, United States Code, is amended by adding*  
14 *at the end the following:*

“SUBCHAPTER VII--RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE  
FEDERAL BUREAU OF INVESTIGATION

“3598. *Federal Bureau of Investigation Reserve Service.*”.

15 **SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU**  
16 **OF INVESTIGATION INTELLIGENCE DIREC-**  
17 **TORATE.**

18       *Section 5377(a)(2) of title 5, United States Code, is*  
19 *amended—*

20           (1) *by striking “and” at the end of subpara-*  
21 *graph (E);*

22           (2) *by striking the period at the end of subpara-*  
23 *graph (F) and inserting “; and”; and*



1           (3) *by inserting after subparagraph (F) the fol-*  
2           *lowing:*

3                   “(G) *a position at the Federal Bureau of*  
4                   *Investigation, the primary duties and respon-*  
5                   *sibilities of which relate to intelligence functions*  
6                   *(as determined by the Director of the Federal*  
7                   *Bureau of Investigation).”.*

8           **CHAPTER 3—MANAGEMENT AUTHORITY**

9           **SEC. 5061. MANAGEMENT AUTHORITY.**

10           (a)           **MANAGEMENT AUTHORITY.**—*Section*  
11           *7103(b)(1)(A) of title 5, United States Code, is amended*  
12           *by adding “homeland security,” after “investigative,”.*

13           (b) **EXCLUSIONARY AUTHORITY.**—*Section 842 of the*  
14           *Homeland Security Act (Public Law 107–296; 6 U.S.C.*  
15           *412) is repealed.*

16                   **Subtitle F—Security Clearance**  
17                   **Modernization**

18           **SEC. 5071. DEFINITIONS.**

19           *In this subtitle:*

20                   (1) *The term “Director” means the National In-*  
21                   *telligence Director.*

22                   (2) *The term “agency” means—*

23                           (A) *an executive agency, as defined in sec-*  
24                           *tion 105 of title 5, United States Code;*



1           (B) a military department, as defined in  
2           section 102 of title 5, United States Code; and

3           (C) elements of the intelligence community,  
4           as defined in section 3(4) of the National Security  
5           Act of 1947 (50 U.S.C. 401a(4)).

6           (3) The term “authorized investigative agency”  
7           means an agency authorized by law, regulation or di-  
8           rection of the Director to conduct a counterintel-  
9           ligence investigation or investigation of persons who  
10          are proposed for access to classified information to as-  
11          certain whether such persons satisfy the criteria for  
12          obtaining and retaining access to such information.

13          (4) The term “authorized adjudicative agency”  
14          means an agency authorized by law, regulation or di-  
15          rection of the Director to determine eligibility for ac-  
16          cess to classified information in accordance with Ex-  
17          ecutive Order 12968.

18          (5) The term “highly sensitive program”  
19          means—

20                 (A) a government program designated as a  
21                 Special Access Program (as defined by section  
22                 4.1(h) of Executive Order 12958); and

23                 (B) a government program that applies re-  
24                 strictions required for—





1                   (i) *Restricted Data* (as defined by sec-  
2                   tion 11 y. of the Atomic Energy Act of 1954  
3                   (42 U.S.C. 2014(y)); or

4                   (ii) *other information commonly re-*  
5                   *ferred to as “Sensitive Compartmented In-*  
6                   *formation”.*

7                   (6) *The term “current investigation file” means,*  
8                   *with respect to a security clearance, a file on an in-*  
9                   *vestigation or adjudication that has been conducted*  
10                  *during—*

11                  (A) *the 5-year period beginning on the date*  
12                  *the security clearance was granted, in the case of*  
13                  *a Top Secret Clearance, or the date access was*  
14                  *granted to a highly sensitive program;*

15                  (B) *the 10-year period beginning on the*  
16                  *date the security clearance was granted in the*  
17                  *case of a Secret Clearance; and*

18                  (C) *the 15-year period beginning on the*  
19                  *date the security clearance was granted in the*  
20                  *case of a Confidential Clearance.*

21                  (7) *The term “personnel security investigation”*  
22                  *means any investigation required for the purpose of*  
23                  *determining the eligibility of any military, civilian,*  
24                  *or government contractor personnel to access classified*  
25                  *information.*



1           (8) *The term “periodic reinvestigations”*  
2           *means—*

3                   (A) *investigations conducted for the purpose*  
4                   *of updating a previously completed background*  
5                   *investigation—*

6                           (i) *every five years in the case of a Top*  
7                           *Secret Clearance or access to a highly sen-*  
8                           *sitive program;*

9                           (ii) *every 10 years in the case of a Se-*  
10                           *cret Clearance; and*

11                           (iii) *every 15 years in the case of a*  
12                           *Confidential Clearance;*

13                   (B) *on-going investigations to identify per-*  
14                   *sonnel security risks as they develop, pursuant to*  
15                   *section 105(c).*

16           (9) *The term “appropriate committees of Con-*  
17           *gress” means—*

18                   (A) *the Permanent Select Committee on In-*  
19                   *telligence and the Committees on Armed Serv-*  
20                   *ices, Judiciary, and Government Reform of the*  
21                   *House of Representatives; and*

22                   (B) *the Select Committee on Intelligence*  
23                   *and the Committees on Armed Services, Judici-*  
24                   *ary, and Governmental Affairs of the Senate.*



1 **SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE PRO-**  
2 **GRAMS OVERSIGHT AND ADMINISTRATION.**

3 *The Deputy National Intelligence Director for Commu-*  
4 *nity Management and Resources shall have responsibility*  
5 *for the following:*

6 (1) *Directing day-to-day oversight of investiga-*  
7 *tions and adjudications for personnel security clear-*  
8 *ances to highly sensitive programs throughout the*  
9 *Federal Government.*

10 (2) *Developing and implementing uniform and*  
11 *consistent policies and procedures to ensure the effec-*  
12 *tive, efficient, and timely completion of security clear-*  
13 *ances and determinations for access to highly sen-*  
14 *sitive programs, including the standardization of se-*  
15 *curity questionnaires, financial disclosure require-*  
16 *ments for security clearance applicants, and poly-*  
17 *graph policies and procedures.*

18 (3) *Serving as the final authority to designate*  
19 *an authorized investigative agency or authorized ad-*  
20 *judicative agency pursuant to section 5074(d).*

21 (4) *Ensuring reciprocal recognition of access to*  
22 *classified information among agencies, including act-*  
23 *ing as the final authority to arbitrate and resolve dis-*  
24 *putes involving the reciprocity of security clearances*  
25 *and access to highly sensitive programs.*



1           (5) *Ensuring, to the maximum extent prac-*  
2           *ticable, that sufficient resources are available in each*  
3           *agency to achieve clearance and investigative pro-*  
4           *gram goals.*

5           (6) *Reviewing and coordinating the development*  
6           *of tools and techniques for enhancing the conduct of*  
7           *investigations and granting of clearances.*

8   **SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND AC-**  
9                                   **CESS DETERMINATIONS.**

10          (a) *REQUIREMENT FOR RECIPROCITY.—(1) All secu-*  
11          *rity clearance background investigations and determina-*  
12          *tions completed by an authorized investigative agency or*  
13          *authorized adjudicative agency shall be accepted by all*  
14          *agencies.*

15          (2) *All security clearance background investigations*  
16          *initiated by an authorized investigative agency shall be*  
17          *transferable to any other authorized investigative agency.*

18          (b) *PROHIBITION ON ESTABLISHING ADDITIONAL RE-*  
19          *QUIREMENTS.—(1) An authorized investigative agency or*  
20          *authorized adjudicative agency may not establish addi-*  
21          *tional investigative or adjudicative requirements (other*  
22          *than requirements for the conduct of a polygraph examina-*  
23          *tion) that exceed requirements specified in Executive Orders*  
24          *establishing security requirements for access to classified in-*  
25          *formation.*



1           (2) *Notwithstanding the paragraph (1), the Director*  
2 *may establish additional requirements as needed for na-*  
3 *tional security purposes.*

4           (c) *PROHIBITION ON DUPLICATIVE INVESTIGATIONS.—*  
5 *An authorized investigative agency or authorized adjudica-*  
6 *tive agency may not conduct an investigation for purposes*  
7 *of determining whether to grant a security clearance to an*  
8 *individual where a current investigation or clearance of*  
9 *equal level already exists or has been granted by another*  
10 *authorized adjudicative agency.*

11 **SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE .**

12           (a) *ESTABLISHMENT.—Not later than 12 months after*  
13 *the date of the enactment of this Act, the Director of the*  
14 *Office of Personnel Management, in cooperation with the*  
15 *Director, shall establish, and begin operating and main-*  
16 *taining, an integrated, secure, national database into which*  
17 *appropriate data relevant to the granting, denial, or revoca-*  
18 *tion of a security clearance or access pertaining to military,*  
19 *civilian, or government contractor personnel shall be en-*  
20 *tered from all authorized investigative and adjudicative*  
21 *agencies.*

22           (b) *INTEGRATION.—The national database established*  
23 *under subsection (a) shall function to integrate information*  
24 *from existing Federal clearance tracking systems from other*



1 *authorized investigative and adjudicative agencies into a*  
2 *single consolidated database.*

3       (c) *REQUIREMENT TO CHECK DATABASE.*—*Each au-*  
4 *thorized investigative or adjudicative agency shall check the*  
5 *national database established under subsection (a) to deter-*  
6 *mine whether an individual the agency has identified as*  
7 *requiring a security clearance has already been granted or*  
8 *denied a security clearance, or has had a security clearance*  
9 *revoked, by any other authorized investigative or adjudica-*  
10 *tive agency.*

11       (d) *CERTIFICATION OF AUTHORIZED INVESTIGATIVE*  
12 *AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.*—  
13 *The Director shall evaluate the extent to which an agency*  
14 *is submitting information to, and requesting information*  
15 *from, the national database established under subsection (a)*  
16 *as part of a determination of whether to certify the agency*  
17 *as an authorized investigative agency or authorized adju-*  
18 *dicative agency.*

19       (e) *EXCLUSION OF CERTAIN INTELLIGENCE*  
20 *OPERATIVES.*—*The Director may authorize an agency to*  
21 *withhold information about certain individuals from the*  
22 *database established under subsection (a) if the Director de-*  
23 *termines it is necessary for national security purposes.*



1           (f) *COMPLIANCE.*—*The Director shall establish a re-*  
2 *view procedure by which agencies can seek review of actions*  
3 *required under section 5073.*

4           (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*  
5 *authorized to be appropriated such sums as may be nec-*  
6 *essary for fiscal year 2005 and each subsequent fiscal year*  
7 *for the implementation, maintenance and operation of the*  
8 *database established in subsection (a).*

9   **SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEARANCE**  
10                                   **INVESTIGATIONS.**

11           (a) *INVESTIGATIONS.*—*Not later than 12 months after*  
12 *the date of the enactment of this Act, each authorized inves-*  
13 *tigative agency that conducts personnel security clearance*  
14 *investigations shall use, to the maximum extent practicable,*  
15 *available information technology and databases to expedite*  
16 *investigative processes and to verify standard information*  
17 *submitted as part of an application for a security clearance.*

18           (b) *INTERIM CLEARANCE.*—*If the application of an*  
19 *applicant for an interim clearance has been processed using*  
20 *the technology under subsection (a), the interim clearances*  
21 *for the applicant at the secret, top secret, and special access*  
22 *program levels may be granted before the completion of the*  
23 *appropriate investigation. Any request to process an in-*  
24 *terim clearance shall be given priority, and the authority*  
25 *granting the interim clearance shall ensure that final adju-*

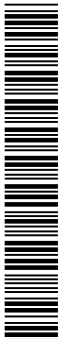


1 *dication on the application is made within 90 days after*  
2 *the initial clearance is granted.*

3       (c) *ON-GOING MONITORING OF INDIVIDUALS WITH SE-*  
4 *URITY CLEARANCES.—(1) Authorized investigative agen-*  
5 *cies and authorized adjudicative agencies shall establish*  
6 *procedures for the regular, ongoing verification of personnel*  
7 *with security clearances in effect for continued access to*  
8 *classified information. Such procedures shall include the*  
9 *use of available technology to detect, on a regularly recur-*  
10 *ring basis, any issues of concern that may arise involving*  
11 *such personnel and such access.*

12       (2) *Such regularly recurring verification may be used*  
13 *as a basis for terminating a security clearance or access*  
14 *and shall be used in periodic reinvestigations to address*  
15 *emerging threats and adverse events associated with indi-*  
16 *viduals with security clearances in effect to the maximum*  
17 *extent practicable.*

18       (3) *If the Director certifies that the national security*  
19 *of the United States is not harmed by the discontinuation*  
20 *of periodic reinvestigations, the regularly recurring ver-*  
21 *ification under this section may replace periodic reinves-*  
22 *tigations.*





1 **SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECUR-**  
2 **RITY CLEARANCE PROCESS.**

3 (a) *60-Day PERIOD FOR DETERMINATION ON CLEAR-*  
4 *ANCES.—Each authorized adjudicative agency shall make*  
5 *a determination on an application for a personnel security*  
6 *clearance within 60 days after the date of receipt of the*  
7 *completed application for a security clearance by an au-*  
8 *thorized investigative agency. The 60-day period shall*  
9 *include—*

10 (1) *a period of not longer than 40 days to com-*  
11 *plete the investigative phase of the clearance review;*  
12 *and*

13 (2) *a period of not longer than 20 days to com-*  
14 *plete the adjudicative phase of the clearance review.*

15 (b) *EFFECTIVE DATE AND PHASE-IN.—*

16 (1) *EFFECTIVE DATE.—Subsection (a) shall take*  
17 *effect 5 years after the date of the enactment of this*  
18 *Act.*

19 (2) *PHASE-IN.—During the period beginning on*  
20 *a date not later than 2 years after the date after the*  
21 *enactment of this Act and ending on the date on*  
22 *which subsection (a) takes effect as specified in para-*  
23 *graph (1), each authorized adjudicative agency shall*  
24 *make a determination on an application for a per-*  
25 *sonnel security clearance pursuant to this title within*  
26 *120 days after the date of receipt of the application*



1       *for a security clearance by an authorized investigative*  
2       *agency. The 120-day period shall include—*

3               *(A) a period of not longer than 90 days to*  
4               *complete the investigative phase of the clearance*  
5               *review; and*

6               *(B) a period of not longer than 30 days to*  
7               *complete the adjudicative phase of the clearance*  
8               *review.*

9       **SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL**  
10               **TRANSITION.**

11       *(a) CANDIDATES FOR NATIONAL SECURITY POSI-*  
12       *TIONS.—(1) The President-elect shall submit to the Director*  
13       *the names of candidates for high-level national security po-*  
14       *sitions, for positions at the level of under secretary of execu-*  
15       *tive departments and above, as soon as possible after the*  
16       *date of the general elections held to determine the electors*  
17       *of President and Vice President under section 1 or 2 of title*  
18       *3, United States Code.*

19               *(2) The Director shall be responsible for the expeditious*  
20       *completion of the background investigations necessary to*  
21       *provide appropriate security clearances to the individuals*  
22       *who are candidates described under paragraph (1) before*  
23       *the date of the inauguration of the President-elect as Presi-*  
24       *dent and the inauguration of the Vice-President-elect as*  
25       *Vice President.*



1           **(b) SECURITY CLEARANCES FOR TRANSITION TEAM**  
2 *MEMBERS.*—(1) *In this section, the term “major party” has*  
3 *the meaning provided under section 9002(6) of the Internal*  
4 *Revenue Code of 1986.*

5           (2) *Each major party candidate for President, except*  
6 *a candidate who is the incumbent President, shall submit,*  
7 *before the date of the general presidential election, requests*  
8 *for security clearances for prospective transition team mem-*  
9 *bers who will have a need for access to classified informa-*  
10 *tion to carry out their responsibilities as members of the*  
11 *President-elect’s transition team.*

12           (3) *Necessary background investigations and eligibility*  
13 *determinations to permit appropriate prospective transi-*  
14 *tion team members to have access to classified information*  
15 *shall be completed, to the fullest extent practicable, by the*  
16 *day after the date of the general presidential election.*

17 **SEC. 5078. REPORTS.**

18           *Not later than February 15, 2006, and annually there-*  
19 *after through 2016, the Director shall submit to the appro-*  
20 *priate committees of Congress a report on the progress made*  
21 *during the preceding year toward meeting the requirements*  
22 *specified in this Act. The report shall include—*

23                   (1) *the periods of time required by the authorized*  
24 *investigative agencies and authorized adjudicative*  
25 *agencies during the year covered by the report for*



1       *conducting investigations, adjudicating cases, and*  
2       *granting clearances, from date of submission to ulti-*  
3       *mate disposition and notification to the subject and*  
4       *the subject's employer;*

5               *(2) a discussion of any impediments to the*  
6       *smooth and timely functioning of the implementation*  
7       *of this title; and*

8               *(3) such other information or recommendations*  
9       *as the Deputy Director deems appropriate.*

10       ***Subtitle G—Emergency Financial***  
11                       ***Preparedness***

12       ***SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY OF***  
13                       ***THE TREASURY.***

14       *Subsection (d) of section 306 of title 31, United States*  
15       *Code, is amended by inserting “or employee” after “another*  
16       *officer”.*

17       ***SEC. 5082. EXTENSION OF EMERGENCY ORDER AUTHORITY***  
18                       ***OF THE SECURITIES AND EXCHANGE COMMIS-***  
19                       ***SION.***

20       *(a) EXTENSION OF AUTHORITY.—Paragraph (2) of*  
21       *section 12(k) of the Securities Exchange Act of 1934 (15*  
22       *U.S.C. 78l(k)(2)) is amended to read as follows:*

23               *“(2) EMERGENCY ORDERS.—(A) The Commis-*  
24       *sion, in an emergency, may by order summarily take*  
25       *such action to alter, supplement, suspend, or impose*



1        *requirements or restrictions with respect to any mat-*  
2        *ter or action subject to regulation by the Commission*  
3        *or a self-regulatory organization under the securities*  
4        *laws, as the Commission determines is necessary in*  
5        *the public interest and for the protection of*  
6        *investors—*

7                *“(i) to maintain or restore fair and orderly*  
8                *securities markets (other than markets in ex-*  
9                *empted securities);*

10               *“(ii) to ensure prompt, accurate, and safe*  
11               *clearance and settlement of transactions in secu-*  
12               *rities (other than exempted securities); or*

13               *“(iii) to reduce, eliminate, or prevent the*  
14               *substantial disruption by the emergency of (I)*  
15               *securities markets (other than markets in ex-*  
16               *empted securities), investment companies, or any*  
17               *other significant portion or segment of such mar-*  
18               *kets, or (II) the transmission or processing of se-*  
19               *curities transactions (other than transactions in*  
20               *exempted securities).*

21               *“(B) An order of the Commission under this*  
22               *paragraph (2) shall continue in effect for the period*  
23               *specified by the Commission, and may be extended.*  
24               *Except as provided in subparagraph (C), the Com-*



1        *mission's action may not continue in effect for more*  
2        *than 30 business days, including extensions.*

3            *“(C) An order of the Commission under this*  
4        *paragraph (2) may be extended to continue in effect*  
5        *for more than 30 business days if, at the time of the*  
6        *extension, the Commission finds that the emergency*  
7        *still exists and determines that the continuation of the*  
8        *order beyond 30 business days is necessary in the*  
9        *public interest and for the protection of investors to*  
10       *attain an objective described in clause (i), (ii), or*  
11       *(iii) of subparagraph (A). In no event shall an order*  
12       *of the Commission under this paragraph (2) continue*  
13       *in effect for more than 90 calendar days.*

14           *“(D) If the actions described in subparagraph*  
15       *(A) involve a security futures product, the Commis-*  
16       *sion shall consult with and consider the views of the*  
17       *Commodity Futures Trading Commission. In exer-*  
18       *cising its authority under this paragraph, the Com-*  
19       *mission shall not be required to comply with the pro-*  
20       *visions of section 553 of title 5, United States Code,*  
21       *or with the provisions of section 19(c) of this title.*

22           *“(E) Notwithstanding the exclusion of exempted*  
23       *securities (and markets therein) from the Commis-*  
24       *sion's authority under subparagraph (A), the Com-*  
25       *mission may use such authority to take action to*



1        *alter, supplement, suspend, or impose requirements or*  
2        *restrictions with respect to clearing agencies for*  
3        *transactions in such exempted securities. In taking*  
4        *any action under this subparagraph, the Commission*  
5        *shall consult with and consider the views of the Sec-*  
6        *retary of the Treasury.”.*

7        *(b) CONSULTATION; DEFINITION OF EMERGENCY.—*  
8        *Section 12(k) of the Securities Exchange Act of 1934 (15*  
9        *U.S.C. 78l(k)) is further amended by striking paragraph*  
10       *(6) and inserting the following:*

11                *“(6) CONSULTATION.—Prior to taking any ac-*  
12                *tion described in paragraph (1)(B), the Commission*  
13                *shall consult with and consider the views of the Sec-*  
14                *retary of the Treasury, Board of Governors of the*  
15                *Federal Reserve System, and the Commodity Futures*  
16                *Trading Commission, unless such consultation is im-*  
17                *practicable in light of the emergency.*

18                *“(7) DEFINITIONS.—*

19                        *“(A) EMERGENCY.—For purposes of this*  
20                        *subsection, the term ‘emergency’ means—*

21                                *“(i) a major market disturbance char-*  
22                                *acterized by or constituting—*

23                                        *“(I) sudden and excessive fluctua-*  
24                                        *tions of securities prices generally, or a*



1                    *substantial threat thereof, that threaten*  
2                    *fair and orderly markets; or*

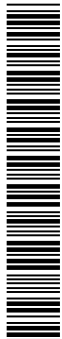
3                    *“(II) a substantial disruption of*  
4                    *the safe or efficient operation of the na-*  
5                    *tional system for clearance and settle-*  
6                    *ment of transactions in securities, or a*  
7                    *substantial threat thereof; or*

8                    *“(ii) a major disturbance that substan-*  
9                    *tially disrupts, or threatens to substantially*  
10                   *disrupt—*

11                   *“(I) the functioning of securities*  
12                   *markets, investment companies, or any*  
13                   *other significant portion or segment of*  
14                   *the securities markets; or*

15                   *“(II) the transmission or proc-*  
16                   *essing of securities transactions.*

17                   *“(B) SECURITIES LAWS.—Notwithstanding*  
18                   *section 3(a)(47), for purposes of this subsection,*  
19                   *the term ‘securities laws’ does not include the*  
20                   *Public Utility Holding Company Act of 1935*  
21                   *(15 U.S.C. 79a et seq.).”.*





1 **SEC. 5083. PARALLEL AUTHORITY OF THE SECRETARY OF**  
2 **THE TREASURY WITH RESPECT TO GOVERN-**  
3 **MENT SECURITIES.**

4 *Section 15C of the Securities Exchange Act of 1934*  
5 *(15 U.S.C. 78o-5) is amended by adding at the end the*  
6 *following new subsection:*

7 *“(h) EMERGENCY AUTHORITY.—The Secretary may by*  
8 *order take any action with respect to a matter or action*  
9 *subject to regulation by the Secretary under this section,*  
10 *or the rules of the Secretary thereunder, involving a govern-*  
11 *ment security or a market therein (or significant portion*  
12 *or segment of that market), that the Commission may take*  
13 *under section 12(k)(2) of this title with respect to trans-*  
14 *actions in securities (other than exempted securities) or a*  
15 *market therein (or significant portion or segment of that*  
16 *market).”.*

17 **Subtitle H—Other Matters**

18 **Chapter 1—Privacy Matters**

19 **SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING**  
20 **TAKE INTO CONSIDERATION IMPACTS ON IN-**  
21 **DIVIDUAL PRIVACY.**

22 *(a) SHORT TITLE.—This section may be cited as the*  
23 *“Federal Agency Protection of Privacy Act of 2004”.*

24 *(b) IN GENERAL.—Title 5, United States Code, is*  
25 *amended by adding after section 553 the following new sec-*  
26 *tion:*



1 **“§ 553a. Privacy impact assessment in rulemaking**

2 “(a) *INITIAL PRIVACY IMPACT ASSESSMENT.*—

3 “(1) *IN GENERAL.*—Whenever an agency is re-  
4 quired by section 553 of this title, or any other law,  
5 to publish a general notice of proposed rulemaking for  
6 a proposed rule, or publishes a notice of proposed  
7 rulemaking for an interpretative rule involving the  
8 internal revenue laws of the United States, and such  
9 rule or proposed rulemaking pertains to the collection,  
10 maintenance, use, or disclosure of personally identifi-  
11 able information from 10 or more individuals, other  
12 than agencies, instrumentalities, or employees of the  
13 Federal government, the agency shall prepare and  
14 make available for public comment an initial privacy  
15 impact assessment that describes the impact of the  
16 proposed rule on the privacy of individuals. Such as-  
17 sessment or a summary thereof shall be signed by the  
18 senior agency official with primary responsibility for  
19 privacy policy and be published in the Federal Reg-  
20 ister at the time of the publication of a general notice  
21 of proposed rulemaking for the rule.

22 “(2) *CONTENTS.*—Each initial privacy impact  
23 assessment required under this subsection shall con-  
24 tain the following:

25 “(A) A description and analysis of the ex-  
26 tent to which the proposed rule will impact the



1           *privacy interests of individuals, including the*  
2           *extent to which the proposed rule—*

3                   “(i) *provides notice of the collection of*  
4                   *personally identifiable information, and*  
5                   *specifies what personally identifiable infor-*  
6                   *mation is to be collected and how it is to be*  
7                   *collected, maintained, used, and disclosed;*

8                   “(ii) *allows access to such information*  
9                   *by the person to whom the personally iden-*  
10                   *tifiable information pertains and provides*  
11                   *an opportunity to correct inaccuracies;*

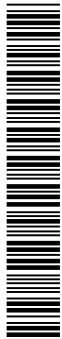
12                   “(iii) *prevents such information, which*  
13                   *is collected for one purpose, from being used*  
14                   *for another purpose; and*

15                   “(iv) *provides security for such infor-*  
16                   *mation.*

17                   “(B) *A description of any significant alter-*  
18                   *natives to the proposed rule which accomplish*  
19                   *the stated objectives of applicable statutes and*  
20                   *which minimize any significant privacy impact*  
21                   *of the proposed rule on individuals.*

22                   “(b) *FINAL PRIVACY IMPACT ASSESSMENT.—*

23                   “(1) *IN GENERAL.—Whenever an agency promul-*  
24                   *gates a final rule under section 553 of this title, after*  
25                   *being required by that section or any other law to*



1       *publish a general notice of proposed rulemaking, or*  
2       *promulgates a final interpretative rule involving the*  
3       *internal revenue laws of the United States, and such*  
4       *rule or proposed rulemaking pertains to the collection,*  
5       *maintenance, use, or disclosure of personally identifi-*  
6       *able information from 10 or more individuals, other*  
7       *than agencies, instrumentalities, or employees of the*  
8       *Federal government, the agency shall prepare a final*  
9       *privacy impact assessment, signed by the senior agen-*  
10       *cy official with primary responsibility for privacy*  
11       *policy.*

12               “(2) *CONTENTS.*—*Each final privacy impact as-*  
13       *essment required under this subsection shall contain*  
14       *the following:*

15                       “(A) *A description and analysis of the ex-*  
16       *tent to which the final rule will impact the pri-*  
17       *vacv interests of individuals, including the ex-*  
18       *tent to which such rule—*

19                               “(i) *provides notice of the collection of*  
20       *personally identifiable information, and*  
21       *specifies what personally identifiable infor-*  
22       *mation is to be collected and how it is to be*  
23       *collected, maintained, used, and disclosed;*

24                               “(ii) *allows access to such information*  
25       *by the person to whom the personally iden-*



1            *tifiable information pertains and provides*  
2            *an opportunity to correct inaccuracies;*

3            *“(iii) prevents such information, which*  
4            *is collected for one purpose, from being used*  
5            *for another purpose; and*

6            *“(iv) provides security for such infor-*  
7            *mation.*

8            *“(B) A summary of any significant issues*  
9            *raised by the public comments in response to the*  
10           *initial privacy impact assessment, a summary of*  
11           *the analysis of the agency of such issues, and a*  
12           *statement of any changes made in such rule as*  
13           *a result of such issues.*

14           *“(C) A description of the steps the agency*  
15           *has taken to minimize the significant privacy*  
16           *impact on individuals consistent with the stated*  
17           *objectives of applicable statutes, including a*  
18           *statement of the factual, policy, and legal reasons*  
19           *for selecting the alternative adopted in the final*  
20           *rule and why each one of the other significant al-*  
21           *ternatives to the rule considered by the agency*  
22           *which affect the privacy interests of individuals*  
23           *was rejected.*

24           *“(3) AVAILABILITY TO PUBLIC.—The agency*  
25           *shall make copies of the final privacy impact assess-*



1 *ment available to members of the public and shall*  
2 *publish in the Federal Register such assessment or a*  
3 *summary thereof.*

4 *“(c) WAIVERS.—*

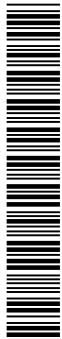
5 *“(1) EMERGENCIES.—An agency head may*  
6 *wave or delay the completion of some or all of the*  
7 *requirements of subsections (a) and (b) to the same*  
8 *extent as the agency head may, under section 608,*  
9 *wave or delay the completion of some or all of the*  
10 *requirements of sections 603 and 604, respectively.*

11 *“(2) NATIONAL SECURITY.—An agency head*  
12 *may, for national security reasons, or to protect from*  
13 *disclosure classified information, confidential com-*  
14 *mmercial information, or information the disclosure of*  
15 *which may adversely affect a law enforcement effort,*  
16 *wave or delay the completion of some or all of the*  
17 *following requirements:*

18 *“(A) The requirement of subsection (a)(1) to*  
19 *make an assessment available for public com-*  
20 *ment.*

21 *“(B) The requirement of subsection (a)(1) to*  
22 *have an assessment or summary thereof pub-*  
23 *lished in the Federal Register.*

24 *“(C) The requirements of subsection (b)(3).*



1           “(d) *PROCEDURES FOR GATHERING COMMENTS.*—  
2 *When any rule is promulgated which may have a signifi-*  
3 *cant privacy impact on individuals, or a privacy impact*  
4 *on a substantial number of individuals, the head of the*  
5 *agency promulgating the rule or the official of the agency*  
6 *with statutory responsibility for the promulgation of the*  
7 *rule shall assure that individuals have been given an oppor-*  
8 *tunity to participate in the rulemaking for the rule through*  
9 *techniques such as—*

10                   “(1) *the inclusion in an advance notice of pro-*  
11 *posed rulemaking, if issued, of a statement that the*  
12 *proposed rule may have a significant privacy impact*  
13 *on individuals, or a privacy impact on a substantial*  
14 *number of individuals;*

15                   “(2) *the publication of a general notice of pro-*  
16 *posed rulemaking in publications of national circula-*  
17 *tion likely to be obtained by individuals;*

18                   “(3) *the direct notification of interested individ-*  
19 *uals;*

20                   “(4) *the conduct of open conferences or public*  
21 *hearings concerning the rule for individuals, includ-*  
22 *ing soliciting and receiving comments over computer*  
23 *networks; and*



1           “(5) *the adoption or modification of agency pro-*  
2           *cedural rules to reduce the cost or complexity of par-*  
3           *ticipation in the rulemaking by individuals.*

4           “(e) *PERIODIC REVIEW OF RULES.—*

5           “(1) *IN GENERAL.—Each agency shall carry out*  
6           *a periodic review of the rules promulgated by the*  
7           *agency that have a significant privacy impact on in-*  
8           *dividuals, or a privacy impact on a substantial num-*  
9           *ber of individuals. Under such periodic review, the*  
10          *agency shall determine, for each such rule, whether*  
11          *the rule can be amended or rescinded in a manner*  
12          *that minimizes any such impact while remaining in*  
13          *accordance with applicable statutes. For each such de-*  
14          *termination, the agency shall consider the following*  
15          *factors:*

16                   “(A) *The continued need for the rule.*

17                   “(B) *The nature of complaints or comments*  
18                   *received from the public concerning the rule.*

19                   “(C) *The complexity of the rule.*

20                   “(D) *The extent to which the rule overlaps,*  
21                   *duplicates, or conflicts with other Federal rules,*  
22                   *and, to the extent feasible, with State and local*  
23                   *governmental rules.*

24                   “(E) *The length of time since the rule was*  
25                   *last reviewed under this subsection.*





1           “(F) *The degree to which technology, eco-*  
2           *nomie conditions, or other factors have changed*  
3           *in the area affected by the rule since the rule was*  
4           *last reviewed under this subsection.*

5           “(2) *PLAN REQUIRED.—Each agency shall carry*  
6           *out the periodic review required by paragraph (1) in*  
7           *accordance with a plan published by such agency in*  
8           *the Federal Register. Each such plan shall provide for*  
9           *the review under this subsection of each rule promul-*  
10          *gated by the agency not later than 10 years after the*  
11          *date on which such rule was published as the final*  
12          *rule and, thereafter, not later than 10 years after the*  
13          *date on which such rule was last reviewed under this*  
14          *subsection. The agency may amend such plan at any*  
15          *time by publishing the revision in the Federal Reg-*  
16          *ister.*

17          “(3) *ANNUAL PUBLICATION.—Each year, each*  
18          *agency shall publish in the Federal Register a list of*  
19          *the rules to be reviewed by such agency under this*  
20          *subsection during the following year. The list shall in-*  
21          *clude a brief description of each such rule and the*  
22          *need for and legal basis of such rule and shall invite*  
23          *public comment upon the determination to be made*  
24          *under this subsection with respect to such rule.*

25          “(f) *JUDICIAL REVIEW.—*



1           “(1) *IN GENERAL.*—*For any rule subject to this*  
2           *section, an individual who is adversely affected or ag-*  
3           *grieved by final agency action is entitled to judicial*  
4           *review of agency compliance with the requirements of*  
5           *subsections (b) and (c) in accordance with chapter 7.*  
6           *Agency compliance with subsection (d) shall be judi-*  
7           *cially reviewable in connection with judicial review of*  
8           *subsection (b).*

9           “(2) *JURISDICTION.*—*Each court having juris-*  
10           *isdiction to review such rule for compliance with sec-*  
11           *tion 553, or under any other provision of law, shall*  
12           *have jurisdiction to review any claims of noncompli-*  
13           *ance with subsections (b) and (c) in accordance with*  
14           *chapter 7. Agency compliance with subsection (d)*  
15           *shall be judicially reviewable in connection with judi-*  
16           *cial review of subsection (b).*

17           “(3) *LIMITATIONS.*—

18           “(A) *An individual may seek such review*  
19           *during the period beginning on the date of final*  
20           *agency action and ending 1 year later, except*  
21           *that where a provision of law requires that an*  
22           *action challenging a final agency action be com-*  
23           *menced before the expiration of 1 year, such less-*  
24           *er period shall apply to an action for judicial re-*  
25           *view under this subsection.*



1           “(B) *In the case where an agency delays the*  
2           *issuance of a final privacy impact assessment*  
3           *pursuant to subsection (c), an action for judicial*  
4           *review under this section shall be filed not later*  
5           *than—*

6                     “(i) *1 year after the date the assess-*  
7                     *ment is made available to the public; or*

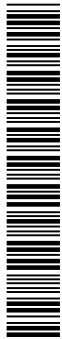
8                     “(ii) *where a provision of law requires*  
9                     *that an action challenging a final agency*  
10                    *regulation be commenced before the expira-*  
11                    *tion of the 1-year period, the number of*  
12                    *days specified in such provision of law that*  
13                    *is after the date the assessment is made*  
14                    *available to the public.*

15           “(4) *RELIEF.—In granting any relief in an ac-*  
16           *tion under this subsection, the court shall order the*  
17           *agency to take corrective action consistent with this*  
18           *section and chapter 7, including, but not limited to—*

19                     “(A) *remanding the rule to the agency; and*

20                     “(B) *deferring the enforcement of the rule*  
21                     *against individuals, unless the court finds that*  
22                     *continued enforcement of the rule is in the public*  
23                     *interest.*

24           “(5) *RULE OF CONSTRUCTION.—Nothing in this*  
25           *subsection shall be construed to limit the authority of*



1        *any court to stay the effective date of any rule or pro-*  
2        *vision thereof under any other provision of law or to*  
3        *grant any other relief in addition to the requirements*  
4        *of this subsection.*

5            *“(6) RECORD OF AGENCY ACTION.—In an action*  
6        *for the judicial review of a rule, the privacy impact*  
7        *assessment for such rule, including an assessment pre-*  
8        *pared or corrected pursuant to paragraph (4), shall*  
9        *constitute part of the entire record of agency action*  
10       *in connection with such review.*

11           *“(7) EXCLUSIVITY.—Compliance or noncompli-*  
12       *ance by an agency with the provisions of this section*  
13       *shall be subject to judicial review only in accordance*  
14       *with this subsection.*

15           *“(8) SAVINGS CLAUSE.—Nothing in this sub-*  
16       *section bars judicial review of any other impact state-*  
17       *ment or similar assessment required by any other law*  
18       *if judicial review of such statement or assessment is*  
19       *otherwise permitted by law.*

20           *“(g) DEFINITION.—For purposes of this section, the*  
21       *term ‘personally identifiable information’ means informa-*  
22       *tion that can be used to identify an individual, including*  
23       *such individual’s name, address, telephone number, photo-*  
24       *graph, social security number or other identifying informa-*



1 *tion. It includes information about such individual's med-*  
2 *ical or financial condition.”.*

3 *(c) PERIODIC REVIEW TRANSITION PROVISIONS.—*

4 *(1) INITIAL PLAN.—For each agency, the plan*  
5 *required by subsection (e) of section 553a of title 5,*  
6 *United States Code (as added by subsection (a)), shall*  
7 *be published not later than 180 days after the date of*  
8 *the enactment of this Act.*

9 *(2) In the case of a rule promulgated by an*  
10 *agency before the date of the enactment of this Act,*  
11 *such plan shall provide for the periodic review of such*  
12 *rule before the expiration of the 10-year period begin-*  
13 *ning on the date of the enactment of this Act. For any*  
14 *such rule, the head of the agency may provide for a*  
15 *1-year extension of such period if the head of the*  
16 *agency, before the expiration of the period, certifies in*  
17 *a statement published in the Federal Register that re-*  
18 *viewing such rule before the expiration of the period*  
19 *is not feasible. The head of the agency may provide*  
20 *for additional 1-year extensions of the period pursu-*  
21 *ant to the preceding sentence, but in no event may the*  
22 *period exceed 15 years.*

23 *(d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B)*  
24 *of title 5, United States Code, is amended—*



1           (1) by redesignating clauses (iii) and (iv) as  
2           clauses (iv) and (v), respectively; and

3           (2) by inserting after clause (ii) the following  
4           new clause:

5           “(iii) the agency’s actions relevant to section  
6           553a;”.

7           (e) *CLERICAL AMENDMENT.*—The table of sections at  
8           the beginning of chapter 5 of title 5, United States Code,  
9           is amended by adding after the item relating to section 553  
10          the following new item:

*553a. Privacy impact assessment in rulemaking.”.*

11   **SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH**  
12                           **LAW ENFORCEMENT OR ANTI-TERRORISM**  
13                           **FUNCTIONS.**

14          (a) *IN GENERAL.*—There shall be within each Federal  
15          agency with law enforcement or anti-terrorism functions a  
16          chief privacy officer, who shall have primary responsibility  
17          within that agency for privacy policy. The agency chief pri-  
18          vacy officer shall be designated by the head of the agency.

19          (b) *RESPONSIBILITIES.*—The responsibilities of each  
20          agency chief privacy officer shall include—

21               (1) ensuring that the use of technologies sustains,  
22               and does not erode, privacy protections relating to the  
23               use, collection, and disclosure of personally identifi-  
24               able information;



1           (2) *ensuring that personally identifiable infor-*  
2           *mation contained in systems of records is handled in*  
3           *full compliance with fair information practices as set*  
4           *out in section 552a of title 5, United States Code;*

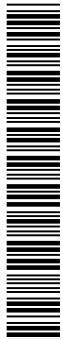
5           (3) *evaluating legislative and regulatory pro-*  
6           *posals involving collection, use, and disclosure of per-*  
7           *sonally identifiable information by the Federal Gov-*  
8           *ernment;*

9           (4) *conducting a privacy impact assessment of*  
10          *proposed rules of the agency on the privacy of person-*  
11          *ally identifiable information, including the type of*  
12          *personally identifiable information collected and the*  
13          *number of people affected;*

14          (5) *preparing and submitting a report to Con-*  
15          *gress on an annual basis on activities of the agency*  
16          *that affect privacy, including complaints of privacy*  
17          *violations, implementation of section 552a of title 5,*  
18          *United States Code, internal controls, and other rel-*  
19          *evant matters;*

20          (6) *ensuring that the agency protects personally*  
21          *identifiable information and information systems*  
22          *from unauthorized access, use, disclosure, disruption,*  
23          *modification, or destruction in order to provide—*

24                  (A) *integrity, which means guarding*  
25                  *against improper information modification or*



1           *destruction, and includes ensuring information*  
2           *nonrepudiation and authenticity;*

3           *(B) confidentially, which means preserving*  
4           *authorized restrictions on access and disclosure,*  
5           *including means for protecting personal privacy*  
6           *and proprietary information;*

7           *(C) availability, which means ensuring*  
8           *timely and reliable access to and use of that in-*  
9           *formation; and*

10           *(D) authentication, which means utilizing*  
11           *digital credentials to assure the identity of users*  
12           *and validate their access; and*

13           *(7) advising the head of the agency and the Di-*  
14           *rector of the Office of Management and Budget on in-*  
15           *formation security and privacy issues pertaining to*  
16           *Federal Government information systems.*

17 **SEC. 5093. DATA-MINING REPORT.**

18           *(a) DEFINITIONS.—In this section:*

19           *(1) DATA-MINING.—The term “data-mining”*  
20           *means a query or search or other analysis of 1 or*  
21           *more electronic databases, where—*

22           *(A) at least 1 of the databases was obtained*  
23           *from or remains under the control of a non-Fed-*  
24           *eral entity, or the information was acquired ini-*  
25           *tially by another department or agency of the*





1           *Federal Government for purposes other than in-*  
2           *telligence or law enforcement;*

3           *(B) the search does not use a specific indi-*  
4           *vidual's personal identifiers to acquire informa-*  
5           *tion concerning that individual; and*

6           *(C) a department or agency of the Federal*  
7           *Government is conducting the query or search or*  
8           *other analysis to find a pattern indicating ter-*  
9           *rorist or other criminal activity.*

10          (2) *DATABASE.—The term “database” does not*  
11          *include telephone directories, information publicly*  
12          *available via the Internet or available by any other*  
13          *means to any member of the public without payment*  
14          *of a fee, or databases of judicial and administrative*  
15          *opinions.*

16          (b) *REPORTS ON DATA-MINING ACTIVITIES.—*

17                 (1) *REQUIREMENT FOR REPORT.—The head of*  
18                 *each department or agency of the Federal Government*  
19                 *that is engaged in any activity to use or develop*  
20                 *data-mining technology shall each submit a public re-*  
21                 *port to Congress on all such activities of the depart-*  
22                 *ment or agency under the jurisdiction of that official.*

23                 (2) *CONTENT OF REPORT.—A report submitted*  
24                 *under paragraph (1) shall include, for each activity*  
25                 *to use or develop data-mining technology that is re-*



1        *quired to be covered by the report, the following infor-*  
2        *mation:*

3                *(A) A thorough description of the data-min-*  
4                *ing technology and the data that will be used.*

5                *(B) A thorough discussion of the plans for*  
6                *the use of such technology and the target dates*  
7                *for the deployment of the data-mining tech-*  
8                *nology.*

9                *(C) An assessment of the likely efficacy of*  
10               *the data-mining technology in providing accu-*  
11               *rate and valuable information consistent with*  
12               *the stated plans for the use of the technology.*

13               *(D) An assessment of the likely impact of*  
14               *the implementation of the data-mining tech-*  
15               *nology on privacy and civil liberties.*

16               *(E) A list and analysis of the laws and reg-*  
17               *ulations that govern the information to be col-*  
18               *lected, reviewed, gathered, and analyzed with the*  
19               *data-mining technology and a description of any*  
20               *modifications of such laws that will be required*  
21               *to use the information in the manner proposed*  
22               *under such program.*

23               *(F) A thorough discussion of the policies,*  
24               *procedures, and guidelines that are to be devel-*



1            *oped and applied in the use of such technology*  
2            *for data-mining in order to—*

3                    *(i) protect the privacy and due process*  
4                    *rights of individuals; and*

5                    *(ii) ensure that only accurate informa-*  
6                    *tion is collected and used.*

7            *(G) A thorough discussion of the procedures*  
8            *allowing individuals whose personal information*  
9            *will be used in the data-mining technology to be*  
10           *informed of the use of their personal information*  
11           *and what procedures are in place to allow for in-*  
12           *dividuals to opt out of the technology, and, if no*  
13           *such procedures are in place, a thorough expla-*  
14           *nation as to why not.*

15                    *(H) Any necessary classified information in*  
16                    *an annex that shall be available to the Com-*  
17                    *mittee on Governmental Affairs, the Committee*  
18                    *on the Judiciary, and the Committee on Appro-*  
19                    *priations of the Senate and the Committee on*  
20                    *Homeland Security, the Committee on the Judi-*  
21                    *ciary, and the Committee on Appropriations of*  
22                    *the House of Representatives.*

23                    *(3) TIME FOR REPORT.—Each report required*  
24                    *under paragraph (1) shall be—*



1           (A) submitted not later than 90 days after  
2           the date of the enactment of this Act; and

3           (B) updated once a year and include any  
4           new data-mining technologies.

5 **SEC. 5094. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**  
6           **BOARD.**

7           (a) *IN GENERAL.*—There is established within the Ex-  
8           ecutive Branch an Independent Privacy and Civil Liberties  
9           Oversight Board (referred to in this section as the “Board”).

10          (b) *FINDINGS.*—Consistent with the report of the Na-  
11          tional Commission on Terrorist Attacks Upon the United  
12          States, Congress makes the following findings:

13               (1) *In conducting the war on terrorism, the Gov-*  
14               *ernment may need additional powers and may need*  
15               *to enhance the use of its existing powers.*

16               (2) *This shift of power and authority to the Gov-*  
17               *ernment calls for an enhanced system of checks and*  
18               *balances to protect the precious liberties that are vital*  
19               *to our way of life and to ensure that the Government*  
20               *uses its powers for the purposes for which the powers*  
21               *were given.*

22          (c) *PURPOSE.*—The Board shall—

23               (1) *analyze and review actions the Executive*  
24               *Branch takes to protect the Nation from terrorism as*  
25               *such actions pertain to privacy or civil liberties; and*



1           (2) *ensure that privacy and civil liberties con-*  
2           *cerns are appropriately considered in the development*  
3           *and implementation of laws, regulations, and policies*  
4           *related to efforts to protect the Nation against ter-*  
5           *rorism.*

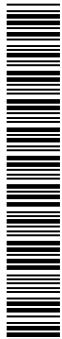
6           (d) *FUNCTIONS.—*

7           (1) *ADVICE AND COUNSEL ON POLICY DEVELOP-*  
8           *MENT AND IMPLEMENTATION.—The Board shall—*

9                   (A) *review the privacy and civil liberties*  
10                  *implications of proposed legislation, regulations,*  
11                  *and policies related to efforts to protect the Na-*  
12                  *tion from terrorism, including the development*  
13                  *and adoption of information sharing guidelines*  
14                  *under section 892 of the Homeland Security Act;*

15                   (B) *review the privacy and civil liberties*  
16                  *implications of the implementation of new and*  
17                  *existing legislation, regulations, and policies re-*  
18                  *lated to efforts to protect the Nation from ter-*  
19                  *rorism, including the implementation of infor-*  
20                  *mation sharing guidelines under section 892 of*  
21                  *the Homeland Security Act;*

22                   (C) *advise the President and Federal execu-*  
23                  *tive departments and agencies to ensure that pri-*  
24                  *vacy and civil liberties are appropriately consid-*  
25                  *ered in the development and implementation of*



1           *such legislation, regulations, policies, and guide-*  
2           *lines; and*

3                     *(D) in providing advice on proposals to re-*  
4           *tain or enhance a particular governmental*  
5           *power, consider whether the executive department*  
6           *or agency has explained—*

7                             *(i) that the power actually materially*  
8                             *enhances security; and*

9                             *(ii) that there is adequate supervision*  
10           *of the executive's use of the power to ensure*  
11           *protection of privacy and civil liberties.*

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

14                     *(A) the regulations, policies, and procedures*  
15           *and the implementation of the regulations, poli-*  
16           *cies, procedures, and related laws of Federal ex-*  
17           *ecutive departments and agencies to ensure that*  
18           *privacy and civil liberties are protected;*

19                     *(B) the information sharing practices of*  
20           *Federal executive departments and agencies to*  
21           *determine whether they appropriately protect*  
22           *privacy and civil liberties and adhere to the in-*  
23           *formation sharing guidelines promulgated under*  
24           *section 892 of the Homeland Security Act and to*



1           *other governing laws, regulations, and policies*  
2           *regarding privacy and civil liberties; and*

3           *(C) other actions by the Executive Branch*  
4           *related to efforts to protect the Nation from ter-*  
5           *rorism to determine whether such actions—*

6                     *(i) appropriately protect privacy and*  
7                     *civil liberties; and*

8                     *(ii) are consistent with governing laws,*  
9                     *regulations, and policies regarding privacy*  
10                    *and civil liberties.*

11           (3) *RELATIONSHIP WITH PRIVACY OFFICERS.—*

12           *The Board shall—*

13                     *(A) review and assess reports and other in-*  
14                     *formation from privacy officers described in sec-*  
15                     *tion 5092;*

16                     *(B) when appropriate, make recommenda-*  
17                     *tions to such privacy officers regarding their ac-*  
18                     *tivities; and*

19                     *(C) when appropriate, coordinate the activi-*  
20                     *ties of such privacy officers on relevant inter-*  
21                     *agency matters.*

22           (4) *TESTIMONY.—The Members of the Board*  
23           *shall appear and testify before Congress upon request.*

24           (e) *REPORTS.—*

25                     (1) *IN GENERAL.—The Board shall—*



1           (A) receive and review reports from privacy  
2           and civil liberties officers described in section  
3           5092(b)(5); and

4           (B) periodically submit, not less than semi-  
5           annually, reports to Congress and the President.

6           (2) CONTENTS.—Not less than 2 reports sub-  
7           mitted each year under paragraph (1)(B) shall  
8           include—

9           (A) a description of the major activities of  
10           the Board during the relevant period; and

11           (B) information on the findings, conclu-  
12           sions, and recommendations of the Board result-  
13           ing from its advice and oversight functions  
14           under subsection (d).

15           (f) INFORMING THE PUBLIC.—The Board shall hold  
16           public hearings, release public reports, and otherwise in-  
17           form the public of its activities, as appropriate and in a  
18           manner consistent with the protection of classified informa-  
19           tion, applicable law, and national security.

20           (g) ACCESS TO INFORMATION.—

21           (1) AUTHORIZATION.—If determined by the  
22           Board to be necessary to carry out its responsibilities  
23           under this section, the Board may—

24           (A) secure directly from any Federal execu-  
25           tive department or agency, or any Federal officer





1           *or employee, all relevant records, reports, audits,*  
2           *reviews, documents, papers, or recommendations,*  
3           *including classified information consistent with*  
4           *applicable law;*

5           *(B) interview, take statements from, or take*  
6           *public testimony from personnel of any Federal*  
7           *executive department or agency or any Federal*  
8           *officer or employee; and*

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

11          (2) *OBTAINING OFFICIAL INFORMATION.—*

12           *(A) REQUIREMENT TO FURNISH.—Except*  
13           *as provided in subparagraph (B), if the Board*  
14           *submits a request to a Federal department or*  
15           *agency for information necessary to enable the*  
16           *Board to carry out this section, the head of such*  
17           *department or agency shall furnish that infor-*  
18           *mation to the Board.*

19           *(B) EXCEPTION FOR NATIONAL SECURITY.—*  
20           *If the National Intelligence Director, in consulta-*  
21           *tion with the Attorney General, determines that*  
22           *it is necessary to withhold requested information*  
23           *from disclosure to protect the national security*  
24           *interests of the United States, the department or*



1           *agency head shall not furnish that information*  
2           *to the Board.*

3           *(h) MEMBERSHIP.—*

4           *(1) MEMBERS.—The Board shall be composed of*  
5           *a chairman and 4 additional members, who shall be*  
6           *appointed by the President, by and with the advice*  
7           *and consent of the Senate.*

8           *(2) POLITICAL AFFILIATION.—Not more than 3*  
9           *members of the Board shall be of the same political*  
10          *party.*

11          *(3) QUALIFICATIONS.—Members of the Board*  
12          *shall be selected solely on the basis of their profes-*  
13          *sional qualifications, achievements, public stature,*  
14          *and relevant experience, and without regard to polit-*  
15          *ical affiliation. Members of the Board shall also have*  
16          *extensive experience in the areas of privacy and civil*  
17          *rights and liberties.*

18          *(4) INCOMPATIBLE OFFICE.—An individual ap-*  
19          *pointed to the Board may not, while serving on the*  
20          *Board, be an elected official, an officer, or an em-*  
21          *ployee of the Federal Government, other than in the*  
22          *capacity as a member of the Board.*

23          *(5) TERM.—Each member of the Board shall*  
24          *serve a term of six years, except that—*



1           (A) a member appointed to a term of office  
2 after the commencement of such term may serve  
3 under such appointment only for the remainder  
4 of such term;

5           (B) upon the expiration of the term of office  
6 of a member, the member shall continue to serve  
7 until the member's successor has been appointed  
8 and qualified, except that no member may serve  
9 under this subparagraph—

10           (i) for more than 60 days when Con-  
11 gress is in session unless a nomination to  
12 fill the vacancy shall have been submitted to  
13 the Senate; or

14           (ii) after the adjournment sine die of  
15 the session of the Senate in which such  
16 nomination is submitted; and

17           (C) the members initially appointed under  
18 this subsection shall serve terms of two, three,  
19 four, five, and six years, respectively, from the ef-  
20 fective date of this Act, with the term of each  
21 such member to be designated by the President.

22           (i) *QUORUM AND MEETINGS.*—After its initial meet-  
23 ing, the Board shall meet upon the call of the chairman  
24 or a majority of its members. Three members of the Board  
25 shall constitute a quorum.



1           (j) *COMPENSATION AND TRAVEL EXPENSES.*—

2                 (1) *COMPENSATION.*—

3                     (A) *CHAIRMAN.*—*The chairman shall be*  
4                     *compensated at a rate equal to the daily equiva-*  
5                     *lent of the annual rate of basic pay in effect for*  
6                     *a position at level III of the Executive Schedule*  
7                     *under section 5314 of title 5, United States Code,*  
8                     *for each day during which the chairman is en-*  
9                     *gaged in the actual performance of the duties of*  
10                    *the Board.*

11                    (B) *MEMBERS.*—*Each member of the Board*  
12                    *shall be compensated at a rate equal to the daily*  
13                    *equivalent of the annual rate of basic pay in ef-*  
14                    *fect for a position at level IV of the Executive*  
15                    *Schedule under section 5315 of title 5, United*  
16                    *States Code, for each day during which that*  
17                    *member is engaged in the actual performance of*  
18                    *the duties of the Board.*

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



1       (k) *STAFF.*—

2           (1) *APPOINTMENT AND COMPENSATION.*—*The*  
3 *Chairman, in accordance with rules agreed upon by*  
4 *the Board, shall appoint and fix the compensation of*  
5 *an executive director and such other personnel as may*  
6 *be necessary to enable the Board to carry out its func-*  
7 *tions, without regard to the provisions of title 5,*  
8 *United States Code, governing appointments in the*  
9 *competitive service, and without regard to the provi-*  
10 *sions of chapter 51 and subchapter III of chapter 53*  
11 *of such title relating to classification and General*  
12 *Schedule pay rates, except that no rate of pay fixed*  
13 *under this subsection may exceed the equivalent of*  
14 *that payable for a position at level V of the Executive*  
15 *Schedule under section 5316 of title 5, United States*  
16 *Code.*

17           (2) *DETAILEES.*—*Any Federal employee may be*  
18 *detailed to the Board without reimbursement from the*  
19 *Board, and such detailee shall retain the rights, sta-*  
20 *tus, and privileges of the detailee's regular employ-*  
21 *ment without interruption.*

22           (3) *CONSULTANT SERVICES.*—*The Board may*  
23 *procure the temporary or intermittent services of ex-*  
24 *perts and consultants in accordance with section 3109*  
25 *of title 5, United States Code, at rates that do not ex-*



1        *ceed the daily rate paid a person occupying a posi-*  
2        *tion at level IV of the Executive Schedule under sec-*  
3        *tion 5315 of such title.*

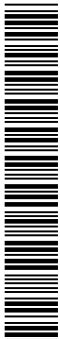
4        *(l) SECURITY CLEARANCES.—The appropriate Federal*  
5        *executive departments and agencies shall cooperate with the*  
6        *Board to expeditiously provide the Board members and staff*  
7        *with appropriate security clearances to the extent possible*  
8        *under existing procedures and requirements, except that no*  
9        *person shall be provided with access to classified informa-*  
10       *tion under this section without the appropriate security*  
11       *clearances.*

12       *(m) TREATMENT AS AGENCY, NOT AS ADVISORY COM-*  
13       *MITTEE.—The Board—*

14            *(1) is an agency (as defined in section 551(1) of*  
15        *title 5, United States Code); and*

16            *(2) is not an advisory committee (as defined in*  
17        *section 3(2) of the Federal Advisory Committee Act (5*  
18        *U.S.C. App.)).*

19        *(n) AUTHORIZATION OF APPROPRIATIONS.—There are*  
20        *authorized to be appropriated such sums as may be nec-*  
21        *essary to carry out this section.*



1                   **CHAPTER 2—MUTUAL AID AND**  
2                   **LITIGATION MANAGEMENT**

3 **SEC. 5101. SHORT TITLE.**

4           *This chapter may be cited as the “Mutual Aid and*  
5 *Litigation Management Authorization Act of 2004”.*

6 **SEC. 5102. MUTUAL AID AUTHORIZED.**

7           *(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—*

8                   *(1) IN GENERAL.—The authorized representative*  
9 *of a State, locality, or the Federal Government may*  
10 *enter into an interstate mutual aid agreement or a*  
11 *mutual aid agreement with the Federal Government*  
12 *on behalf of the State, locality, or Federal Govern-*  
13 *ment under which, at the request of any party to the*  
14 *agreement, the other party to the agreement may—*

15                           *(A) provide law enforcement, fire, rescue,*  
16 *emergency health and medical services, transpor-*  
17 *tation, communications, public works and engi-*  
18 *neering, mass care, and resource support in an*  
19 *emergency or public service event occurring in*  
20 *the jurisdiction of the requesting party;*

21                           *(B) provide other services to prepare for,*  
22 *mitigate, manage, respond to, or recover from an*  
23 *emergency or public service event occurring in*  
24 *the jurisdiction of the requesting party; and*



1                   (C) participate in training events occurring  
2                   in the jurisdiction of the requesting party.

3           (b) *LIABILITY AND ACTIONS AT LAW.*—

4                   (1) *LIABILITY.*—A responding party or its offi-  
5                   cers or employees shall be liable on account of any act  
6                   or omission occurring while providing assistance or  
7                   participating in a training event in the jurisdiction  
8                   of a requesting party under a mutual aid agreement  
9                   (including any act or omission arising from the  
10                  maintenance or use of any equipment, facilities, or  
11                  supplies in connection therewith), but only to the ex-  
12                  tent permitted under and in accordance with the laws  
13                  and procedures of the State of the responding party  
14                  and subject to this chapter.

15                  (2) *JURISDICTION OF COURTS.*—

16                       (A) *IN GENERAL.*—Subject to subparagraph  
17                       (B) and section 5103, any action brought  
18                       against a responding party or its officers or em-  
19                       ployees on account of an act or omission de-  
20                       scribed in subsection (b)(1) may be brought only  
21                       under the laws and procedures of the State of the  
22                       responding party and only in the State courts or  
23                       United States District Courts located therein.

24                       (B) *UNITED STATES AS PARTY.*—If the  
25                       United States is the party against whom an ac-





1           *tion described in paragraph (1) is brought, the*  
2           *action may be brought only in a United States*  
3           *District Court.*

4           (c) *WORKERS' COMPENSATION AND DEATH BENE-*  
5           *FITS.—*

6           (1) *PAYMENT OF BENEFITS.—A responding*  
7           *party shall provide for the payment of workers' com-*  
8           *ensation and death benefits with respect to officers*  
9           *or employees of the party who sustain injuries or are*  
10          *killed while providing assistance or participating in*  
11          *a training event under a mutual aid agreement in the*  
12          *same manner and on the same terms as if the injury*  
13          *or death were sustained within the jurisdiction of the*  
14          *responding party.*

15          (2) *LIABILITY FOR BENEFITS.—No party shall be*  
16          *liable under the law of any State other than its own*  
17          *(or, in the case of the Federal Government, under any*  
18          *law other than Federal law) for the payment of work-*  
19          *ers' compensation and death benefits with respect to*  
20          *injured officers or employees of the party who sustain*  
21          *injuries or are killed while providing assistance or*  
22          *participating in a training event under a mutual aid*  
23          *agreement.*

24          (d) *LICENSES AND PERMITS.—Whenever any person*  
25          *holds a license, certificate, or other permit issued by any*



1 *responding party evidencing the meeting of qualifications*  
2 *for professional, mechanical, or other skills, such person will*  
3 *be deemed licensed, certified, or permitted by the requesting*  
4 *party to provide assistance involving such skill under a mu-*  
5 *tual aid agreement.*

6 (e) *SCOPE.—Except to the extent provided in this sec-*  
7 *tion, the rights and responsibilities of the parties to a mu-*  
8 *tual aid agreement shall be as described in the mutual aid*  
9 *agreement.*

10 (f) *EFFECT ON OTHER AGREEMENTS.—Nothing in*  
11 *this section precludes any party from entering into supple-*  
12 *mentary mutual aid agreements with fewer than all the*  
13 *parties, or with another, or affects any other agreements*  
14 *already in force among any parties to such an agreement,*  
15 *including the Emergency Management Assistance Compact*  
16 *(EMAC) under Public Law 104–321.*

17 (g) *FEDERAL GOVERNMENT.—Nothing in this section*  
18 *may be construed to limit any other expressed or implied*  
19 *authority of any entity of the Federal Government to enter*  
20 *into mutual aid agreements.*

21 (h) *CONSISTENCY WITH STATE LAW.—A party may*  
22 *enter into a mutual aid agreement under this chapter only*  
23 *insofar as the agreement is in accord with State law.*



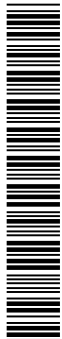
1 **SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

2 (a) *AUTHORIZATION TO ENTER INTO LITIGATION*  
3 *MANAGEMENT AGREEMENTS.*—*The authorized representa-*  
4 *tive of a State or locality may enter into a litigation man-*  
5 *agement agreement on behalf of the State or locality. Such*  
6 *litigation management agreements may provide that all*  
7 *claims against such Emergency Response Providers arising*  
8 *out of, relating to, or resulting from an act of terrorism*  
9 *when Emergency Response Providers from more than 1*  
10 *State have acted in defense against, in response to, or recov-*  
11 *ery from such act shall be governed by the following provi-*  
12 *sions.*

13 (b) *FEDERAL CAUSE OF ACTION.*—

14 (1) *IN GENERAL.*—*There shall exist a Federal*  
15 *cause of action for claims against Emergency Re-*  
16 *sponse Providers arising out of, relating to, or result-*  
17 *ing from an act of terrorism when Emergency Re-*  
18 *sponse Providers from more than 1 State have acted*  
19 *in defense against, in response to, or recovery from*  
20 *such act. As determined by the parties to a litigation*  
21 *management agreement, the substantive law for deci-*  
22 *sion in any such action shall be—*

23 (A) *derived from the law, including choice*  
24 *of law principles, of the State in which such acts*  
25 *of terrorism occurred, unless such law is incon-*  
26 *sistent with or preempted by Federal law; or*



1           (B) derived from the choice of law prin-  
2           ciples agreed to by the parties to a litigation  
3           management agreement as described in the liti-  
4           gation management agreement, unless such prin-  
5           ciples are inconsistent with or preempted by  
6           Federal law.

7           (2) *JURISDICTION.*—Such appropriate district  
8           court of the United States shall have original and ex-  
9           clusive jurisdiction over all actions for any claim  
10          against Emergency Response Providers for loss of  
11          property, personal injury, or death arising out of, re-  
12          lating to, or resulting from an act of terrorism when  
13          Emergency Response Providers from more than 1  
14          State have acted in defense against, in response to, or  
15          recovery from an act of terrorism.

16          (3) *SPECIAL RULES.*—In an action brought for  
17          damages that is governed by a litigation management  
18          agreement, the following provisions apply:

19               (A) *PUNITIVE DAMAGES.*—No punitive  
20               damages intended to punish or deter, exemplary  
21               damages, or other damages not intended to com-  
22               pensate a plaintiff for actual losses may be  
23               awarded, nor shall any party be liable for inter-  
24               est prior to the judgment.



1           (B) *COLLATERAL SOURCES.*—Any recovery  
2           by a plaintiff in an action governed by a litiga-  
3           tion management agreement shall be reduced by  
4           the amount of collateral source compensation, if  
5           any, that the plaintiff has received or is entitled  
6           to receive as a result of such acts of terrorism.

7           (4) *EXCLUSIONS.*—Nothing in this section shall  
8           in any way limit the ability of any person to seek  
9           any form of recovery from any person, government, or  
10          other entity that—

11           (A) attempts to commit, knowingly partici-  
12          pates in, aids and abets, or commits any act of  
13          terrorism, or any criminal act related to or re-  
14          sulting from such act of terrorism; or

15           (B) participates in a conspiracy to commit  
16          any such act of terrorism or any such criminal  
17          act.

18 **SEC. 5104. ADDITIONAL PROVISIONS.**

19          (a) *NO ABROGATION OF OTHER IMMUNITIES.*—Noth-  
20          ing in this chapter shall abrogate any other immunities  
21          from liability that any party may have under any other  
22          State or Federal law.

23          (b) *EXCEPTION FOR CERTAIN FEDERAL LAW EN-*  
24          *FORCEMENT ACTIVITIES.*—A mutual aid agreement or a  
25          litigation management agreement may not apply to law en-



1 *forcement security operations at special events of national*  
2 *significance under section 3056(e) of title 18, United States*  
3 *Code, or to other law enforcement functions of the United*  
4 *States Secret Service.*

5 (c) *SECRET SERVICE.*—Section 3056 of title 18,  
6 *United States Code, is amended by adding at the end the*  
7 *following new subsection:*

8 “(g) *The Secret Service shall be maintained as a dis-*  
9 *tinct entity within the Department of Homeland Security*  
10 *and shall not be merged with any other department func-*  
11 *tion. All personnel and operational elements of the United*  
12 *States Secret Service shall report to the Director of the Se-*  
13 *cret Service, who shall report directly to the Secretary of*  
14 *Homeland Security without being required to report*  
15 *through any other official of the Department.”.*

16 **SEC. 5105. DEFINITIONS.**

17 *For purposes of this chapter, the following definitions*  
18 *apply:*

19 (1) *AUTHORIZED REPRESENTATIVE.*—The term  
20 “*authorized representative*” means—

21 (A) *in the case of the Federal Government,*  
22 *any individual designated by the President with*  
23 *respect to the executive branch, the Chief Justice*  
24 *of the United States with respect to the judicial*  
25 *branch, or the President pro Tempore of the Sen-*



1           *ate and Speaker of the House of Representatives*  
2           *with respect to the Congress, or their designees,*  
3           *to enter into a mutual aid agreement;*

4           *(B) in the case of a locality, the official des-*  
5           *ignated by law to declare an emergency in and*  
6           *for the locality, or the official's designee;*

7           *(C) in the case of a State, the Governor or*  
8           *the Governor's designee.*

9           *(2) EMERGENCY.—The term “emergency” means*  
10          *a major disaster or emergency declared by the Presi-*  
11          *dent, or a State of Emergency declared by an author-*  
12          *ized representative of a State or locality, in response*  
13          *to which assistance may be provided under a mutual*  
14          *aid agreement.*

15          *(3) EMERGENCY RESPONSE PROVIDER.—The*  
16          *term “Emergency Response Provider” means State or*  
17          *local emergency public safety, law enforcement, emer-*  
18          *gency response, emergency medical (including hos-*  
19          *pital emergency facilities), and related personnel,*  
20          *agencies, and authorities that are a party to a litiga-*  
21          *tion management agreement.*

22          *(4) EMPLOYEE.—The term “employee” means,*  
23          *with respect to a party to a mutual aid agreement,*  
24          *the employees of the party, including its agents or au-*



1 *thorized volunteers, who are committed to provide as-*  
2 *sistance under the agreement.*

3 (5) *LITIGATION MANAGEMENT AGREEMENT.*—*The*  
4 *term “litigation management agreement” means an*  
5 *agreement entered into pursuant to the authority*  
6 *granted under section 5103.*

7 (6) *LOCALITY.*—*The term “locality” means a*  
8 *county, city, or town.*

9 (7) *MUTUAL AID AGREEMENT.*—*The term “mu-*  
10 *tual aid agreement” means an agreement entered into*  
11 *pursuant to the authority granted under section 5102.*

12 (8) *PUBLIC SERVICE EVENT.*—*The term “public*  
13 *service event” means any undeclared emergency, inci-*  
14 *dent, or situation in preparation for or response to*  
15 *which assistance may be provided under a mutual*  
16 *aid agreement.*

17 (9) *REQUESTING PARTY.*—*The term “requesting*  
18 *party” means, with respect to a mutual aid agree-*  
19 *ment, the party in whose jurisdiction assistance is*  
20 *provided, or a training event is held, under the agree-*  
21 *ment.*

22 (10) *RESPONDING PARTY.*—*The term “respond-*  
23 *ing party” means, with respect to a mutual aid*  
24 *agreement, the party providing assistance, or partici-*





1        *pating in a training event, under the agreement, but*  
2        *does not include the requesting party.*

3            (11) *STATE.*—*The term “State” includes each of*  
4        *the several States of the United States, the District of*  
5        *Columbia, the Commonwealth of Puerto Rico, the Vir-*  
6        *gin Islands, Guam, American Samoa, and the Com-*  
7        *monwealth of the Northern Mariana Islands, and any*  
8        *other territory or possession of the United States, and*  
9        *any political subdivision of any such place.*

10           (12) *TRAINING EVENT.*—*The term “training*  
11        *event” means an emergency and public service event-*  
12        *related exercise, test, or other activity using equip-*  
13        *ment and personnel to prepare for or simulate per-*  
14        *formance of any aspect of the giving or receiving of*  
15        *assistance during emergencies or public service events,*  
16        *but does not include an actual emergency or public*  
17        *service event.*

18            ***Chapter 3—Miscellaneous Matters***

19        ***SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMUNICA-***  
20            ***TIONS INTEROPERABILITY.***

21            (a) *COORDINATION OF PUBLIC SAFETY INTEROPER-*  
22        *ABLE COMMUNICATIONS PROGRAMS.*—

23            (1) *PROGRAM.*—*The Secretary of Homeland Se-*  
24        *curity, in consultation with the Secretary of Com-*  
25        *merce and the Chairman of the Federal Communica-*



1        *tions Commission, shall establish a program to en-*  
2        *hance public safety interoperable communications at*  
3        *all levels of government. Such program shall—*

4                *(A) establish a comprehensive national ap-*  
5                *proach to achieving public safety interoperable*  
6                *communications;*

7                *(B) coordinate with other Federal agencies*  
8                *in carrying out subparagraph (A);*

9                *(C) develop, in consultation with other ap-*  
10                *propriate Federal agencies and State and local*  
11                *authorities, appropriate minimum capabilities*  
12                *for communications interoperability for Federal,*  
13                *State, and local public safety agencies;*

14                *(D) accelerate, in consultation with other*  
15                *Federal agencies, including the National Insti-*  
16                *tute of Standards and Technology, the private*  
17                *sector, and nationally recognized standards orga-*  
18                *nizations as appropriate, the development of na-*  
19                *tional voluntary consensus standards for public*  
20                *safety interoperable communications;*

21                *(E) encourage the development and imple-*  
22                *mentation of flexible and open architectures,*  
23                *with appropriate levels of security, for short-term*  
24                *and long-term solutions to public safety commu-*  
25                *nications interoperability;*



1           (F) assist other Federal agencies in identi-  
2           fying priorities for research, development, and  
3           testing and evaluation with regard to public  
4           safety interoperable communications;

5           (G) identify priorities within the Depart-  
6           ment of Homeland Security for research, devel-  
7           opment, and testing and evaluation with regard  
8           to public safety interoperable communications;

9           (H) establish coordinated guidance for Fed-  
10          eral grant programs for public safety interper-  
11          able communications;

12          (I) provide technical assistance to State and  
13          local public safety agencies regarding planning,  
14          acquisition strategies, interoperability architec-  
15          tures, training, and other functions necessary to  
16          achieve public safety communications interper-  
17          ability;

18          (J) develop and disseminate best practices  
19          to improve public safety communications inter-  
20          operability; and

21          (K) develop appropriate performance meas-  
22          ures and milestones to systematically measure  
23          the Nation's progress towards achieving public  
24          safety communications interoperability, includ-



1           *ing the development of national voluntary con-*  
2           *sensus standards.*

3           (2) *OFFICE FOR INTEROPERABILITY AND COM-*  
4           *PATIBILITY.—*

5                   (A) *ESTABLISHMENT OF OFFICE.—The Sec-*  
6           *retary may establish an Office for Interoper-*  
7           *ability and Compatibility to carry out this sub-*  
8           *section.*

9                   (B) *FUNCTIONS.—If the Secretary estab-*  
10          *lishes such office, the Secretary shall, through*  
11          *such office—*

12                   (i) *carry out Department of Homeland*  
13          *Security responsibilities and authorities re-*  
14          *lating to the SAFECOM Program; and*

15                   (ii) *carry out subsection (c) (relating*  
16          *to rapid interoperable communications ca-*  
17          *pabilities for high risk jurisdictions).*

18           (3) *APPLICABILITY OF FEDERAL ADVISORY COM-*  
19          *MITTEE ACT.—The Federal Advisory Committee Act*  
20          *(5 U.S.C. App.) shall not apply to advisory groups*  
21          *established and maintained by the Secretary for pur-*  
22          *poses of carrying out this subsection.*

23           (b) *REPORT.—Not later than 120 days after the date*  
24          *of the enactment of this Act, the Secretary shall report to*  
25          *the Congress on Department of Homeland Security plans*



1 *for accelerating the development of national voluntary con-*  
2 *sensus standards for public safety interoperable commu-*  
3 *nications, a schedule of milestones for such development,*  
4 *and achievements of such development.*

5       (c) *RAPID INTEROPERABLE COMMUNICATIONS CAPA-*  
6 *BILITIES FOR HIGH RISK JURISDICTIONS.*—*The Secretary,*  
7 *in consultation with other relevant Federal, State, and local*  
8 *government agencies, shall provide technical, training, and*  
9 *other assistance as appropriate to support the rapid estab-*  
10 *lishment of consistent, secure, and effective interoperable*  
11 *communications capabilities for emergency response pro-*  
12 *viders in jurisdictions determined by the Secretary to be*  
13 *at consistently high levels of risk of terrorist attack.*

14       (d) *DEFINITIONS.*—*In this section:*

15           (1) *INTEROPERABLE COMMUNICATIONS.*—*The*  
16 *term “interoperable communications” means the abil-*  
17 *ity of emergency response providers and relevant Fed-*  
18 *eral, State, and local government agencies to commu-*  
19 *nicate with each other as necessary, through a dedi-*  
20 *cated public safety network utilizing information*  
21 *technology systems and radio communications sys-*  
22 *tems, and to exchange voice, data, or video with one*  
23 *another on demand, in real time, as necessary.*

24           (2) *EMERGENCY RESPONSE PROVIDERS.*—*The*  
25 *term “emergency response providers” has the meaning*



1        *that term has under section 2 of the Homeland Security*  
2        *Act of 2002 (6 U.S.C. 101)*

3        *(e) CLARIFICATION OF RESPONSIBILITY FOR INTER-*  
4        *OPERABLE COMMUNICATIONS.—*

5            *(1) UNDER SECRETARY FOR EMERGENCY PRE-*  
6        *PAREDNESS AND RESPONSE.—Section 502(7) of the*  
7        *Homeland Security Act of 2002 (6 U.S.C. 312(7)) is*  
8        *amended—*

9            *(A) by striking “developing comprehensive*  
10        *programs for developing interoperative commu-*  
11        *nications technology, and”; and*

12            *(B) by striking “such” and inserting “inter-*  
13        *operable communications”.*

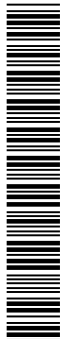
14            *(2) OFFICE FOR DOMESTIC PREPAREDNESS.—*  
15        *Section 430(c) of such Act (6 U.S.C. 238(c)) is*  
16        *amended—*

17            *(A) in paragraph (7) by striking “and”*  
18        *after the semicolon;*

19            *(B) in paragraph (8) by striking the period*  
20        *and inserting “; and”; and*

21            *(C) by adding at the end the following:*

22            *“(9) helping to ensure the acquisition of inter-*  
23        *operable communication technology by State and*  
24        *local governments and emergency response pro-*  
25        *viders.”.*



1 **SEC. 5132. SENSE OF CONGRESS REGARDING THE INCIDENT**

2 **COMMAND SYSTEM.**

3 (a) *FINDINGS.—The Congress finds that—*

4 (1) *in Homeland Security Presidential Direc-*  
5 *tive–5, the President directed the Secretary of Home-*  
6 *land Security to develop an incident command system*  
7 *to be known as the National Incident Management*  
8 *System (NIMS), and directed all Federal agencies to*  
9 *make the adoption of NIMS a condition for the re-*  
10 *ceipt of Federal emergency preparedness assistance by*  
11 *States, territories, tribes, and local governments be-*  
12 *ginning in fiscal year 2005;*

13 (2) *in March 2004, the Secretary of Homeland*  
14 *Security established NIMS, which provides a unified*  
15 *structural framework for Federal, State, territorial,*  
16 *tribal, and local governments to ensure coordination*  
17 *of command, operations, planning, logistics, finance,*  
18 *and administration during emergencies involving*  
19 *multiple jurisdictions or agencies; and*

20 (3) *the National Commission on Terrorist At-*  
21 *tacks Upon the United States strongly supports the*  
22 *adoption of NIMS by emergency response agencies na-*  
23 *tionwide, and the decision by the President to condi-*  
24 *tion Federal emergency preparedness assistance upon*  
25 *the adoption of NIMS.*



1           **(b) SENSE OF CONGRESS.**—*It is the sense of the Con-*  
2 *gress that all levels of government should adopt NIMS, and*  
3 *that the regular use of and training in NIMS by States,*  
4 *territories, tribes, and local governments should be a condi-*  
5 *tion for receiving Federal preparedness assistance.*

6 **SEC. 5133. SENSE OF CONGRESS REGARDING UNITED**  
7                           **STATES NORTHERN COMMAND PLANS AND**  
8                           **STRATEGIES.**

9           *It is the sense of Congress that the Secretary of Defense*  
10 *should regularly assess the adequacy of United States*  
11 *Northern Command's plans and strategies with a view to*  
12 *ensuring that the United States Northern Command is pre-*  
13 *pared to respond effectively to all military and para-*  
14 *military threats within the United States.*

