Meeks (NY)
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wu
Wynn
Young (AK)

NAYS—141

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Bass
Becerra
Berman
Bishop (NY)
Blumenauer
Bradley (NH)
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Conyers
Costello
Cummings
Davis (CA)
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Frank (MA)
Grijalva
Gutierrez
Harman
Hinchey
Hoeffel
Holden
Holt
Honda
Hoyer
Israel
Jackson (IL)
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
LaHood
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Rahall
Rangel
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Sherman
Solis
Stark
Strickland
Stupak
Tauscher
Tierney
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Waxman
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Young (FL)

NOT VOTING—12

Boehlert
Filner
Gephardt
Lipinski
Majette
Millender-McDonald
Norwood
Ortiz
Paul
Slaughter
Tauzin
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). Members are advised 2 minutes remain in this vote.

□ 2145

Ms. LORETTA SANCHEZ of California, Ms. CARSON of Indiana, Ms. McCARTHY of Missouri and Mr. ROHRABACHER changed their vote from ''yea'' to ''nay.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 509, I was in my Congressional District on official business. Had I been present, I would have voted "nay."

## GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report accompanying H.R. 4520.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 827 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10.

□ 2145

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, with Mr. NETHERCUTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, all time for general debate had expired.

In lieu of the amendments printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of the Rules Committee print dated October 4, 2004. That amendment shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''9/11 Recommendations Implementation Act''.

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

The table of contents for this Act is as follows:

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

Sec. 1001. Short title.

Subtitle A—Establishment of National Intelligence Director

Sec. 1011. Reorganization and improvement of management of intelligence community.
Sec. 1012. Revised definition of national intelligence.
Sec. 1013. Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency.
Sec. 1014. Role of National Intelligence Director in appointment of certain officials responsible for intelligence-related activities.
Sec. 1015. Initial appointment of the National Intelligence Director.
Sec. 1016. Executive schedule matters.
Sec. 1017. Information sharing.

Subtitle B—National Counterterrorism Center and Civil Liberties Protections

Sec. 1021. National Counterterrorism Center.
Sec. 1022. Civil Liberties Protection Officer.

Subtitle C—Joint Intelligence Community Council

Sec. 1031. Joint Intelligence Community Council.

Subtitle D—Improvement of Human Intelligence (HUMINT)

Sec. 1041. Human intelligence as an increasingly critical component of the intelligence community.
Sec. 1042. Improvement of human intelligence capacity.

Subtitle E—Improvement of Education for the Intelligence Community

Sec. 1051. Modification of obligated service requirements under National Security Education Program.
Sec. 1052. Improvements to the National Flagship Language Initiative.
Sec. 1053. Establishment of scholarship program for English language studies for heritage community citizens of the United States within the National Security Education Program.
Sec. 1054. Sense of Congress with respect to language and education for the intelligence community; reports.
Sec. 1055. Advancement of foreign languages critical to the intelligence community.
Sec. 1056. Pilot project for Civilian Linguist Reserve Corps.
Sec. 1057. Codification of establishment of the National Virtual Translation Center.
Sec. 1058. Report on recruitment and retention of qualified instructors of the Defense Language Institute.

Subtitle F—Additional Improvements of Intelligence Activities

Sec. 1061. Permanent extension of Central Intelligence Agency Voluntary Separation Incentive Program.
Sec. 1062. National Security Agency Emerging Technologies Panel.
Sec. 1063. Service and National Laboratories and the intelligence community.
Sec. 1064. Improvement in translation and delivery of suspected terrorist communications.

Subtitle G—Conforming and Other Amendments

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

Sec. 1072. Other conforming amendments
Sec. 1073. Elements of intelligence community under National Security Act of 1947.
Sec. 1074. Redesignation of National Foreign Intelligence Program as National Intelligence Program.
Sec. 1075. Repeal of superseded authorities.
Sec. 1076. Clerical amendments to National Security Act of 1947.
Sec. 1077. Conforming amendments relating to prohibiting dual service of the Director of the Central Intelligence Agency.
Sec. 1078. Access to Inspector General protections.
Sec. 1079. General references.
Sec. 1080. Application of other laws.

Subtitle H—Transfer, Termination, Transition and Other Provisions

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

Subtitle I—Other Matters

Sec. 1101. Study of promotion and professional military education school selection rates for military intelligence officers.

**TITLE II—TERRORISM PREVENTION AND PROSECUTION**

Subtitle A—Individual Terrorists as Agents of Foreign Powers

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

Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

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

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

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

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

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

Subtitle E—Money Laundering and Terrorist Financing

CHAPTER 1—FUNDING TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

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

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

SUBCHAPTER A—MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM TECHNICAL CORRECTIONS

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

SUBCHAPTER B—ADDITIONAL ENFORCEMENT TOOLS

Sec. 2121. Bureau of Engraving and Printing security printing.
Sec. 2122. Conduct in aid of counterfeiting.
Sec. 2123. Reporting of cross-border transmittal of funds.
Sec. 2124. Enhanced effectiveness of examinations, including anti-money laundering programs.

Subtitle F—Criminal History Background Checks

Sec. 2141. Short title.
Sec. 2142. Criminal history background checks.
Sec. 2143. Protect Act.
Sec. 2144. Reviews of criminal records of applicants for private security officer employment.
Sec. 2145. Task force on clearinghouse for IAFIS criminal history records.
Sec. 2146. Clarification of purpose.

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

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

Subtitle H—Other Matters

Sec. 2191. Grand jury information sharing.
Sec. 2192. Interoperable law enforcement and intelligence data system.
Sec. 2193. Improvement of intelligence capabilities of the Federal Bureau of Investigation.
Sec. 2194. Authorization and change of COPS program to single grant program.

Subtitle I—Police Badges

Sec. 2201. Short title.
Sec. 2202. Police badges.

**TITLE III—BORDER SECURITY AND TERRORIST TRAVEL**

Subtitle A—Immigration Reform in the National Interest

CHAPTER 1—GENERAL PROVISIONS

Sec. 3001. Eliminating the ''Western Hemisphere'' exception for citizens.
Sec. 3002. Modification of waiver authority with respect to documentation requirements for nationals of foreign contiguous territories and adjacent islands.
Sec. 3003. Increase in full-time border patrol agents.
Sec. 3004. Increase in full-time immigration and customs enforcement investigators.
Sec. 3005. Alien identification standards.
Sec. 3006. Expedited removal.
Sec. 3007. Preventing terrorists from obtaining asylum.
Sec. 3008. Revocation of visas and other travel documentation.
Sec. 3009. Judicial review of orders of removal.

CHAPTER 2—DEPORTATION OF TERRORISTS AND SUPPORTERS OF TERRORISM

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

CHAPTER 3—PREVENTING COMMERCIAL ALIEN SMUGGLING

Sec. 3041. Bringing in and harboring certain aliens.

Subtitle B—Identity Management Security

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

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

CHAPTER 2—IMPROVED SECURITY FOR BIRTH CERTIFICATES

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

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

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

Subtitle C—Targeting Terrorist Travel

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

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

Subtitle D—Terrorist Travel

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

Subtitle E—Maritime Security Requirements

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

**TITLE IV—INTERNATIONAL COOPERATION AND COORDINATION**

Subtitle A—Attack Terrorists and Their Organizations

CHAPTER 1—PROVISIONS RELATING TO TERRORIST SANCTUARIES

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

CHAPTER 2—OTHER PROVISIONS

Sec. 4011. Appointments to fill vacancies in Arms Control and Nonproliferation Advisory Board.
Sec. 4012. Review of United States policy on proliferation of weapons of mass destruction and control of strategic weapons.
Sec. 4013. International agreements to interdict acts of international terrorism.
Sec. 4014. Effective Coalition approach toward detention and humane treatment of captured terrorists.

Subtitle B—Prevent the Continued Growth of Terrorism

CHAPTER 1—UNITED STATES PUBLIC DIPLOMACY

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

CHAPTER 2—UNITED STATES MULTILATERAL DIPLOMACY

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

CHAPTER 3—OTHER PROVISIONS

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

Subtitle C—Reform of Designation of Foreign Terrorist Organizations

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

Subtitle D—Afghanistan Freedom Support Act Amendments of 2004

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

Subtitle E—Provisions Relating to Saudi Arabia and Pakistan

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

Subtitle F—Oversight Provisions

Sec. 4091. Case-Zablocki Act requirements.

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

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

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

Sec. 4111. Sense of the Congress regarding success in multilateral organizations.
Sec. 4112. Expanded reporting and testimony requirements for the Secretary of the Treasury.
Sec. 4113. Coordination of United States Government efforts.
Sec. 4114. Definitions.

**TITLE V—GOVERNMENT RESTRUCTURING**

Subtitle A—Faster and Smarter Funding for First Responders

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

Subtitle B—Government Reorganization Authority

Sec. 5021. Authorization of intelligence community reorganization plans.

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

Sec. 5025. Responsibilities of Counternarcotics Office.
Sec. 5026. Use of counternarcotics enforcement activities in certain employee performance appraisals.
Sec. 5027. Sense of the House of Representatives on addressing homeland security for the American people.
Sec. 5028. Assistant Secretary for Cybersecurity.

Subtitle D—Improvements to Information Security

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

Subtitle E—Personnel Management Improvements

CHAPTER 1—APPOINTMENTS PROCESS REFORM

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

CHAPTER 2—FEDERAL BUREAU OF INVESTIGATION REVITALIZATION

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

Chapter 3—Reporting Requirement

Sec. 5061. Reporting requirement.

Subtitle F—Security Clearance Modernization

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

Subtitle G—Emergency Financial Preparedness

CHAPTER 1—EMERGENCY PREPAREDNESS FOR FISCAL AUTHORITIES

Sec. 5081. Delegation authority of the Secretary of the Treasury.
Sec. 5082. Treasury support for financial services industry preparedness and response.

CHAPTER 2—MARKET PREPAREDNESS

Sec. 5084. Short title.

Sec. 5085. Extension of emergency order authority of the Securities and Exchange Commission.
Sec. 5086. Parallel authority of the Secretary of the Treasury with respect to government securities.
Sec. 5087. Joint report on implementation of financial system resilience recommendations.
Sec. 5088. Private sector preparedness.
Sec. 5089. Report on public/private partnerships.

Subtitle H—Other Matters

CHAPTER 1—PRIVACY MATTERS

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

CHAPTER 2—MUTUAL AID AND LITIGATION MANAGEMENT

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

CHAPTER 3—MISCELLANEOUS MATTERS

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

## TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

### SEC. 1001. SHORT TITLE.

This title may be cited as the ''National Security Intelligence Improvement Act of 2004''.

## Subtitle A—Establishment of National Intelligence Director

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

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

''NATIONAL INTELLIGENCE DIRECTOR

''SEC. 102. (a) NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

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

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

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

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

''(3) through the heads of the departments containing elements of the intelligence community, and the Central Intelligence Agency, manage and oversee the execution of the National Intelligence Program and direct the National Intelligence Program.

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

''RESPONSIBILITIES AND AUTHORITIES OF THE NATIONAL INTELLIGENCE DIRECTOR

''SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1) Under the direction of the President, the National Intelligence Director shall be responsible for ensuring that national intelligence is provided—

''(A) to the President;

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

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

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

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

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

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

''(c) BUDGET AUTHORITIES.—(1)(A) The National Intelligence Director shall develop and present to the President on an annual basis a budget for intelligence and intelligence-related activities of the United States.

''(B) In carrying out subparagraph (A) for any fiscal year for the components of the budget that comprise the National Intelligence Program, the National Intelligence Director shall provide guidance to the heads of departments containing elements of the intelligence community, and to the heads of the elements of the intelligence community, for development of budget inputs to the National Intelligence Director.

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

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

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

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

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

''(B) Notwithstanding any other provision of law, in receiving funds pursuant to relevant appropriations Acts for the National Intelligence Program, the Office of Management and Budget shall apportion funds appropriated for the National Intelligence Program to the National Intelligence Director for allocation to the elements of the intelligence community through the host executive departments that manage programs and activities that are part of the National Intelligence Program.

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

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

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

''(B) The National Intelligence Director shall report to the President and the Congress not later than 5 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the National Intelligence Director, in carrying out the National Intelligence Program.

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

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

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

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

''(B) in accordance with procedures to be developed by the National Intelligence Director and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

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

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

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

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

''(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

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

''(I) that is less than $100,000,000, and

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

''(v) the transfer does not terminate a program.

''(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has

the concurrence of the head of the department or agency involved. The authority to provide such concurrence may only be delegated by the head of the department or agency involved to the deputy of such officer.

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

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

''(6)(A) The National Intelligence Director shall promptly submit to—

''(i) the congressional intelligence committees,

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

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

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

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

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

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

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

''(I) approving requirements for collection and analysis, and

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

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

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

''(i) insofar as the President so directs;

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

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

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

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

''(i) facilitate assignments across community elements and to the intelligence centers;

''(ii) establish overarching standards for intelligence education and training; and

''(iii) promote the most effective analysis and collection of intelligence by ensuring a diverse workforce, including the recruitment and training of women, minorities, and individuals with diverse, ethnic, and linguistic backgrounds.

''(B) In developing the policies prescribed under subparagraph (A), the National Intelligence Director shall consult with the heads of the departments containing the elements of the intelligence community.

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

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

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

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

''(7) Nothing in this title shall be construed as affecting the role of the Department of Justice or the Attorney General with respect to applications under the Foreign Intelligence Surveillance Act of 1978.

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

''(A) establish uniform security standards and procedures;

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

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

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

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

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

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

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

''(2) The National Intelligence Director shall ensure that intelligence analysis generally receives the highest priority when distributing resources within the intelligence community and shall carry out duties under this subsection in a manner that—

''(A) develops all-source analysis techniques;

''(B) ensures competitive analysis;

''(C) ensures that differences in judgment are fully considered and brought to the attention of policymakers; and

''(D) builds relationships between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

''(i) PROTECTION OF INTELLIGENCE SOURCES AND METHODS.—(1) In order to protect intelligence sources and methods from unauthorized disclosure and, consistent with that protection, to maximize the dissemination of intelligence, the National Intelligence Director shall establish and implement guidelines for the intelligence community for the following purposes:

''(A) Classification of information.

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

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

''(2) The Director may only delegate a duty or authority given the Director under this subsection to the Deputy National Intelligence Director.

''(j) UNIFORM PROCEDURES FOR SENSITIVE COMPARTMENTED INFORMATION.—The President, acting through the National Intelligence Director, shall—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

''SEC. 103. (a) ESTABLISHMENT OF OFFICE; FUNCTION.—(1) There is an Office of the National Intelligence Director. The Office of the National Intelligence Director shall not be located within the Executive Office of the President.

''(2) The function of the Office is to assist the National Intelligence Director in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by the President or by law.

''(3) Any authority, power, or function vested by law in any officer, employee, or part of the Office of the National Intelligence Director is vested in, or may be exercised by, the National Intelligence Director.

''(4) Exemptions, exceptions, and exclusions for the Central Intelligence Agency or for personnel, resources, or activities of such Agency from otherwise applicable laws, other than the exception contained in section 104A(c)(1) shall apply in the same manner to the Office of the National Intelligence Director and the personnel, resources, or activities of such Office.

''(b) OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—(1) The Office of the National Intelligence Director is composed of the following:

''(A) The National Intelligence Director.

''(B) The Deputy National Intelligence Director.

''(C) The Deputy National Intelligence Director for Operations.

''(D) The Deputy National Intelligence Director for Community Management and Resources.

''(E) The Associate National Intelligence Director for Military Support.

''(F) The Associate National Intelligence Director for Domestic Security.

''(G) The Associate National Intelligence Director for Diplomatic Affairs.

''(H) The Associate National Intelligence Director for Science and Technology.

''(I) The National Intelligence Council.

''(J) The General Counsel to the National Intelligence Director.

''(K) Such other offices and officials as may be established by law or the National Intelligence Director may establish or designate in the Office.

''(2) To assist the National Intelligence Director in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the National Intelligence Director a staff having expertise in matters relating to such duties and responsibilities and may establish permanent positions and appropriate rates of pay with respect to such staff.

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

''(2) The Deputy National Intelligence Director shall assist the National Intelligence Director in carrying out the responsibilities of the National Intelligence Director under this Act.

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

''(4) The Deputy National Intelligence Director takes precedence in the Office of the National Intelligence Director immediately after the National Intelligence Director.

''(d) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR OPERATIONS.—(1) There is a Deputy National Intelligence Director for Operations.

''(2) The Deputy National Intelligence Director for Operations shall—

''(A) assist the National Intelligence Director in all aspects of intelligence operations, including intelligence tasking, requirements, collection, and analysis;

''(B) assist the National Intelligence Director in overseeing the national intelligence centers; and

''(C) perform such other duties and exercise such powers as National Intelligence Director may prescribe.

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

''(2) The Deputy National Intelligence Director for Community Management and Resources shall—

''(A) assist the National Intelligence Director in all aspects of management and resources, including administration, budgeting, information security, personnel, training, and programmatic functions; and

''(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

''(f) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR MILITARY SUPPORT.—(1) There is an Associate National Intelligence Director for Military Support who shall be appointed by the National Intelligence Director, in consultation with the Secretary of Defense.

''(2) The Associate National Intelligence Director for Military Support shall—

''(A) ensure that the intelligence needs of the Department of Defense are met; and

''(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

''(g) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR DOMESTIC SECURITY.—(1) There is an Associate National Intelligence Director for Domestic Security who shall be appointed by the National Intelligence Director in consultation with the Attorney General and the Secretary of Homeland Security.

''(2) The Associate National Intelligence Director for Domestic Security shall—

''(A) ensure that the intelligence needs of the Department of Justice, the Department of Homeland Security, and other relevant executive departments and agencies are met; and

''(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe, except that the National Intelligence Director may not make such officer responsible for disseminating any domestic or homeland security information to State government or local government officials or any private sector entity.

''(h) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR DIPLOMATIC AFFAIRS.—(1) There is an Associate National Intelligence Director for Diplomatic Affairs who shall be appointed by the National Intelligence Director in consultation with the Secretary of State.

''(2) The Associate National Intelligence Director for Diplomatic Affairs shall—

''(A) ensure that the intelligence needs of the Department of State are met; and

''(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

''(i) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR SCIENCE AND TECHNOLOGY.—(1) There is an Associate National Intelligence Director for Science and Technology who shall be appointed by the National Intelligence Director.

''(2) The Associate National Intelligence Director for Science and Technology shall—

''(A) advise the National Intelligence Director regarding research and development efforts and priorities in support of the intelligence mission, to ensure that the science and technology needs of the National Intelligence Program will be met;

''(B) develop in consultation with appropriate agencies and the Associate National Intelligence Directors for Military Support, Domestic Security, and Diplomatic Affairs a strategic plan to support United States leadership in science and technology to facilitate intelligence missions; and

''(C) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

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

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

''(A) The National Intelligence Director.

''(B) The Deputy National Intelligence Director.

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

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

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

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

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

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

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

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

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

''(k) NATIONAL INTELLIGENCE COUNCIL.—(1) There is a National Intelligence Council.

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

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

''(3) The National Intelligence Council shall—

''(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community;

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

''(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director.

''(4) Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

''(5) Subject to the direction and control of the National Intelligence Director, the National Intelligence Council may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this subsection.

''(6) The National Intelligence Director shall make available to the National Intelligence Council such personnel as may be necessary to permit the Council to carry out its responsibilities under this subsection.

''(7)(A) The National Intelligence Director shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

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

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

''(l) GENERAL COUNSEL TO THE NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a General Counsel to the National Intelligence Director.

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

''(3) The General Counsel to the National Intelligence Director is the chief legal officer for the National Intelligence Director.

''(4) The General Counsel to the National Intelligence Director shall perform such functions as the National Intelligence Director may prescribe.

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

''(2) The mission of the Intelligence Community Information Technology Officer is to assist the National Intelligence Director in ensuring the sharing of information in the fullest and most prompt manner between and among elements of the intelligence community consistent with section 102A(g).

''(3) The Intelligence Community Information Technology Officer shall—

''(A) consult with the National Intelligence Director who shall provide guidance to the heads of the department containing elements of the intelligence community and heads of the elements of the intelligence community as appropriate;

''(B) assist the Deputy National Intelligence Director for Community Management and Resources in developing and implementing the Information Sharing Environment (ISE) established under section 1017 of the 9/11 Recommendations Implementation Act;

''(C) develop an enterprise architecture for the intelligence community and assist the National Intelligence Director through the Deputy National Intelligence Director for Community Management and Resources in ensuring that elements of the intelligence community comply with such architecture;

''(D) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program;

''(E) ensure that all such elements have the most direct and continuous electronic access to all information (including unevaluated intelligence consistent with existing laws and the guidelines referred to in section 102A(b)) necessary for appropriately cleared analysts to conduct comprehensive all-source analysis and for appropriately cleared policymakers to perform their duties—

''(i) directly, in the case of the elements of the intelligence community within the National Intelligence Program, and

''(ii) in conjunction with the Secretary of Defense and other applicable heads of departments with intelligence elements outside the National Intelligence Program;

''(F) review and provide recommendations to the Deputy National Intelligence Director for Community Management and Resources on National Intelligence Program budget requests for information technology and national security systems;

''(G) assist the Deputy National Intelligence Director for Community Management and Resources in promulgating and enforcing standards on information technology and national security systems that apply throughout the elements of the intelligence community;

''(H) ensure that within and between the elements of the National Intelligence Program, duplicative and unnecessary information technology and national security systems are eliminated; and

''(I) pursuant to the direction of the National Intelligence Director, consult with the Director of the Office of Management and Budget to ensure that the Office of the National Intelligence Director coordinates and complies with national security requirements consistent with applicable law, Executive orders, and guidance; and

''(J) perform such other duties with respect to the information systems and information technology of the Office of the National Intelligence Director as may be prescribed by the Deputy National Intelligence Director for Community Management and Resources or specified by law.

''(n) COUNTERINTELLIGENCE OFFICER TO THE NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a Counterintelligence Officer to the National Intelligence Director who shall be appointed by the National Intelligence Director.

''(2) The mission of the Counterintelligence Officer to the National Intelligence Director is to assist the National Intelligence Director in reducing the threats of disclosure or loss of classified or sensitive information or penetration of national intelligence functions that may be potentiated by increased information sharing, enterprise architectures, or other activities under this Act.

''(3) The Counterintelligence Officer to the National Intelligence Director shall—

''(A) assist the Deputy National Intelligence Director for Community Management and Resources in developing and implementing counterintelligence policies for the functions of the Office of the National Intelligence Director, in consultation with the Associate National Intelligence Directors;

''(B) ensure that policies under subparagraph (A) and the implementation of those policies are coordinated with counterintelligence activities of appropriate agencies and elements of the National Intelligence Program, and with the activities of the Intelligence Community Information Officer;

''(C) review resource requirements to support the mission of the Counterintelligence Officer under this subsection and make recommendations to the Deputy National Intelligence Director for Community Management and Resources with respect to those requirements; and

''(D) perform such other duties as the National Intelligence Director shall prescribe.

''CENTRAL INTELLIGENCE AGENCY

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

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

''DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

''SEC. 104A. (a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be under the authority, direction, and control of the National Intelligence Director, except as otherwise determined by the President.

''(b) DUTIES.—In the capacity as Director of the Central Intelligence Agency, the Director of the Central Intelligence Agency shall—

''(1) carry out the responsibilities specified in subsection (c); and

''(2) serve as the head of the Central Intelligence Agency.

''(c) RESPONSIBILITIES.—The Director of the Central Intelligence Agency shall—

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

''(2) provide overall direction for the collection of national intelligence overseas or outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

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

''(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the National Intelligence Director determines can be more efficiently accomplished centrally; and

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

''(d) DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President. The Deputy Director shall perform such functions as the Director may prescribe and shall perform the duties of the Director during the Director's absence or disability or during a vacancy in the position of the Director of the Central Intelligence Agency.

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

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

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

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

(A) Senate confirmation is not required; and

(B) the appointment of such nominee as National Intelligence Director takes effect upon administration of the oath of office.

(3) For the purposes of this subsection, the term ''legislative day'' means a day on which the Senate is in session.

**SEC. 1012. REVISED DEFINITION OF NATIONAL INTELLIGENCE.**

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

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

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

''(B) that involves—

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

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

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

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

(a) DEVELOPMENT OF PROCEDURES.—The National Intelligence Director, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

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

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

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

(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, mutual

agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

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

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

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

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

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

''(A) The Deputy National Intelligence Director.

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

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

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

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

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

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

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

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

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

''(B) The Assistant Secretary of State for Intelligence and Research.

''(C) The Director of the Office of Intelligence of the Department of Energy.

''(D) The Director of the Office of Counterintelligence of the Department of Energy.

''(E) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

''(F) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or successor.

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

''(H) The Deputy Assistant Commandant of the Coast Guard for Intelligence.

**SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL INTELLIGENCE DIRECTOR.**

(a) INITIAL APPOINTMENT OF THE NATIONAL INTELLIGENCE DIRECTOR.—Notwithstanding section 102(a)(1) of the National Security Act of 1947, as added by section 1011(a), the individual serving as the Director of Central Intelligence on the date immediately preceding the date of the enactment of this Act may, at the discretion of the President, become the initial National Intelligence Director.

(b) GENERAL REFERENCES.—(1) Any reference to the Director of Central Intelligence in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Intelligence Director.

(2) Any reference to the Director of Central Intelligence in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

(3) Any reference to the Deputy Director of Central Intelligence in the Deputy Director's capacity as deputy to the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Deputy National Intelligence Director.

(4) Any reference to the Deputy Director of Central Intelligence for Community Management in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Deputy National Intelligence Director for Community Management and Resources.

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

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

''National Intelligence Director.''.

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

''Deputy National Intelligence Director.

''Director of the National Counterterrorism Center.''.

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

**SEC. 1017. INFORMATION SHARING.**

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

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

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information.

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

(4) The current system, in which each intelligence agency has its own security practices, requires a demonstrated ''need to know'' before sharing.

(5) The National Intelligence Director should pursue setting an executable government-wide security mode policy of ''right-to-share,'' one based on a proven blend of both integrity and access control models and supported by applicable law. No single agency can create a meaningful government-wide information sharing system on its own.

(b) ESTABLISHMENT OF INFORMATION SHARING ENVIRONMENT.—The President shall establish a secure information sharing environment (ISE) for the sharing of intelligence and related information in a manner consistent with national security and the protection of privacy and civil liberties. The information sharing environment (ISE) shall be based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical, and operational requirements.

**Subtitle B—National Counterterrorism Center and Civil Liberties Protections**

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

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

''NATIONAL COUNTERTERRORISM CENTER

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

''(b) DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, who shall be appointed by National Intelligence Director.

''(c) SUPERVISION.—The Director of the National Counterterrorism Center shall report to the National Intelligence Director on—

''(1) the budget and programs of the National Counterterrorism Center;

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

''(3) the conduct of intelligence operations implemented by other elements of the intelligence community; and

''(4) the planning and progress of joint counterterrorism operations (other than intelligence operations).

The National Intelligence Director shall carry out this section through the Deputy National Intelligence Director for Operations.

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

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

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

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

''(4) To ensure that agencies, as appropriate, have access to and receive all-source

intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

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

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

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

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

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

''(1) serve as the principal adviser to the National Intelligence Director on intelligence operations relating to counterterrorism;

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

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

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

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

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

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

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

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

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

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

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

''Sec. 119. National Counterterrorism Center.''.

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

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

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

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

(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the National Intelligence Director and the elements of the intelligence community within the National Intelligence Program;

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

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

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

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

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

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

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

**Subtitle C—Joint Intelligence Community Council**

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

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

(b) FUNCTIONS.—(1) The Joint Intelligence Community Council shall provide advice to the National Intelligence Director as appropriate.

(2) The National Intelligence Director shall consult with the Joint Intelligence Community Council in developing guidance for the development of the annual National Intelligence Program budget.

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

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

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

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

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

**SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY CRITICAL COMPONENT OF THE INTELLIGENCE COMMUNITY.**

It is a sense of Congress that—

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

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

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

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

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

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

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

**Subtitle E—Improvement of Education for the Intelligence Community**

**SEC. 1051. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.**

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

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

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

''(j) REQUIREMENTS FOR OBLIGATED SERVICE IN THE GOVERNMENT.—(1) Each recipient of a scholarship or a fellowship under the program shall work in a specified national security position. In this subsection, the term 'specified national security position' means a position of a department or agency of the United States that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to the study for which scholarship or fellowship assistance (as the case may be) was provided under the program.

''(2) Each such recipient shall commence work in a specified national security position as soon as practicable but in no case later than two years after the completion by the recipient of the study for which scholarship or fellowship assistance (as the case may be) was provided under the program.

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

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

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

''(4) Recipients shall seek specified national security positions as follows:

''(A) In the Department of Defense or in any element of the intelligence community.

''(B) In the Department of State or in the Department of Homeland Security, if the recipient demonstrates to the Secretary that no position is available in the Department of Defense or in any element of the intelligence community.

''(C) In any other Federal department or agency not referred to in subparagraphs (A) and (B), if the recipient demonstrates to the Secretary that no position is available in a Federal department or agency specified in such paragraphs.''.

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

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

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

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

(a) INCREASE IN ANNUAL AUTHORIZATION OF APPROPRIATIONS.—(1) Title VIII of the Intelligence Authorization Act for Fiscal Year 1992 (Public Law 102–183; 105 Stat. 1271), as amended by section 311(c) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103–178; 107 Stat. 2037) and by section 333(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2397), is amended in subsection (a) of section 811 by striking ''there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, $10,000,000,'' and inserting ''there is authorized to be appropriated to the Secretary for each of fiscal years 2003 and 2004, $10,000,000, and for fiscal year 2005 and each subsequent fiscal year, $12,000,000,''.

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

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

''(5)(A) In the case of an undergraduate or graduate student that participates in training in programs under paragraph (1), the student shall enter into an agreement described in subsection (b), other than such a student who has entered into such an agreement pursuant to subparagraph (A)(ii) or (B)(ii) of section 802(a)(1).

''(B) In the case of an employee of an agency or department of the Federal Government that participates in training in programs under paragraph (1), the employee shall agree in writing—

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

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

''(iii) to reimburse the United States for the total cost of such training (excluding the employee's pay and allowances) provided to the employee if, before the completion by the employee of the training, the employment of the employee by the agency or department is terminated due to misconduct by the employee or by the employee voluntarily; and

''(iv) to reimburse the United States if, after completing such training, the employment of the employee by the agency or department is terminated either by the agency or department due to misconduct by the employee or by the employee voluntarily, before the completion by the employee of the period of service required in clause (ii), in an amount that bears the same ratio to the total cost of the training (excluding the employee's pay and allowances) provided to the employee as the unserved portion of such period of service bears to the total period of service under clause (ii).

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

''(D) The head of an element of the intelligence community may release an employee, in whole or in part, from the obligation to reimburse the United States under an agreement under subparagraph (A) when, in the discretion of the head of the element, the head of the element determines that equity or the interests of the United States so require.''.

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

(c) INCREASE IN THE NUMBER OF PARTICIPATING EDUCATIONAL INSTITUTIONS.—The Secretary of Defense shall take such steps as the Secretary determines will increase the number of qualified educational institutions that receive grants under the National Flagship Language Initiative to establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

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

**SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE UNITED STATES WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.**

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

(A) by striking ''and'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

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

''(E) awarding scholarships to students who—

''(i) are United States citizens who—

''(I) are native speakers (commonly referred to as heritage community residents) of a foreign language that is identified as critical to the national security interests of the United States who should be actively recruited for employment by Federal security agencies with a need for linguists; and

''(II) are not proficient at a professional level in the English language with respect to reading, writing, and interpersonal skills required to carry out the national security interests of the United States, as determined by the Secretary,

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

''(ii) enter into an agreement to work in a national security position or work in the field of education in the area of study for which the scholarship was awarded in a similar manner (as determined by the Secretary) as agreements entered into pursuant to subsection (b)(2)(A).''.

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

(A) in the first sentence, by inserting ''or for the scholarship program under paragraph (1)(E)'' after ''under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i)''; and

(B) by adding at the end the following: ''For the authorization of appropriations for the scholarship program under paragraph (1)(E), see section 812.''.

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

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

**''SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR CERTAIN HERITAGE COMMUNITY RESIDENTS.**

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

**SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LANGUAGE AND EDUCATION FOR THE INTELLIGENCE COMMUNITY; REPORTS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that there should be within the Office of the National Intelligence Director a senior official responsible to assist the National Intelligence Director in carrying out the Director's responsibilities for establishing policies and procedure for foreign language education and training of the intelligence community. The duties of such official should include the following:

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

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

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

(4) Monitoring the allocation of resources for foreign language education and training in order to ensure the requirements of the intelligence community with respect to foreign language proficiency are met.

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

(1) A report that identifies—

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

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

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

(B) For purposes of subparagraph (A), the term ''foreign language heritage community'' means a community of residents or citizens of the United States—

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

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

(3) A report on—

(A) the estimated cost of establishing a program under which the heads of elements of the intelligence community agree to repay employees of the intelligence community for any student loan taken out by that employee for the study of foreign languages critical for the national security of the United States; and

(B) the effectiveness of such a program in recruiting and retaining highly qualified personnel in the intelligence community.

**SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRITICAL TO THE INTELLIGENCE COMMUNITY.**

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

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

**"Subtitle A—Science and Technology"**;

and

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

**"Subtitle B—Foreign Languages Program**

''PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES CRITICAL TO THE INTELLIGENCE COMMUNITY

''SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the National Intelligence Director may jointly establish a program to advance foreign languages skills in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States (hereinafter in this subtitle referred to as the 'Foreign Languages Program').

''(b) IDENTIFICATION OF REQUISITE ACTIONS.—In order to carry out the Foreign Languages Program, the Secretary of Defense and the National Intelligence Director shall jointly determine actions required to improve the education of personnel in the intelligence community in foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States to meet the long-term intelligence needs of the United States.

''EDUCATION PARTNERSHIPS

''SEC. 1012. (a) IN GENERAL.—In carrying out the Foreign Languages Program, the head of a department or agency containing an element of an intelligence community entity may enter into one or more education partnership agreements with educational institutions in the United States in order to encourage and enhance the study of foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States in educational institutions.

''(b) ASSISTANCE PROVIDED UNDER EDUCATIONAL PARTNERSHIP AGREEMENTS.—Under an educational partnership agreement entered into with an educational institution pursuant to this section, the head of an element of an intelligence community entity may provide the following assistance to the educational institution:

''(1) The loan of equipment and instructional materials of the element of the intelligence community entity to the educational institution for any purpose and duration that the head determines to be appropriate.

''(2) Notwithstanding any other provision of law relating to transfers of surplus property, the transfer to the educational institution of any computer equipment, or other equipment, that is—

''(A) commonly used by educational institutions;

''(B) surplus to the needs of the entity; and

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

''(3) The provision of dedicated personnel to the educational institution—

''(A) to teach courses in foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States; or

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

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

''(5) Cooperation with the educational institution in developing a program under which students receive academic credit at the educational institution for work on research projects of the element of the intelligence community entity.

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

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

''VOLUNTARY SERVICES

''SEC. 1013. (a) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, and subject to subsection (b), the Foreign Languages Program under section 1011 shall include authority for the head of an element of an intelligence community entity to accept from any individual who is dedicated personnel (as defined in section 1016(3)) voluntary services in support of the activities authorized by this subtitle.

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

''(A) supervise the individual to the same extent as the head of the element would supervise a compensated employee of that element providing similar services; and

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

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

''(A) place the individual in a policy-making position, or other position performing inherently government functions; or

''(B) compensate the individual for the provision of such services.

''(c) AUTHORITY TO RECRUIT AND TRAIN INDIVIDUALS PROVIDING SERVICES.—The head of an element of an intelligence community entity may recruit and train individuals to provide voluntary services accepted under subsection (a).

''(d) STATUS OF INDIVIDUALS PROVIDING SERVICES.—(1) Subject to paragraph (2), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), an individual shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

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

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

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

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

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

''(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—(1) The head of an element of the intelligence community entity may reimburse an individual for incidental expenses incurred by the individual in providing voluntary services accepted under subsection (a). The head of an element of the intelligence community entity shall determine which expenses are eligible for reimbursement under this subsection.

''(2) Reimbursement under paragraph (1) may be made from appropriated or non-appropriated funds.

''(f) AUTHORITY TO INSTALL EQUIPMENT.—(1) The head of an element of the intelligence community may install telephone lines and any necessary telecommunication equipment in the private residences of individuals who provide voluntary services accepted under subsection (a).

''(2) The head of an element of the intelligence community may pay the charges incurred for the use of equipment installed under paragraph (1) for authorized purposes.

''(3) Notwithstanding section 1348 of title 31, United States Code, the head of an element of the intelligence community entity may use appropriated funds or non-appropriated funds of the element in carrying out this subsection.

''REGULATIONS

''SEC. 1014. (a) IN GENERAL.—The Secretary of Defense and the National Intelligence Director jointly shall promulgate regulations necessary to carry out the Foreign Languages Program authorized under this subtitle.

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

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

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

''DEFINITIONS

''SEC. 1015. In this subtitle:

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

''(2) The term 'educational institution' means—

''(A) a local educational agency (as that term is defined in section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26))),

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

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

''(3) The term 'dedicated personnel' means employees of the intelligence community and private citizens (including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged or generally discharged under honorable circumstances, and rehired on a voluntary basis specifically to perform the activities authorized under this subtitle).

**''Subtitle C—Additional Education Provisions**

''ASSIGNMENT OF INTELLIGENCE COMMUNITY PERSONNEL AS LANGUAGE STUDENTS

''SEC. 1021. (a) IN GENERAL.—(1) The National Intelligence Director, acting through the heads of the elements of the intelligence community, may provide for the assignment of military and civilian personnel described in paragraph (2) as students at accredited professional, technical, or other institutions of higher education for training at the graduate or undergraduate level in foreign languages required for the conduct of duties and responsibilities of such positions.

''(2) Personnel referred to in paragraph (1) are personnel of the elements of the intelligence community who serve in analysts positions in such elements and who require foreign language expertise required for the conduct of duties and responsibilities of such positions.

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

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

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

''(c) RELATIONSHIP TO COMPENSATION AS AN ANALYST.—Reimbursement under this section to an employee who is an analyst is in addition to any benefits, allowances, travels, or other compensation the employee is entitled to by reason of serving in such an analyst position.''.

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

''Subtitle A—Science and Technology

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

''Subtitle B—Foreign Languages Program

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

''Sec. 1012. Education partnerships.

''Sec. 1013. Voluntary services.

''Sec. 1014. Regulations.

''Sec. 1015. Definitions.

''Subtitle C—Additional Education Provisions

''Sec. 1021. Assignment of intelligence community personnel as language students.''.

**SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.**

(a) PILOT PROJECT.—The National Intelligence Director shall conduct a pilot project to establish a Civilian Linguist Reserve Corps comprised of United States citizens with advanced levels of proficiency in foreign languages who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify.

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

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

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

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

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

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

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

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

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

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

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

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

''NATIONAL VIRTUAL TRANSLATION CENTER

''SEC. 120. (a) IN GENERAL.—There is an element of the intelligence community known as the National Virtual Translation Center under the direction of the National Intelligence Director.

''(b) FUNCTION.—The National Virtual Translation Center shall provide for timely and accurate translations of foreign intelligence for all other elements of the intelligence community.

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

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

''(2) integrate existing translation capabilities in the intelligence community; and

''(3) use remote-connection capacities.

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

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

''(2) the National Intelligence Director determines to be appropriate for such purpose.''.

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

''Sec. 120. National Virtual Translation Center.''.

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

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

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

(2) DEFINITION.—In this subsection, the term ''appropriate congressional committees'' means the following:

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

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

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

**SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION INCENTIVE PROGRAM.**

(a) EXTENSION OF PROGRAM.—Section 2 of the Central Intelligence Agency Voluntary

Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) by striking subsection (f); and

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

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

(2) Section 4(a)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note) is amended by striking '', or section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103–36; 107 Stat. 104)''.

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

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

''SEC. 19. (a) There is established the National Security Agency Emerging Technologies Panel. The panel is a standing panel of the National Security Agency. The panel shall be appointed by, and shall report directly to, the Director.

''(b) The National Security Agency Emerging Technologies Panel shall study and assess, and periodically advise the Director on, the research, development, and application of existing and emerging science and technology advances, advances on encryption, and other topics.

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

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

The National Intelligence Director, in cooperation with the Secretary of Defense and the Secretary of Energy, should seek to ensure that each service laboratory of the Department of Defense and each national laboratory of the Department of Energy may, acting through the relevant Secretary and in a manner consistent with the missions and commitments of the laboratory—

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

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

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

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

**SEC. 1064. IMPROVEMENT IN TRANSLATION AND DELIVERY OF SUSPECTED TERRORIST COMMUNICATIONS.**

(a) REQUIREMENT FOR PROMPT TRANSLATION AND TRANSMISSION.—The National Intelligence Director shall develop and transmit to the appropriate agencies guidelines to ensure that all suspected terrorist communications, including transmissions, are translated and delivered in a manner consistent with timelines contained in regulations of the Federal Bureau of Investigations to the extent practicable.

(b) PREVENTION OF DELETION OF TERRORIST COMMUNICATIONS.—The National Intelligence Director shall take such steps as are necessary to ensure that terrorist communications are not deleted or discarded before those communications are translated.

**Subtitle G—Conforming and Other Amendments**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL INTELLIGENCE DIRECTOR''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) INTELLIGENCE AUTHORIZATION ACTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SEC. 1072. OTHER CONFORMING AMENDMENTS**

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

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

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

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

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

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

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

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

(d) INTELLIGENCE AUTHORIZATION ACTS.—

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

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

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

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

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

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

(B) in subsection (h)(2)(C), by striking ''Assistant Director'' and inserting ''Deputy National Intelligence Director''.

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

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

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

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

''(B) The Central Intelligence Agency.

''(C) The National Security Agency.

''(D) The Defense Intelligence Agency.

''(E) The National Geospatial-Intelligence Agency.

''(F) The National Reconnaissance Office.

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

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

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

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

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

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

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

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

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

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

(c) HEADING AMENDMENT.—The heading of section 506 of that Act is amended by striking ''FOREIGN''.

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

(a) APPOINTMENT OF CERTAIN INTELLIGENCE OFFICIALS.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is repealed.

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

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

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

(1) by striking the items relating to sections 102 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

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

''Sec. 114. Additional annual reports from the National Intelligence Director.''; and

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

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

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

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

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

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

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

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

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

**SEC. 1079. GENERAL REFERENCES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.**

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

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

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

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

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

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

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

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

**SEC. 1094. IMPLEMENTATION PLAN.**

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

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

(2) Any consolidation, reorganization, or streamlining of activities transferred to the National Intelligence Director pursuant to this title.

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

(4) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations to be transferred to the National Intelligence Director.

(5) Recommendations for additional legislative or administrative action as the Director considers appropriate.

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

**SEC. 1095. TRANSITIONAL AUTHORITIES.**

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

**SEC. 1096. EFFECTIVE DATES.**

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

(b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later than 60 days after the date of the enactment of this Act, the National Intelligence Director shall first appoint individuals to positions within the Office of the National Intelligence Director.

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

(2) Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress the implementation plan required under section 1904.

(3) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall prescribe regulations, policies, procedures, standards, and guidelines required under section 102A of the National Security Act of 1947, as amended by section 1011(a).

## Subtitle I—Other Matters

**SEC. 1101. STUDY OF PROMOTION AND PROFESSIONAL MILITARY EDUCATION SCHOOL SELECTION RATES FOR MILITARY INTELLIGENCE OFFICERS.**

(a) STUDY.—The Secretary of Defense shall conduct a study of the promotion selection rates, and the selection rates for attendance at professional military education schools, of intelligence officers of the Armed Forces, particularly in comparison to the rates for other officers of the same Armed Force who are in the same grade and competitive category.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing the Secretary's findings resulting from the study under subsection (a) and the Secretary's recommendations (if any) for such changes in law as the Secretary considers needed to ensure that intelligence officers, as a group, are selected for promotion, and for attendance at professional military education schools, at rates not less than the rates for all line (or the equivalent) officers of the same Armed Force (both in the zone and below the zone) in the same grade. The report shall be submitted not later than April 1, 2005.

# TITLE II—TERRORISM PREVENTION AND PROSECUTION

## Subtitle A—Individual Terrorists as Agents of Foreign Powers

**SEC. 2001. INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.**

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

''(C) engages in international terrorism or activities in preparation therefor; or''.

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

## Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

**SEC. 2021. SHORT TITLE.**

This subtitle may be cited as the ''Stop Terrorist and Military Hoaxes Act of 2004''.

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

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

**''§ 1038. False information and hoaxes**

''(a) CRIMINAL VIOLATION.—

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

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

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

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

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

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

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

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

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

''(c) REIMBURSEMENT.—

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

''(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

''(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

''(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.''.

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

''1038. False information and hoaxes.''.

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

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

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

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

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

(1) in subsection (a), by striking ''facility in'' and inserting ''facility of''; and

(2) in subsection (b)(2), by inserting ''or foreign'' after ''interstate''.

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

**SEC. 2041. SHORT TITLE.**

This subtitle may be cited as the ''Material Support to Terrorism Prohibition Enhancement Act of 2004''.

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

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

**''§ 2339D. Receiving military-type training from a foreign terrorist organization**

''(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section. There is jurisdiction over an offense under subsection (a) if—

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

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

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

''(4) the offense occurs in whole or in part within the United States;

''(5) the offense occurs in or affects interstate or foreign commerce;

''(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

''(c) DEFINITIONS.—As used in this section—

''(1) the term 'military-type training' includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2));

''(2) the term 'serious bodily injury' has the meaning given that term in section 1365(h)(3);

''(3) the term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

''(4) the term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.''.

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

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

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (3);

(3) by inserting after paragraph (1) as so designated by this subsection the following:

''(2) (A) Whoever in a circumstance described in subparagraph (B) provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism (as defined in section 2331), or in preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

''(B) The circumstances referred to in subparagraph (A) are any of the following:

''(i) The offense occurs in or affects interstate or foreign commerce.

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

''(iii) The act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government.

''(iv) An offender, acting within the United States or outside the territorial jurisdiction of the United States, is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act, an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act , or a stateless person whose habitual residence is in the United States, and the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government.

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

''(vi) An offender, acting outside the territorial jurisdiction of the United States, is an alien and the act of terrorism is an act of international terrorism that appears to be

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

''(vii) An offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.''; and

(4) by inserting ''act or'' after ''underlying''.

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

(1) by striking ''In this'' and inserting ''(1) In this'';

(2) by inserting ''any property, tangible or intangible, or service, including'' after ''means'';

(3) by inserting ''(one or more individuals who may be or include oneself)'' after ''personnel'';

(4) by inserting ''and'' before ''transportation'';

(5) by striking ''and other physical assets''; and

(6) by adding at the end the following:

''(2) As used in this subsection, the term 'training' means instruction or teaching designed to impart a specific skill, as opposed to general knowledge, and the term 'expert advice or assistance' means advice or assistance derived from scientific, technical or other specialized knowledge.''.

(c) ADDITION TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking '', within the United States or subject to the jurisdiction of the United States,'' and inserting ''in a circumstance described in paragraph (2)'' ; and

(2) by adding at the end the following: ''To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act, or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.''.

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

(1) by inserting ''(1)'' before ''There''; and

(2) by adding at the end the following:

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

''(A) An offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act.

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

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

''(D) The offense occurs in whole or in part within the United States.

''(E) The offense occurs in or affects interstate or foreign commerce.

''(F) An offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).''.

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

''(4) the term 'material support or resources' has the same meaning given that term in section 2339A;''.

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

''(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with one or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.''.

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

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

(1) by striking '', resources, or funds'' and inserting ''or resources, or any funds or proceeds of such funds'';

(2) in subparagraph (A), by striking ''were provided'' and inserting ''are to be provided, or knowing that the support or resources were provided,''; and

(3) in subparagraph (B)—

(A) by striking ''or any proceeds of such funds''; and

(B) by striking ''were provided or collected'' and inserting ''are to be provided or collected, or knowing that the funds were provided or collected,''.

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

(1) by striking ''and'' at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

''(13) the term 'material support or resources' has the same meaning given that term in section 2339B(g)(4) of this title; and''.

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

**SEC. 2051. SHORT TITLE.**

This subtitle may be cited as the ''Weapons of Mass Destruction Prohibition Improvement Act of 2004''.

**SEC. 2052. WEAPONS OF MASS DESTRUCTION.**

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) so that paragraph (2) of subsection (a) reads as follows:

''(2) against any person or property within the United States, and

''(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

''(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

''(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

''(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;'';

(2) in paragraph (3) of subsection (a), by striking the comma at the end and inserting ''; or'';

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

''(4) against any property within the United States that is owned, leased, or used by a foreign government,'';

(4) at the end of subsection (c)(1), by striking''and'';

(5) in subsection (c)(2), by striking the period at the end and inserting ''; and''; and

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

''(3) the term 'property' includes all real and personal property.''.

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

(1) in the section heading, by striking ''certain'';

(2) in subsection (a), by striking ''(other than a chemical weapon as that term is defined in section 229F)''; and

(3) in subsection (b), by striking ''(other than a chemical weapon (as that term is defined in section 229F))''.

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G) by—

(A) inserting ''(i)'' after ''(G)'';

(B) inserting '', or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph'' after ''terrorism''; and

(C) striking ''or'' after the semicolon.

(2) in subparagraph (H) by striking the period and inserting ''; or''; and

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

''(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).''.

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) Section 175b(a)(1) of title 18, United States Code, is amended by striking ''as a select agent in Appendix A'' and all that follows and inserting the following: ''as a nonoverlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.''.

(2) The amendment made by paragraph (1) shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

(e) ENHANCING PROSECUTION OF WEAPONS OF MASS DESTRUCTION OFFENSES.—Section 1961(1)(B) of title 18, United States Code, is amended by adding at the end the following: ''sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials),''.

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

(a) Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking ''in the production of any special nuclear material'' and inserting ''or participate in the development or production of any special nuclear material or atomic weapon''.

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

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

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

(2) by inserting after section 831 the following:

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

''(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

''(b) There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) Whoever without lawful authority develops, possesses, or attempts or conspires to develop or possess a radiological weapon, or threatens to use or uses a radiological weapon against any person within the United States, or a national of the United States while such national is outside the United States or against any property that is owned, leased, funded or used by the United States, whether that property is within or outside the United States, shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

''(d) As used in this section—

''(1) 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons;

''(2) 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

''(3) 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

''(4) 'nuclear weapon' means any weapon that contains or uses nuclear material as defined in section 831(f)(1).''; and

(3) in section 2332b(g)(5)(B)(i), by inserting after ''nuclear materials),'' the following: ''832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)''.

## Subtitle E—Money Laundering and Terrorist Financing

### CHAPTER 1—FUNDING TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

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

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

(1) by striking ''APPROPRIATIONS.—There are authorized'' and inserting ''APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized'';

and

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

''(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

''(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to exploit the information in the FinCEN databanks, $16,500,000.

''(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, $5,000,000.

''(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, $3,000,000.

''(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, $3,000,000.

''(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, $8,000,000.''.

**SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY REAUTHORIZATION.**

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

(b) REAUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

''2004 ..... $15,000,000.
''2005 ..... $15,000,000.''.

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

#### Subchapter A—Money laundering abatement and financial antiterrorism technical corrections

**SEC. 2111. SHORT TITLE.**

This subchapter may be cited as the ''Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004''.

**SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–56.**

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

**''TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001''.**

(b) The table of contents of Public Law 107–56 is amended by striking the item relating to title III and inserting the following new item:

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

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

(1) in subsection (a)(4), by striking the comma after ''movement of criminal funds'';

(2) in subsection (b)(7), by inserting ''or types of accounts'' after ''classes of international transactions''; and

(3) in subsection (b)(10), by striking ''subchapters II and III'' and inserting ''subchapter II''.

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

(e) The heading for section 311 of Public Law 107–56 is amended by striking ''or international transactions'' and inserting ''international transactions, or types of accounts''.

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

(1) in paragraph (1)—

(A) by inserting a comma after ''organizations engaged in''; and

(B) by inserting a comma after ''credible evidence of engaging in'';

(2) in paragraph (2)(A)—

(A) by striking ''and'' after ''nongovernmental organizations,''; and

(B) by inserting a comma after ''unwittingly involved in such finances'';

(3) in paragraph (3)(A)—

(A) by striking ''to monitor accounts of'' and inserting ''monitor accounts of,''; and

(B) by striking the comma after ''organizations identified''; and

(4) in paragraph (3)(B), by inserting ''financial'' after ''size, and nature of the''.

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

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

(i) Subsections (a)(2) and (b)(2) of section 327 of Public Law 107–56 are each amended by inserting a period after ''December 31, 2001'' and striking all that follows through the period at the end of each such subsection.

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

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

(1) by striking ''Section 123(a)'' and inserting ''That portion of section 123(a)'';

(2) by striking ''is amended to read'' and inserting ''that precedes paragraph (1) of such section is amended to read''; and

(3) by striking ''.'' at the end of such section and inserting ''—'' ''.

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

(1) in subsection (a), by inserting ''the'' after ''utilization of the funds of''; and

(2) in subsection (b), by striking ''at such institutions'' and inserting ''at such institution''.

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

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

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

(2) by redesignating subsection (f) as subsection (e).

(o) Section 365(d) of Public Law 107–56 (as so redesignated by subsection (n) of this section) is amended by striking ''section 5332 (as added by section 112 of this title)'' and inserting ''section 5330''.

**SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVISIONS OF LAW.**

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

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

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

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

(2) in the heading of paragraph (4), by striking ''DEFINITION'' and inserting ''DEFINITIONS''.

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

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

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

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

(1) in subsection (a)(4)(A), by striking '', as defined in section 3 of the Federal Deposit Insurance Act,'' and inserting '' (as defined in section 3 of the Federal Deposit Insurance Act)'';

(2) in subsection (a)(4)(B)(iii), by striking ''or class of transactions'' and inserting ''class of transactions, or type of account'';

(3) in subsection (b)(1)(A), by striking ''or class of transactions to be'' and inserting ''class of transactions, or type of account to be''; and

(4) in subsection (e)(3), by inserting ''or subsection (i) or (j) of section 5318'' after ''identification of individuals under this section''.

(g) Section 5324(b) of title 31, United States Code, is amended by striking ''5333'' each place such term appears and inserting ''5331''.

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

(1) in subsection (b)(2), by striking '', subject to subsection (d) of this section''; and

(2) in subsection (c)(1), by striking '', subject to subsection (d) of this section,''.

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

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

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

(k) Section 21(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)(2)) is amended by striking ''recognizes that'' and inserting ''recognizing that''.

(l) Section 626(e) of the Fair Credit Reporting Act (15 U.S.C. 1681v(e)) is amended by striking ''governmental agency'' and inserting ''government agency''.

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

Title III of Public Law 107–56 is amended by striking section 303 (31 U.S.C. 5311 note).

**SEC. 2115. EFFECTIVE DATE.**

The amendments made by this subchapter to Public Law 107–56, the United States Code, the Federal Deposit Insurance Act, and any other provision of law shall take effect as if such amendments had been included in Public Law 107–56, as of the date of the enactment of such Public Law, and no amendment made by such Public Law that is inconsistent with an amendment made by this subchapter shall be deemed to have taken effect.

**Subchapter B—Additional enforcement tools**

**SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECURITY PRINTING.**

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

(1) by striking ''(a) The Secretary of the Treasury'' and inserting:

''(a) AUTHORITY TO ENGRAVE AND PRINT.—

''(1) IN GENERAL.—The Secretary of the Treasury''; and

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

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

''(A) the Secretary of the Treasury determines that such production will not interfere with engraving and printing needs of the United States; and

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

''(3) PROCUREMENT GUIDELINES.—Articles, material, and supplies procured for use in the production of currency, postage stamps, and other security documents for foreign governments pursuant to paragraph (2) shall be treated in the same manner as articles, material, and supplies procured for public use within the United States for purposes of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.; commonly referred to as the Buy American Act).''.

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

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

(2) in the second sentence, by inserting ''and other'' after ''including administrative''; and

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

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

(a) IN GENERAL.—Section 474(a) of title 18, United States Code, is amended by inserting after the paragraph beginning ''Whoever has in his control, custody, or possession any plate'' the following:

'' Whoever, with intent to defraud, has in his custody, control, or possession any material that can be used to make, alter, forge or counterfeit any obligations and other securities of the United States or any part of such securities and obligations, except under the authority of the Secretary of the Treasury; or''.

(b) FOREIGN OBLIGATIONS AND SECURITIES.—Section 481 of title 18, United States Code, is amended by inserting after the paragraph beginning ''Whoever, with intent to defraud'' the following:

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

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

(d) MATERIALS USED IN COUNTERFEITING.—Section 474A(b) of title 18, United States Code, is amended by striking ''any essentially identical'' and inserting ''any thing or material made after or in the similitude of any''.

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

Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(n) REPORTING OF CROSS-BORDER TRANSMITTAL OF FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (3), the Secretary shall prescribe regulations requiring such financial institutions as the Secretary determines to be appropriate to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds relevant to efforts of the Secretary against money laundering and terrorist financing.

''(2) FORM AND MANNER OF REPORTS.—In prescribing the regulations required under paragraph (1), the Secretary shall determine the appropriate form, manner, content and frequency of filing of the required reports.

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

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

''(B) makes recommendations regarding the appropriate form, manner, content and frequency of filing of the required reports; and

''(C) identifies the technology necessary for the Financial Crimes Enforcement Network to receive, keep, exploit and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing.

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

''(4) REGULATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the regulations required by paragraph (1) shall be prescribed in final form by the Secretary, in consultation with the Board of Governors of the Federal Reserve System, before the end of the 3-year period beginning on the date of the enactment of the 9/11 Recommendations Implementation Act.

''(B) TECHNOLOGICAL FEASIBILITY.—No regulations shall be prescribed under this subsection before the Secretary certifies to the Congress that the Financial Crimes Enforcement Network has the technological systems in place to effectively and efficiently receive, keep, exploit, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing.

''(5) RECORDKEEPING.—No financial institution required to submit reports on certain cross-border electronic transmittals of funds to the Financial Crimes Enforcement Network under this subsection shall be subject to the recordkeeping requirement under section 21(b)(3) of the Federal Deposit Insurance Act with respect to such transmittals of funds.''.

**SEC. 2124. ENHANCED EFFECTIVENESS OF EXAMINATIONS, INCLUDING ANTI-MONEY LAUNDERING PROGRAMS.**

(a) DEPOSITORY INSTITUTIONS AND DEPOSITORY INSTITUTION HOLDING COMPANIES.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

''(k) POST-EMPLOYMENT LIMITATIONS ON LEADING BANK EXAMINERS.—

''(1) IN GENERAL.—In the case of any person who—

''(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank; and

''(B) served 2 or more months during the final 18 months of such person's employment with such agency or entity as the examiner-in-charge (or a functionally equivalent position) of a depository institution or depository institution holding company with dedicated, overall, continuous, and ongoing responsibility for the examination (or inspection) and supervision of that depository institution or depository institution holding company,

such person may not hold any office, position, or employment at any such depository institution or depository institution holding company, become a controlling shareholder in, a consultant for, a joint-venture partner with, or an independent contractor for (including as attorney, appraiser, or accountant) any such depository institution or holding company, or any other company that controls such depository institution, or otherwise participate in the conduct of the affairs of any such depository institution or holding company, during the 1-year period beginning on the date such person ceases to be an officer or employee (including any special Government employee) of the Federal banking agency or Federal reserve bank.

''(2) VIOLATORS SUBJECT TO INDUSTRY-WIDE PROHIBITION ORDERS.—

''(A) IN GENERAL.—In addition to any other penalty which may apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has violated the prohibition in such paragraph by becoming associated with any insured depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall serve a written notice or order, in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the agency's intention to—

''(i) remove such person from office in any capacity described in paragraph (1) for a period of 5 years; and

''(ii) prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution, depository institution holding company, or other company that controls an insured depository institution for a period of 5 years.

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subsection shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section and subsections (i) and (j) of section 8 and any other provision of this Act applicable to orders issued under subsection (e) shall apply with respect to such order.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Federal banking agencies shall prescribe regulations to implement this subsection, to determine which persons are referred to in paragraph (1)(B) taking into account—

''(i) the manner in which examiners and other persons who participate in the regulation, examination, or monitoring of depository institutions or depository institution holding companies are distributed among such institutions or companies by such agency, including the number of examiners and other persons assigned to each institution or holding company, the depth and structure of any group so assigned within such distribution, and the factors giving rise to that distribution;

''(ii) the number of institutions or companies each such examiner or other person is so involved with in any given period of assignment;

''(iii) the period of time for which each such examiner or other person is assigned to an institution or company, or a group of institutions or companies, before reassignment;

''(iv) the size of the institutions or holding companies for which each such person is responsible and the amount of time devoted to each such institution or holding company during each examination period; and

''(v) such other factors as the agency determines to be appropriate.

''(B) DETERMINATION OF APPLICABILITY.—The regulations prescribed or orders issued under this subparagraph by an appropriate Federal banking agency shall include a process, initiated by application or otherwise, for determining whether any person who ceases to be, or intends to cease to be, an examiner of insured depository institutions or depository institution holding companies for or on behalf of such agency is subject to the limitations of this subsection with respect to any particular insured depository institution or depository institution holding company.

''(C) CONSULTATION.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

''(4) WAIVER.—A Federal banking agency may waive, on a case-by-case basis, the restrictions imposed by this subsection if—

''(A) the head of the agency certifies in writing that the grant of such waiver would not be inconsistent with the public interest; and

''(B) the waiver is provided in advance before the person becomes affiliated in any way with the depository institution, depository institution holding company, or other company.

''(5) DEFINITIONS AND RULES OF CONSTRUCTION.—For purposes of this subsection, the following definitions and rules shall apply:

''(A) DEPOSITORY INSTITUTION.—The term 'depository institution' includes an uninsured branch or agency of a foreign bank if such branch or agency is located in any State.

''(B) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

''(C) HEAD OF THE AGENCY.—The term 'the head of the agency' means—

''(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

''(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

''(iii) the Chairperson of the Board of Directors, in the case of the Federal Deposit Insurance Corporation; and

''(iv) the Director, in the case of the Office of Thrift Supervision.

''(D) RULE OF CONSTRUCTION FOR CONSULTANTS AND INDEPENDENT CONTRACTORS.—A person shall be deemed to act as a consultant or independent contractor (including as an attorney, appraiser, or accountant) for a depository institution, depository holding company, or other company only if such person directly works on matters for, or on behalf of, such depository institution, depository holding company, or other company.

''(E) APPROPRIATE AGENCY FOR CERTAIN OTHER COMPANIES.—The term 'appropriate Federal banking agency' means, with respect to a company that is not a depository institution or depository institution holding company, the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B), as implemented by regulations prescribed under paragraph (3).''.

(b) CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

''(w) POST-EMPLOYMENT LIMITATIONS ON EXAMINERS.—

''(1) REGULATIONS REQUIRED.—The Board shall consult with the Federal banking agencies and prescribe regulations imposing the same limitations on persons employed by or on behalf of the Board as leading examiners of, or functionally equivalent positions with respect to, credit unions as are applicable under section 10(k) of the Federal Deposit Insurance Act, taking into account all the requirements and factors described in paragraphs (3) and (4) of such section.

''(2) ENFORCEMENT.—The Board shall issue orders under subsection (g) with respect to any person who violates any regulation prescribed pursuant to paragraph (1) to—

''(A) remove such person from office in any capacity with respect to a credit union; and

''(B) prohibit any further participation by such person, in any manner, in the conduct of the affairs of any credit union for a period of 5 years.

''(3) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subsection shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under such subsection and subsection (l) and any other provision of this Act applicable to orders issued under subsection (g) shall apply with respect to such order.''.

(c) STUDY OF EXAMINER HIRING AND RETENTION.—

(1) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration Board, acting through the Financial Institutions Examination Council, shall conduct a study of efforts and proposals for—

(A) retaining the services of experienced and highly qualified examiners and supervisors already employed by such agencies; and

(B) continuing to attract such examiners and supervisors on an-ongoing basis to the extent necessary to fulfill the agencies' obligations to maintain the safety and soundness of the Nation's depository institutions.

(2) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the agencies conducting the study under paragraph (1) shall submit a report containing the findings and conclusions of such agencies with respect to such study, together with such recommendations for administrative or legislative changes as the agencies determine to be appropriate.

## Subtitle F—Criminal History Background Checks

### SEC. 2141. SHORT TITLE.

This subtitle may be cited as the ''Criminal History Access Means Protection of Infrastructures and Our Nation Act''.

**SEC. 2142. CRIMINAL HISTORY BACKGROUND CHECKS.**

(a) IN GENERAL.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

''(f)(1) Under rules prescribed by the Attorney General, the Attorney General shall, within 60 days after the date of enactment, initiate a 180-day pilot program to establish and maintain a system for providing to an employer criminal history information that—

''(A) is in the possession of the Attorney General; and

''(B) is requested by an employer as part of an employee criminal history investigation that has been authorized by the State where the employee works or where the employer has their principal place of business;

in order to ensure that a prospective employee is suitable for certain employment positions.

''(2) The Attorney General shall require that an employer seeking criminal history information of an employee request such information and submit fingerprints or other biometric identifiers as approved by the Attorney General to provide a positive and reliable identification of such prospective employee.

''(3) The Director of the Federal Bureau of Investigation may require an employer to pay a reasonable fee for such information.

''(4) Upon receipt of fingerprints or other biometric identifiers, the Attorney General shall conduct an Integrated Fingerprint Identification System of the Federal Bureau of Investigation (IAFIS) check and provide the results of such check to the requester.

''(5) As used in this subsection,

''(A) the term 'criminal history information' and 'criminal history records' includes——

''(i) an identifying description of the individual to whom it pertains;

''(ii) notations of arrests, detentions, indictments, or other formal criminal charges pertaining to such individual; and

''(iii) any disposition to a notation revealed in subparagraph (B), including acquittal, sentencing, correctional supervision, or release.

''(B) the term 'Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation (IAFIS)' means the national depository for fingerprint, biometric, and criminal history information, through which fingerprints are processed electronically.

''(6) Nothing in this subsection shall preclude the Attorney General from authorizing or requiring criminal history record checks on individuals employed or seeking employment in positions vital to the Nation's critical infrastructure or key resources as those terms are defined in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)) and section 2(9) of the Homeland Security Act of 2002 (6 U.S.C. 101(9)), if pursuant to a law or executive order.''.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 60 days after the conclusion of the pilot program, the Attorney General shall report to the appropriate committees of Congress regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice or any of its components.

(2) IDENTIFICATION OF INFORMATION.—The Attorney General shall identify the number of records requested, including the type of information requested, usage of different terms and definitions regarding criminal history information, and the variation in fees charged for such information and who pays such fees.

(3) RECOMMENDATIONS.—The Attorney General shall make recommendations for consolidating the existing procedures into a unified procedure consistent with that provided in section 534(f) of title 28, United States Code, as amended by this subtitle. In making the recommendations to Congress, the Attorney General shall consider—

(A) the effectiveness of utilizing commercially available databases as a supplement to IAFIS criminal history information checks;

(B) the effectiveness of utilizing State databases as a supplement to IAFIS criminal history information checks;

(C) any feasibility studies by the Department of Justice of the FBI's resources and structure to establish a system to provide criminal history information; and

(D) privacy rights and other employee protections to include employee consent, access to the records used if employment was denied, an appeal mechanism, and penalties for misuse of the information.

**SEC. 2143. PROTECT ACT.**

Public law 108–21 is amended—

(1) in section 108(a)(2)(A) by striking ''an 18 month'' and inserting ''a 30-month''; and

(2) in section 108(a)(3)(A) by striking ''an 18-month'' and inserting ''a 30-month''.

**SEC. 2144. REVIEWS OF CRIMINAL RECORDS OF APPLICANTS FOR PRIVATE SECURITY OFFICER EMPLOYMENT.**

(a) SHORT TITLE.—This section may be cited as the ''Private Security Officer Employment Authorization Act of 2004''.

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(9) private security officers and applicants for private security officer positions should be thoroughly screen and trained.

(c) DEFINITIONS.—In this Act:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.—The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this Act if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this Act.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this Act.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this Act.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this Act, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the

person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and record keeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this Act; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this Act by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this subsection.

**SEC. 2145. TASK FORCE ON CLEARINGHOUSE FOR IAFIS CRIMINAL HISTORY RECORDS.**

Not later than 60 days after the date of enactment of this Act, the Attorney General shall establish a task force to examine the establishment of a national clearinghouse to process IAFIS criminal history record requests received directly from employers providing private security guard services with respect to critical infrastructure (as defined in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e))) and other private security guard services. Members of this task force shall include representatives of the Department of Justice and the Federal Bureau of Investigation, in consultation with representatives of the security guard industry. Not later than 90 days after the establishment of the task force, the Attorney General shall submit to Congress a report outlining how the national clearinghouse shall be established, and specifying a date certain (within one year of the enactment of this Act) by which the national clearinghouse will begin operations.

**SEC. 2146. CLARIFICATION OF PURPOSE.**

The clearinghouse described in section 2145 shall only process criminal history record requests pertaining to employees or prospective employees of the private security guard service making the request pursuant to that section.

**Subtitle G—Protection of United States Aviation System From Terrorist Attacks**

**SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR OTHER TECHNOLOGY.**

(a) USE OF BIOMETRIC TECHNOLOGY.—Section 44903(h) of title 49, United States Code, is amended—

(1) in paragraph (4)(E) by striking ''may provide for'' and inserting ''shall issue, not later than 120 days after the date of enactment of paragraph (5), guidance for''; and

(2) by adding at the end the following:

''(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—In issuing guidance under paragraph (4)(E), the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Attorney General, representatives of the aviation industry, the biometrics industry, and the National Institute of Standards and Technology, shall establish, at a minimum—

''(A) comprehensive technical and operational system requirements and performance standards for the use of biometrics in airport access control systems (including airport perimeter access control systems) to ensure that the biometric systems are effective, reliable, and secure;

''(B) a list of products and vendors that meet such requirements and standards;

''(C) procedures for implementing biometric systems—

''(i) to ensure that individuals do not use an assumed identity to enroll in a biometric system; and

''(ii) to resolve failures to enroll, false matches, and false non-matches; and

''(D) best practices for incorporating biometric technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

''(6) USE OF BIOMETRIC TECHNOLOGY FOR LAW ENFORCEMENT OFFICER TRAVEL.—

''(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Assistant Secretary in consultation with the Attorney General shall—

''(i) establish a law enforcement officer travel credential that incorporates biometrics and is uniform across all Federal, State, and local government law enforcement agencies;

''(ii) establish a process by which the travel credential will be used to verify the identity of a Federal, State, or local government law enforcement officer seeking to carry a weapon on board an aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer;

''(iii) establish procedures—

''(I) to ensure that only Federal, State, and local government law enforcement officers are issued the travel credential;

''(II) to resolve failures to enroll, false matches, and false non-matches relating to use of the travel credential; and

''(III) to invalidate any travel credential that is lost, stolen, or no longer authorized for use;

''(iv) begin issuance of the travel credential to each Federal, State, and local government law enforcement officer authorized by the Assistant Secretary to carry a weapon on board an aircraft; and

''(v) take such other actions with respect to the travel credential as the Secretary considers appropriate.

''(B) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

''(7) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) BIOMETRIC INFORMATION.—The term 'biometric information' means the distinct physical or behavioral characteristics that are used for identification, or verification of the identity, of an individual.

''(B) BIOMETRICS.—The term 'biometrics' means a technology that enables the automated identification, or verification of the identity, of an individual based on biometric information.

''(C) FAILURE TO ENROLL.—The term 'failure to enroll' means the inability of an individual to enroll in a biometric system due to an insufficiently distinctive biometric sample, the lack of a body part necessary to provide the biometric sample, a system design that makes it difficult to provide consistent biometric information, or other factors.

''(D) FALSE MATCH.—The term 'false match' means the incorrect matching of one individual's biometric information to another individual's biometric information by a biometric system.

''(E) FALSE NON-MATCH.—The term 'false non-match' means the rejection of a valid identity by a biometric system.

''(F) SECURE AREA OF AN AIRPORT.—The term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).''.

(b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—

(1) GRANT AUTHORITY.—Section 44923(a) of title 49, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

''(4) for projects to implement biometric technologies in accordance with guidance issued under section 44903(h)(4)(E); and''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 44923(i)(1) of such title is amended by striking ''$250,000,000 for each of fiscal years 2004 through 2007'' and inserting ''$250,000,000 for fiscal year 2004, $345,000,000 for fiscal year 2005, and $250,000,000 for each of fiscal years 2006 and 2007''.

**SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLANNING.**

Section 44904 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

''(c) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall prepare and update, as needed, a transportation sector specific plan and transportation modal security plans in accordance with this section.

''(2) CONTENTS.—At a minimum, the modal security plan for aviation prepared under paragraph (1) shall—

''(A) set risk-based priorities for defending aviation assets;

''(B) select the most practical and cost-effective methods for defending aviation assets;

''(C) assign roles and missions to Federal, State, regional, and local authorities and to stakeholders;

''(D) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

''(E) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

''(3) REPORTS.—Not later than 180 days after the date of enactment of the subsection and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plans prepared under paragraph (1), including any updates to the plans. The report may be submitted in a classified format.

''(d) OPERATIONAL CRITERIA.—Not later than 90 days after the date of submission of the report under subsection (c)(3), the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue operational criteria to protect airport infrastructure and operations against the threats identified in the plans prepared under subsection (c)(1) and shall approve best practices guidelines for airport assets.''.

**SEC. 2173. NEXT GENERATION AIRLINE PASSENGER PRESCREENING.**

(a) IN GENERAL.—Section 44903(j)(2) of title 49, United States Code, is amended by adding at the end the following:

''(C) NEXT GENERATION AIRLINE PASSENGER PRESCREENING.—

''(i) COMMENCEMENT OF TESTING.—Not later than November 1, 2004, the Assistant Secretary of Homeland Security (Transportation Security Administration), or the designee of the Assistant Secretary, shall commence testing of a next generation passenger prescreening system that will allow the Department of Homeland Security to assume the performance of comparing passenger name records to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.

''(ii) ASSUMPTION OF FUNCTION.—Not later than 180 days after completion of testing under clause (i), the Assistant Secretary, or the designee of the Assistant Secretary, shall assume the performance of the passenger prescreening function of comparing passenger name records to the automatic selectee and no fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government in performing that function.

''(iii) REQUIREMENTS.—In assuming performance of the function under clause (i), the Assistant Secretary shall—

''(I) establish a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the next generation passenger prescreening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

''(II) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

''(III) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

''(IV) establish sufficient operational safeguards to reduce the opportunities for abuse;

''(V) implement substantial security measures to protect the system from unauthorized access;

''(VI) adopt policies establishing effective oversight of the use and operation of the system; and

''(VII) ensure that there are no specific privacy concerns with the technological architecture of the system.

''(iv) PASSENGER NAME RECORDS.—Not later than 60 days after the completion of the testing of the next generation passenger prescreening system, the Assistant Secretary shall require air carriers to supply to the Assistant Secretary the passenger name records needed to begin implementing the next generation passenger prescreening system.

''(D) SCREENING OF EMPLOYEES AGAINST WATCHLIST.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

''(i) being certificated by the Federal Aviation Administration;

''(ii) being issued a credential for access to the secure area of an airport; or

''(iii) being issued a credential for access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

''(E) APPEAL PROCEDURES.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under subparagraph (D) to appeal the determination and correct any erroneous information.

''(F) DEFINITION.—In this paragraph, the term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).''.

(b) GAO REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date on which the Assistant Secretary of Homeland Security (Transportation Security Administration) assumes performance of the passenger prescreening function under section 44903(j)(2)(C)(ii) of title 49, United States Code, the Comptroller General shall submit to the appropriate congressional committees a report on the assumption of such function. The report may be submitted in a classified format.

(2) CONTENTS.—The report under paragraph (1) shall address—

(A) whether a system exists in the next generation passenger prescreening system whereby aviation passengers, determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the Transportation Security Administration, may appeal such a decision and correct erroneous information;

(B) the sufficiency of identifying information contained in passenger name records and any government databases for ensuring that a large number of false positives will not result under the next generation passenger prescreening system in a significant number of passengers being treated as a threat mistakenly or in security resources being diverted;

(C) whether the Transportation Security Administration stress tested the next generation passenger prescreening system;

(D) whether an internal oversight board has been established in the Department of Homeland Security to monitor the next generation passenger prescreening system;

(E) whether sufficient operational safeguards have been established to prevent the opportunities for abuse of the system;

(F) whether substantial security measures are in place to protect the passenger prescreening database from unauthorized access;

(G) whether policies have been adopted for the effective oversight of the use and operation of the system;

(H) whether specific privacy concerns still exist with the system; and

(I) whether appropriate life cycle cost estimates have been developed, and a benefit and cost analysis has been performed, for the system.

**SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.**

(a) NONMETALLIC WEAPONS AND EXPLOSIVES.—In order to improve security, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall give priority to developing, testing, improving, and deploying technology at screening checkpoints at airports that will detect nonmetallic weapons and explosives on the person of individuals, in their clothing, or in their carry-on baggage or personal property and shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of nonmetallic weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary shall transmit to the appropriate congressional committees a strategic plan to promote the optimal utilization and deployment of explosive detection systems at airports to screen individuals and their carry-on baggage or personal property, including walk-through explosive detection portals, document scanners, shoe scanners, and any other explosive detection equipment for use at a screening checkpoint. The plan may be transmitted in a classified format.

(2) CONTENTS.—The strategic plan shall include descriptions of the operational applications of explosive detection equipment at airport screening checkpoints, a deployment schedule and quantities of equipment needed to implement the plan, and funding needs for implementation of the plan, including a financing plan that provides for leveraging non-Federal funding.

**SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-RESISTANT CARGO AND BAGGAGE CONTAINERS.**

(a) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device.

(b) INCENTIVES FOR PARTICIPATION IN PILOT PROGRAM.—

(1) IN GENERAL.—As part of the pilot program, the Assistant Secretary shall provide incentives to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(2) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier

shall submit to the Assistant Secretary an application that is in such form and contains such information as the Assistant Secretary requires.

(3) TYPES OF ASSISTANCE.—Assistance provided by the Assistant Secretary to air carriers that volunteer to participate in the pilot program shall include the use of blast-resistant containers and financial assistance to cover increased costs to the carriers associated with the use and maintenance of the containers, including increased fuel costs.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall submit to appropriate congressional committees a report on the results of the pilot program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000. Such sums shall remain available until expended.

**SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

The Transportation Security Administration shall develop technology to better identify, track, and screen air cargo.

**SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DETECTION.**

Section 44940 of title 49, United States Code, is amended by adding at the end the following:

''(i) CHECKPOINT SCREENING SECURITY FUND.—

''(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the 'Checkpoint Screening Security Fund'.

''(2) DEPOSITS.—In each of fiscal years 2005 and 2006, after amounts are made available under section 44923(h), the next $30,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

''(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least $30,000,000 in each of fiscal years 2005 and 2006 for deposit into the Fund.

''(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available for the purchase, deployment, and installation of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.''.

**SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.**

(a) PILOT PROGRAM.—The Transportation Security Administration shall develop, not later than 120 days after the date of enactment of this Act, and conduct a pilot program to test, integrate, and deploy next generation security checkpoint screening technology at not less than 5 airports in the United States.

(b) HUMAN FACTOR STUDIES.—The Administration shall conduct human factors studies to improve screener performance as part of the pilot program under subsection (a).

**SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT DOOR.**

(a) CIVIL PENALTY.—Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

''(6) PENALTY FOR FAILURE TO SECURE FLIGHT DECK DOOR.—Any person holding a part 119 certificate under part of title 14, Code of Federal Regulations, is liable to the Government for a civil penalty of not more than $25,000 for each violation, by the pilot in command of an aircraft owned or operated by such person, of any Federal regulation that requires that the flight deck door be closed and locked when the aircraft is being operated.''.

(b) TECHNICAL CORRECTIONS.—

(1) COMPROMISE AND SETOFF FOR FALSE INFORMATION.—Section 46302(b)(1) of such title is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation,''.

(2) CARRYING A WEAPON.—Section 46303 of such title is amended—

(A) in subsection (b)(1) by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security''; and

(B) in subsection (c)(2) by striking ''Under Secretary of Transportation for Security'' and inserting ''Secretary of Homeland Security''.

(3) ADMINISTRATIVE IMPOSITION OF PENALTIES.—Section 46301(d) of such title is amended—

(A) in the first sentence of paragraph (2) by striking ''46302, 46303,'' and inserting ''46302 (for a violation relating to section 46504),'';

(B) in the second sentence of paragraph (2)—

(i) by striking ''Under Secretary of Transportation for Security'' and inserting ''Secretary of Homeland Security''; and

(ii) by striking ''44909)'' and inserting ''44909), 46302 (except for a violation relating to section 46504), 46303,'';

(C) in each of paragraphs (2), (3), and (4) by striking ''Under Secretary or'' and inserting ''Secretary of Homeland Security or''; and

(D) in paragraph (4)(A) by moving clauses (i), (ii), and (iii) 2 ems to the left.

**SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.**

The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue to develop operational initiatives to protect the anonymity of Federal air marshals.

**SEC. 2181. FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.**

(a) The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall make available appropriate in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while on duty.

(b) The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal Air Marshals receive training in identifying fraudulent identification documents, including fraudulent or expired Visas and Passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in border states.

**SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CARRIAGE PILOT PROGRAM.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Assistant Secretary may prescribe any training, equipment, or procedures including procedures for reporting of missing, lost or stolen firearms, that the Assistant Secretary determines necessary to ensure safety and maximize weapon retention.

(b) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Assistant Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to the appropriate congressional committees.

(c) OPTION.—If the Assistant Secretary as part of the review under subsection (b) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Assistant Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Assistant Secretary determines appropriate.

**SEC. 2183. REGISTERED TRAVELER PROGRAM.**

The Transportation Security Administration shall expedite implementation of the registered traveler program.

**SEC. 2184. WIRELESS COMMUNICATION.**

(a) STUDY.—The Transportation Security Administration, in consultation with the Federal Aviation Administration, shall conduct a study to determine the viability of providing devices or methods, including wireless methods, to enable a flight crew to discreetly notify the pilot in the case of a security breach or safety issue occurring in the cabin.

(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Transportation Security Administration and the Federal Aviation Administration shall consider technology that is readily available and can be quickly integrated and customized for use aboard aircraft for flight crew communication.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Transportation Security Administration shall submit to the appropriate congressional committees a report on the results of the study.

**SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

Not later than 6 months after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit to the appropriate congressional committees a report on the costs and benefits associated with the use of secondary flight deck barriers and whether the use of such barriers should be mandated for all air carriers. The Assistant Secretary may transmit the report in a classified format.

**SEC. 2186. EXTENSION.**

Section 48301(a) of title 49, United States Code, is amended by striking ''and 2005'' and inserting ''2005, and 2006''.

**SEC. 2187. PERIMETER SECURITY.**

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with airport operators and law enforcement authorities, shall develop and submit to the appropriate congressional committee a report on airport perimeter security. The report may be submitted in a classified format.

(b) CONTENTS.—The report shall include—

(1) an examination of the feasibility of access control technologies and procedures, including the use of biometrics and other methods of positively identifying individuals prior to entry into secure areas of airports, and provide best practices for enhanced perimeter access control techniques; and

(2) an assessment of the feasibility of physically screening all individuals prior to entry into secure areas of an airport and additional methods for strengthening the background vetting process for all individuals credentialed to gain access to secure areas of airports.

**SEC. 2188. DEFINITIONS.**

In this title, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term ''appropriate congressional committees'' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) AIR CARRIER.—The term ''air carrier'' has the meaning such term has under section 40102 of title 49, United States Code.

(3) SECURE AREA OF AN AIRPORT.—The term ''secure area of an airport'' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

**Subtitle H—Other Matters**

**SEC. 2191. GRAND JURY INFORMATION SHARING.**

(a) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking ''or state subdivision or of an Indian tribe'' and inserting '', state subdivision, Indian tribe, or foreign government'';

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: ''An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(ii) in clause (i)—

(I) by striking ''federal''; and

(II) by adding at the end the following: ''Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and the National Intelligence Director shall jointly issue.''; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

''(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;''; and

(iii) in clause (iv), as redesignated—

(I) by striking ''state or Indian tribal'' and inserting ''State, Indian tribal, or foreign''; and

(II) by striking ''or Indian tribal official'' and inserting ''Indian tribal, or foreign government official''; and

(2) in paragraph (7), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''.

(b) CONFORMING AMENDMENT.—Section 203(c) of Public Law 107–56 (18 U.S.C. 2517 note) is amended by striking ''Rule 6(e)(3)(C)(i)(V) and (VI)'' and inserting ''Rule 6(e)(3)(D)''.

**SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE DATA SYSTEM.**

(a) FINDINGS.—The Congress finds as follows:

(1) The interoperable electronic data system know as the ''Chimera system'', and required to be developed and implemented by section 202(a)(2) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)(2)), has not in any way been implemented.

(2) Little progress has been made since the enactment of such Act with regard to establishing a process to connect existing trusted systems operated independently by the respective intelligence agencies.

(3) It is advisable, therefore, to assign such responsibility to the National Intelligence Director.

(4) The National Intelligence Director should, pursuant to the amendments made by subsection (c), begin systems planning immediately upon assuming office to deliver an interim system not later than 1 year after the date of the enactment of this Act, and to deliver the fully functional Chimera system not later than September 11, 2007.

(5) Both the interim system, and the fully functional Chimera system, should be designed so that intelligence officers, Federal law enforcement agencies (as defined in section 2 of such Act (8 U.S.C. 1701)), operational counter-terror support center personnel, consular officers, and Department of Homeland Security enforcement officers have access to them.

(b) PURPOSES.—The purposes of this section are as follows:

(1) To provide the National Intelligence Director with the necessary authority and resources to establish both an interim data system and, subsequently, a fully functional Chimera system, to collect and share intelligence and operational information with the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) To require the National Intelligence Director to establish a state-of-the-art Chimera system with both biometric identification and linguistic capabilities satisfying the best technology standards.

(3) To ensure that the National Intelligence Center will have a fully functional capability, not later than September 11, 2007, for interoperable data and intelligence exchange with the agencies of the intelligence community (as so defined).

(c) AMENDMENTS.—

(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—

(A) in section 202(a)—

(i) by amending paragraphs (1) and (2) to read as follows:

''(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.

''(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 community that is necessary to identify terrorists, and organizations and individuals that support terrorism. The system established under this paragraph shall referred to as the 'Chimera system'. '';

(ii) in paragraph (3)—

(I) by striking ''President'' and inserting ''National Intelligence Director''; and

(II) by striking ''the data system'' and inserting ''the interim system described in paragraph (1) and the Chimera system described in paragraph (2)'';

(iii) in paragraph (4)(A), by striking ''The data system'' and all that follows through ''(2),'' and inserting ''The interim system described in paragraph (1) and the Chimera system described in paragraph (2)'';

(iv) in paragraph (5)—

(I) in the matter preceding subparagraph (A), by striking ''data system under this subsection'' and inserting ''Chimera system described in paragraph (2)'';

(II) in subparagraph (B), by striking ''and'' at the end;

(III) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(D) to any Federal law enforcement or intelligence officer authorized to assist in the investigation, identification, or prosecution of terrorists, alleged terrorists, individuals supporting terrorist activities, and individuals alleged to support terrorist activities. ''; and

(v) in paragraph (6)—

(I) by striking ''President'' and inserting ''National Intelligence Director'';

(II) by striking ''the data system'' and all that follows through ''(2),'' and inserting ''the interim system described in paragraph (1) and the Chimera system described in paragraph (2)'';

(B) in section 202(b)—

(i) in paragraph (1), by striking ''The interoperable'' and all that follows through ''subsection (a)'' and inserting ''the Chimera system described in subsection (a)(2)'';

(ii) in paragraph (2), by striking ''interoperable electronic database'' and inserting ''Chimera system described in subsection (a)(2)''; and

(iii) by amending paragraph (4) to read as follows:

''(4) INTERIM REPORTS.—Not later than 6 months after assuming office, the National Intelligence Director shall submit a report to the appropriate committees of Congress on the progress in implementing each requirement of this section.'';

(C) in section 204—

(i) by striking ''Attorney General'' each place such term appears and inserting ''National Intelligence Director'';

(ii) in subsection (d)(1), by striking ''Attorney General's'' and inserting ''National Intelligence Director's''; and

(D) by striking section 203 and redesignating section 204 as section 203.

(2) CLERICAL AMENDMENT.—The table of contents for the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1701 et seq.) is amended—

(A) by striking the item relating to section 203; and

(B) by redesignating the item relating to section 204 as relating to section 203.

**SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.**

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

(1) The Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) The Federal Bureau of Investigation must further enhance and fully institutionalize its ability to prevent, preempt, and disrupt terrorist threats to our homeland, our people, our allies, and our interests.

(3) The Federal Bureau of Investigation must collect, process, share, and disseminate, to the greatest extent permitted by applicable law, to the President, the Vice

President, and other officials in the Executive Branch, all terrorism information and other information necessary to safeguard our people and advance our national and homeland security interests.

(4) The Federal Bureau of Investigation must move towards full and seamless coordination and cooperation with all other elements of the Intelligence Community, including full participation in, and support to, the National Counterterrorism Center.

(5) The Federal Bureau of Investigation must strengthen its pivotal role in coordination and cooperation with Federal, State, tribal, and local law enforcement agencies to ensure the necessary sharing of information for counterterrorism and criminal law enforcement purposes.

(6) The Federal Bureau of Investigation must perform its vital intelligence functions in a manner consistent with both with national intelligence priorities and respect for privacy and other civil liberties under the Constitution and laws of the United States.

(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—The Director of the Federal Bureau of Investigation shall establish a comprehensive intelligence program for—

(1) intelligence analysis, including recruitment and hiring of analysts, analyst training, priorities and status for analysis, and analysis performance measures;

(2) intelligence production, including product standards, production priorities, information sharing and dissemination, and customer satisfaction measures;

(3) production of intelligence that is responsive to national intelligence requirements and priorities, including measures of the degree to which each FBI headquarters and field component is collecting and providing such intelligence;

(4) intelligence sources, including source validation, new source development, and performance measures;

(5) field intelligence operations, including staffing and infrastructure, management processes, priorities, and performance measures;

(6) full and seamless coordination and cooperation with the other components of the Intelligence Community, consistent with their responsibilities; and

(7) sharing of FBI intelligence and information across Federal, state, and local governments, with the private sector, and with foreign partners as provided by law or by guidelines of the Attorney General.

(c) INTELLIGENCE DIRECTORATE.—The Director of the Federal Bureau of Investigation shall establish an Intelligence Directorate within the FBI. The Intelligence Directorate shall have the authority to manage and direct the intelligence operations of all FBI headquarters and field components. The Intelligence Directorate shall have responsibility for all components and functions of the FBI necessary for—

(1) oversight of FBI field intelligence operations;

(2) FBI human source development and management;

(3) FBI collection against nationally-determined intelligence requirements;

(4) language services;

(5) strategic analysis;

(6) intelligence program and budget management; and

(7) the intelligence workforce.

(d) NATIONAL SECURITY WORKFORCE.—The Director of the Federal Bureau of Investigation shall establish a specialized, integrated intelligence cadre composed of Special Agents, analysts, linguists, and surveillance specialists in a manner which creates and sustains within the FBI a workforce with substantial expertise in, and commitment to, the intelligence mission of the FBI. The Director shall—

(1) ensure that these FBI employees may make their career, including promotion to the most senior positions in the FBI, within this career track;

(2) establish intelligence cadre requirements for—

(A) training;

(B) career development and certification;

(C) recruitment, hiring, and selection;

(D) integrating field intelligence teams; and

(E) senior level field management;

(3) establish intelligence officer certification requirements, including requirements for training courses and assignments to other intelligence, national security, or homeland security components of the Executive branch, in order to advance to senior operational management positions in the FBI;

(4) ensure that the FBI's recruitment and training program enhances its ability to attract individuals with educational and professional backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the FBI;

(5) ensure that all Special Agents and analysts employed by the FBI after the date of the enactment of this Act shall receive basic training in both criminal justice matters and intelligence matters;

(6) ensure that all Special Agents employed by the FBI after the date of the enactment of this Act, to the maximum extent practicable, be given an opportunity to undergo, during their early service with the FBI, meaningful assignments in criminal justice matters and in intelligence matters;

(7) ensure that, to the maximum extent practical, Special Agents who specialize in intelligence are afforded the opportunity to work on intelligence matters over the remainder of their career with the FBI; and

(8) ensure that, to the maximum extent practical, analysts are afforded FBI training and career opportunities commensurate with the training and career opportunities afforded analysts in other elements of the intelligence community.

(e) FIELD OFFICE MATTERS.—The Director of the Federal Bureau of Investigation shall take appropriate actions to ensure the integration of analysis, Special Agents, linguists, and surveillance personnel in FBI field intelligence components and to provide effective leadership and infrastructure to support FBI field intelligence components. The Director shall—

(1) ensure that each FBI field office has an official at the level of Assistant Special Agent in Charge or higher with responsibility for the FBI field intelligence component; and

(2) to the extent practicable, provide for such expansion of special compartmented information facilities in FBI field offices as is necessary to ensure the discharge by the field intelligence components of the national security and criminal intelligence mission of the FBI.

(g) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation shall, in consultation with the Director of the Office of Management and Budget, modify the budget structure of the FBI in order to organize the budget according to its four main programs as follows:

(1) Intelligence.

(2) Counterterrorism and counterintelligence.

(3) Criminal enterprise/Federal crimes.

(4) Criminal justice services.

(h) REPORTS.—

(1)(A) Not later than 180 days after the date of the enactment of this Act, and every twelve months thereafter, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress made as of the date of such report in carrying out the requirements of this section.

(B) The Director shall include in the first report required by subparagraph (A) an estimate of the resources required to complete the expansion of special compartmented information facilities to carry out the intelligence mission of FBI field intelligence components.

(2) In each annual report required by paragraph (1)(A) the director shall include—

(A) a report on the progress made by each FBI field office during the period covered by such review in addressing FBI and national intelligence priorities;

(B) a report assessing the qualifications, status, and roles of analysts at FBI headquarters and in FBI field offices; and

(C) a report on the progress of the FBI in implementing information-sharing principles.

(3) A report required by this subsection shall be submitted—

(A) to each committee of Congress that has jurisdiction over the subject matter of such report; and

(B) in unclassified form, but may include a classified annex.

**SEC. 2194. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.**

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking ''ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—'' and inserting ''USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—'';

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

''(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

''(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

''(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

''(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

''(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

''(B) security assessments;

''(C) security training of personnel and students;

''(D) coordination with local law enforcement; and

''(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;

''(5) pay for officers hired to perform intelligence, anti-terror, or homeland security duties exclusively;''; and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

''(8) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;'';

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

(5) in subsection (c) (as so redesignated) by striking ''subsection (i)'' and inserting ''subsection (g)''; and

(6) by adding at the end the following new subsection:

''(j) MATCHING FUNDS FOR SCHOOL SECURITY GRANTS.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

''(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

''(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

''(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.''.

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd–1) is amended in subsection (d)(2) by striking ''section 1701(d)'' and inserting ''section 1701(b)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking clause (i) and all that follows through the period at the end and inserting the following:

''(i) $1,007,624,000 for fiscal year 2005;

''(ii) $1,027,176,000 for fiscal year 2006; and

''(iii) $1,047,119,000 for fiscal year 2007.''; and

(2) in subparagraph (B)—

(A) by striking ''section 1701(f)'' and inserting ''section 1701(d)''; and

(B) by striking the third sentence.

### Subtitle I—Police Badges

**SEC. 2201. SHORT TITLE.**

This subtitle may be cited as the ''Badge Security Enhancement Act of 2004'' .

**SEC. 2202. POLICE BADGES.**

Section 716 of title 18, United States Code, is amended in subsection (b)—

(1) by striking paragraphs (2) and (4); and

(2) by redesignating paragraph (3) as paragraph (2).

## TITLE III—BORDER SECURITY AND TERRORIST TRAVEL

### Subtitle A—Immigration Reform in the National Interest

### CHAPTER 1—GENERAL PROVISIONS

**SEC. 3001. ELIMINATING THE "WESTERN HEMISPHERE" EXCEPTION FOR CITIZENS.**

(a) IN GENERAL.—

(1) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended to read as follows:

''(b)(1) Except as otherwise provided in this subsection, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless the citizen bears a valid United States passport.

''(2) Subject to such limitations and exceptions as the President may authorize and prescribe, the President may waive the application of paragraph (1) in the case of a citizen departing the United States to, or entering the United States from, foreign contiguous territory.

''(3) The President, if waiving the application of paragraph (1) pursuant to paragraph (2), shall require citizens departing the United States to, or entering the United States from, foreign contiguous territory to bear a document (or combination of documents) designated by the Secretary of Homeland Security under paragraph (4).

''(4) The Secretary of Homeland Security—

''(A) shall designate documents that are sufficient to denote identity and citizenship in the United States such that they may be used, either individually or in conjunction with another document, to establish that the bearer is a citizen or national of the United States for purposes of lawfully departing from or entering the United States; and

''(B) shall publish a list of those documents in the Federal Register.

''(5) A document or documents may not be designated under paragraph (4) unless the Secretary of Homeland Security determines that the document or documents adequately identifies or identify the bearer as a citizen of the United States. If a single document is designated, it must be a document that may not be issued to an alien. In no event may a combination of documents be accepted for this purpose unless the Secretary of Homeland Security determines that at least one of those documents could not be issued to an alien.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2006.

(b) INTERIM RULE.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security—

(A) shall designate documents that are sufficient to denote identity and citizenship in the United States such that they may be used, either individually or in conjunction with another document, to establish that the bearer is a citizen or national of the United States for purposes of lawfully departing from or entering the United States; and

(B) shall publish a list of those documents in the Federal Register.

(2) LIMITATION ON PRESIDENTIAL AUTHORITY.—Beginning on the date that is 90 days after the publication described in paragraph (1)(B), the President, notwithstanding section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), may not exercise the President's authority under such section so as to permit any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States from any country other than foreign contiguous territory, unless the citizen bears a document (or combination of documents) designated under paragraph (1)(A).

(3) CRITERIA FOR DESIGNATION.—A document or documents may not be designated under paragraph (1)(A) unless the Secretary of Homeland Security determines that the document or documents adequately identifies or identify the bearer as a citizen of the United States. If a single document is designated, it must be a document that may not be issued to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))). In no event may a combination of documents be accepted for this purpose unless the Secretary of Homeland Security determines that at least one of those documents could not be issued to an alien (as so defined).

(4) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act and shall cease to be effective on September 30, 2006.

**SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH RESPECT TO DOCUMENTATION REQUIREMENTS FOR NATIONALS OF FOREIGN CONTIGUOUS TERRITORIES AND ADJACENT ISLANDS.**

(a) IN GENERAL.—Section 212(d)(4) of the Immigration and Nationality Act (8 U.S.C.1182(d)(4)) is amended—

(1) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) by striking ''on the basis of reciprocity'' and all that follows through ''or (C)''; and

(3) by adding at the end the following:

''Either or both of the requirements of such paragraph may also be waived by the Secretary of Homeland Security and the Secretary of State, acting jointly and on the basis of reciprocity, with respect to nationals of foreign contiguous territory or of adjacent islands, but only if such nationals are required, in order to be admitted into the United States, to be in possession of identification deemed by the Secretary of Homeland Security to be secure.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2006.

**SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL AGENTS.**

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

**SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.**

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active-duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 1324a). Each State shall be allotted at least 3 of these additional investigators.

**SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended by adding at the end the following:

''(d) For purposes of establishing identity to any Federal employee, an alien present in the United States may present any document issued by the Attorney General or the Secretary of Homeland Security under the authority of one of the immigration laws (as defined in section 101(a)(17)), a domestically issued document that the Secretary of Homeland Security designates as reliable for this purpose and that cannot be issued to an alien unlawfully present in the United States, or an unexpired, lawfully issued foreign passport as determined by the Secretary of State. Subject to the limitations and exceptions in the immigration laws (as so defined), no other document may be presented for such purposes.''.

**SEC. 3006. EXPEDITED REMOVAL.**

Section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

''(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review, unless the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the officer determines that the alien has been physically present in the United States for less than 1 year.

''(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B) if the officer determines that the alien has been physically present in the United States for less than 1 year.''.

**SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING ASYLUM.**

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended—

(1) in paragraph (1), by striking ''The Attorney General'' and inserting the following:

''(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General''; and

(2) by adding at the end the following:

''(B) BURDEN OF PROOF.—

''(i) IN GENERAL.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A).

''(ii) SPECIAL RULE.—The applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be the central motive for persecuting the applicant if the applicant claims that the applicant has been or would be subjected to persecution because the applicant—

''(I) has been accused of being or is believed to be a member of, or has been accused of supporting, a guerrilla, militant, or terrorist organization; or

''(II) has been accused of engaging in or supporting guerrilla, militant, or terrorist activities, or is believed to have engaged in or supported such activities.

''(iii) SUSTAINING BURDEN.—The testimony of the applicant may be sufficient to sustain the applicant's burden without corroboration, but only if it is credible, is persuasive, and refers to specific facts that demonstrate that the applicant is a refugee. Where the trier of fact finds that it is reasonable to expect corroborating evidence for certain alleged facts pertaining to the specifics of the applicant's claim, such evidence must be provided unless a reasonable explanation is given as to why such information is not provided. It is reasonable to expect the applicant to provide corroborating evidence if the applicant has, or has access to, the evidence or could reasonably obtain the evidence without departing from the United States.

''(iv) CREDIBILITY DETERMINATION.—The credibility determination of the trier of fact may be based, in addition to other factors, on the demeanor, candor, or responsiveness of the applicant or witness, the consistency between the applicant's or witness's written and oral statements, whether or not under oath, made at any time to any officer, agent, or employee of the United States, the internal consistency of each such statement, the consistency of such statements with the country conditions in the country from which the applicant claims asylum (as presented by the Department of State) and any inaccuracies or falsehoods in such statements. These factors may be considered individually or cumulatively.''.

(b) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding after subparagraph (D) the following flush language: ''No court shall reverse a determination made by an adjudicator with respect to the availability of corroborating evidence as described in section 208(b)(1)(B), unless the court finds that a reasonable adjudicator is compelled to conclude that such corroborating evidence is unavailable.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect upon the date of the enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of the enactment of this Act.

**SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL DOCUMENTATION.**

(a) LIMITATION ON REVIEW.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: ''There shall be no means of judicial review (including review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title) of a revocation under this subsection, and no court shall have jurisdiction to consider any claim challenging the validity of such a revocation.''.

(b) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking ''United States is'' and inserting the following: ''United States, or whose nonimmigrant visa (or other documentation authorizing admission into the United States as a nonimmigrant) has been revoked under section 221(i), is''.

(c) REVOCATION OF PETITIONS.—Section 205 of the Immigration and Nationality Act (8 U.S.C. 1155) is amended—

(1) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(2) by striking the final two sentences.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to revocations under sections 205 and 221(i) of the Immigration and Nationality Act made before, on, or after such date.

**SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraphs (A), (B), and (C), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title'' after ''Notwithstanding any other provision of law''; and

(ii) by adding at the end the following:

''(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in this paragraph shall be construed as precluding consideration by the circuit courts of appeals of constitutional claims or pure questions of law raised upon petitions for review filed in accordance with this section. Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or, except as provided in subsection (e), any other habeas corpus provision, and sections 1361 and 1651 of such title, such petitions for review shall be the sole and exclusive means of raising any and all claims with respect to orders of removal entered or issued under any provision of this Act.''; and

(B) by adding at the end the following:

''(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review by the circuit courts of appeals filed in accordance with this section is the sole and exclusive means of judicial review of claims arising under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment.

''(5) EXCLUSIVE MEANS OF REVIEW.—The judicial review specified in this subsection shall be the sole and exclusive means for review by any court of an order of removal entered or issued under any provision of this Act. For purposes of this title, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law.'';

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting ''pursuant to subsection (f)'' after ''unless''; and

(B) in paragraph (9), by adding at the end the following: ''Except as otherwise provided in this subsection, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to hear any cause or claim subject to these consolidation provisions.'';

(3) in subsection (f)(2), by inserting ''or stay, by temporary or permanent order, including stays pending judicial review,'' after ''no court shall enjoin''; and

(4) in subsection (g), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title'' after ''notwithstanding any other provision of law''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of the enactment of this Act.

(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative removal order, is pending in a district court on the date of the enactment of this Act, then the district court shall transfer the case (or part of the case that challenges the removal order) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this Act. The court of appeals shall treat the transferred case as if it had been brought pursuant to a petition for review under such section 242.

## CHAPTER 2—DEPORTATION OF TERRORISTS AND SUPPORTERS OF TERRORISM

### SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION ON REMOVAL.

(a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'';

(2) in clause (iv), by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in subclause (I), (II), (III), (IV), or (VI) of section 212(a)(3)(B)(i) or section 237(a)(4)(B), unless, in the case only of an alien described in section 212(a)(3)(B)(i)(IV), the Secretary of Homeland Security determines, in the Secretary's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.''; and

(4) by striking the last sentence.

(b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended—

(1) by striking ''inadmissible under'' each place such term appears and inserting ''described in''; and

(2) by striking ''removable under''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(2) acts and conditions constituting a ground for inadmissibility or removal occurring or existing before, on, or after such date.

### SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR TERRORISTS AND CRIMINALS.

(a) REGULATIONS.—

(1) REVISION DEADLINE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall revise the regulations prescribed by the Secretary to implement the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) EXCLUSION OF CERTAIN ALIENS.—The revision—

(A) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) (as amended by this title), including rendering such aliens ineligible for withholding or deferral of removal under the Convention; and

(B) shall ensure that the revised regulations operate so as to—

(i) allow for the reopening of determinations made under the regulations before the effective date of the revision; and

(ii) apply to acts and conditions constituting a ground for ineligibility for the protection of such regulations, as revised, regardless of when such acts or conditions occurred.

(3) BURDEN OF PROOF.—The revision shall also ensure that the burden of proof is on the applicant for withholding or deferral of removal under the Convention to establish by clear and convincing evidence that he or she would be tortured if removed to the proposed country of removal.

(b) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

### SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.

(a) IN GENERAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)—

(A) in each of subparagraphs (A) and (B), by striking the period at the end and inserting ''unless, in the opinion of the Secretary of Homeland Security, removing the alien to such country would be prejudicial to the United States.''; and

(B) by amending subparagraph (C) to read as follows:

''(C) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated in subparagraph (A) or (B), the Secretary of Homeland Security shall remove the alien to—

''(i) the country of which the alien is a citizen, subject, or national, where the alien was born, or where the alien has a residence, unless the country physically prevents the alien from entering the country upon the alien's removal there; or

''(ii) any country whose government will accept the alien into that country.''; and

(2) in paragraph (2)—

(A) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(B) by amending subparagraph (D) to read as follows:

''(D) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated under subparagraph (A)(i), the Secretary of Homeland Security shall remove the alien to a country of which the alien is a subject, national, or citizen, or where the alien has a residence, unless—

''(i) such country physically prevents the alien from entering the country upon the alien's removal there; or

''(ii) in the opinion of the Secretary of Homeland Security, removing the alien to the country would be prejudicial to the United States.''; and

(C) by amending subparagraph (E)(vii) to read as follows:

''(vii) Any country whose government will accept the alien into that country.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any deportation, exclusion, or removal on or after such date pursuant to any deportation, exclusion, or removal order, regardless of whether such order is administratively final before, on, or after such date.

## CHAPTER 3—PREVENTING COMMERCIAL ALIEN SMUGGLING

### SEC. 3041. BRINGING IN AND HARBORING CERTAIN ALIENS.

(a) CRIMINAL PENALTIES.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended by adding at the end the following:

''(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if—

''(A) the offense was part of an ongoing commercial organization or enterprise;

''(B) aliens were transported in groups of 10 or more;

''(C) aliens were transported in a manner that endangered their lives; or

''(D) the aliens presented a life-threatening health risk to people in the United States.''.

(b) OUTREACH PROGRAM.—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324), as amended by subsection (a), is further amended by adding at the end the following:

''(f) OUTREACH PROGRAM.—The Secretary of Homeland Security, in consultation as appropriate with the Attorney General and the Secretary of State, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.

# Subtitle B—Identity Management Security

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

### SEC. 3051. DEFINITIONS.

In this chapter, the following definitions apply:

(1) DRIVER'S LICENSE.—The term ''driver's license'' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term ''identification card'' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(4) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

### SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principal residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LEGAL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(v) has a pending or approved application for asylum in the United States;

(vi) has entered into the United States in refugee status;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (iv) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) APPLICATIONS FOR RENEWAL, DUPLICATION, OR REISSUANCE.—

(A) PRESUMPTION.—For purposes of paragraphs (1) and (2), a State shall presume that any driver's license or identification card for which an application has been made for renewal, duplication, or reissuance has been issued in accordance with the provisions of such paragraphs if, at the time the application is made, the driver's license or identification card has not expired or been canceled, suspended, or revoked.

(B) LIMITATION.—Subparagraph (A) shall not apply to a renewal, duplication, or reissuance if the State is notified by a local, State, or Federal government agency that the person seeking such renewal, duplication, or reissuance is neither a citizen of the United States nor legally in the United States.

(4) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

**SEC. 3053. LINKING OF DATABASES.**

(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this subtitle, a State shall participate in the interstate compact regarding sharing of driver license data, known as the ''Driver License Agreement'', in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.

(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

**SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.**

Section 1028(a)(8) of title 18, United States Code, is amended by striking ''false authentication features'' and inserting ''false or actual authentication features''.

**SEC. 3055. GRANTS TO STATES.**

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this chapter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this chapter.

**SEC. 3056. AUTHORITY.**

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, certify standards, and issue grants under this chapter shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 3052(a)(1) if the State provides adequate justification for noncompliance.

## CHAPTER 2—IMPROVED SECURITY FOR BIRTH CERTIFICATES

**SEC. 3061. DEFINITIONS.**

(a) APPLICABILITY OF DEFINITIONS.—Except as otherwise specifically provided, the definitions contained in section 3051 apply to this chapter.

(b) OTHER DEFINITIONS.—In this chapter, the following definitions apply:

(1) BIRTH CERTIFICATE.—The term ''birth certificate'' means a certificate of birth—

(A) for an individual (regardless of where born)—

(i) who is a citizen or national of the United States at birth; and

(ii) whose birth is registered in the United States; and

(B) that—

(i) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(ii) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

(2) REGISTRANT.—The term ''registrant'' means, with respect to a birth certificate, the person whose birth is registered on the certificate.

(3) STATE.—The term ''State'' shall have the meaning given such term in section 3051; except that New York City shall be treated as a State separate from New York.

**SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO LOCAL GOVERNMENTS.**

The minimum standards in this chapter applicable to birth certificates issued by a State shall also apply to birth certificates issued by a local government in the State. It shall be the responsibility of the State to ensure that local governments in the State comply with the minimum standards.

**SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNITION.**

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, a Federal agency may not accept, for any official purpose, a birth certificate issued by a State

to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Health and Human Services, may prescribe by regulation.

(b) MINIMUM DOCUMENT STANDARDS.—To meet the requirements of this section, a State shall include, on each birth certificate issued to a person by the State, the use of safety paper, the seal of the issuing custodian of record, and such other features as the Secretary may determine necessary to prevent tampering, counterfeiting, and otherwise duplicating the birth certificate for fraudulent purposes. The Secretary may not require a single design to which birth certificates issued by all States must conform.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require and verify the following information from the requestor before issuing an authenticated copy of a birth certificate:

(A) The name on the birth certificate.

(B) The date and location of the birth.

(C) The mother's maiden name.

(D) Substantial proof of the requestor's identity.

(2) ISSUANCE TO PERSONS NOT NAMED ON BIRTH CERTIFICATE.—To meet the requirements of this section, in the case of a request by a person who is not named on the birth certificate, a State must require the presentation of legal authorization to request the birth certificate before issuance.

(3) ISSUANCE TO FAMILY MEMBERS.—Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services and the States, shall establish minimum standards for issuance of a birth certificate to specific family members, their authorized representatives, and others who demonstrate that the certificate is needed for the protection of the requestor's personal or property rights.

(4) WAIVERS.—A State may waive the requirements set forth in subparagraphs (A) through (C) of subsection (c)(1) in exceptional circumstances, such as the incapacitation of the registrant.

(5) APPLICATIONS BY ELECTRONIC MEANS.—To meet the requirements of this section, for applications by electronic means, through the mail or by phone or fax, a State shall employ third party verification, or equivalent verification, of the identity of the requestor.

(6) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall verify the documents used to provide proof of identity of the requestor.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt, at a minimum, the following practices in the issuance and administration of birth certificates:

(1) Establish and implement minimum building security standards for State and local vital record offices.

(2) Restrict public access to birth certificates and information gathered in the issuance process to ensure that access is restricted to entities with which the State has a binding privacy protection agreement.

(3) Subject all persons with access to vital records to appropriate security clearance requirements.

(4) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance process.

(5) Establish and implement internal operating system standards for paper and for electronic systems.

(6) Establish a central database that can provide interoperative data exchange with other States and with Federal agencies, subject to privacy restrictions and confirmation of the authority and identity of the requestor.

(7) Ensure that birth and death records are matched in a comprehensive and timely manner, and that all electronic birth records and paper birth certificates of decedents are marked ''deceased''.

(8) Cooperate with the Secretary in the implementation of electronic verification of vital events under section 3065.

**SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND DEATH REGISTRATION SYSTEMS.**

In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary shall take the following actions:

(1) Work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems.

(2) Coordinate requirements for such systems to align with a national model.

(3) Ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies.

(4) Ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common format of the certified copy, so that those requiring such documents can quickly confirm their validity.

(5) Establish uniform field requirements for State birth registries.

(6) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of Defense that will result in the sharing of data, with the States and the Social Security Administration, regarding deaths of United States military personnel and the birth and death of their dependents.

(7) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of State to improve registration, notification, and the sharing of data with the States and the Social Security Administration, regarding births and deaths of United States citizens abroad.

(8) Not later than 3 years after the date of establishment of databases provided for under this section, require States to record and retain electronic records of pertinent identification information collected from requestors who are not the registrants.

(9) Not later than 6 months after the date of the enactment of this Act, submit to Congress, a report on whether there is a need for Federal laws to address penalties for fraud and misuse of vital records and whether violations are sufficiently enforced.

**SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

(a) LEAD AGENCY.—The Secretary shall lead the implementation of electronic verification of a person's birth and death.

(b) REGULATIONS.—In carrying out subsection (a), the Secretary shall issue regulations to establish a means by which authorized Federal and State agency users with a single interface will be able to generate an electronic query to any participating vital records jurisdiction throughout the Nation to verify the contents of a paper birth certificate. Pursuant to the regulations, an electronic response from the participating vital records jurisdiction as to whether there is a birth record in their database that matches the paper birth certificate will be returned to the user, along with an indication if the matching birth record has been flagged ''deceased''. The regulations shall take effect not later than 5 years after the date of the enactment of this Act.

**SEC. 3066. GRANTS TO STATES.**

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this chapter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this chapter.

**SEC. 3067. AUTHORITY.**

(a) PARTICIPATION WITH FEDERAL AGENCIES AND STATES.—All authority to issue regulations, certify standards, and issue grants under this chapter shall be carried out by the Secretary, with the concurrence of the Secretary of Health and Human Services and in consultation with State vital statistics offices and appropriate Federal agencies.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 3063(a)(1) if the State provides adequate justification for noncompliance.

**Chapter 3—Measures To Enhance Privacy and Integrity of Social Security Account Numbers**

**SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.**

(a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting ''(I)'' after ''(vi)''; and

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

''(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license or motor vehicle registration or any other document issued by such State or political subdivision to an individual for purposes of identification of such individual or include on any such license, registration, or other document a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to licenses, registrations, and other documents issued or reissued after 1 year after the date of the enactment of this Act.

**SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.**

(a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

(1) by inserting ''(I)'' after ''(ii)''; and

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

''(II) With respect to an application for a social security account number for an individual, other than for purposes of enumeration at birth, the Commissioner shall require independent verification of any birth record provided by the applicant in support of the application. The Commissioner may provide by regulation for reasonable exceptions from the requirement for independent verification under this subclause in any case in which the Commissioner determines there is minimal opportunity for fraud.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to applications filed after 270 days after the date of the enactment of this Act.

(c) STUDY REGARDING APPLICATIONS FOR REPLACEMENT SOCIAL SECURITY CARDS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to test the feasibility and cost effectiveness of verifying all identification documents submitted by an applicant for a replacement social security card. As part of such study, the Commissioner shall determine the feasibility of, and the costs associated with, the development of appropriate electronic processes for third party verification of any such identification documents which are issued by agencies and instrumentalities of the Federal Government and of the States (and political subdivisions thereof).

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for verifying identification documents submitted by applicants for replacement social security cards.

**SEC. 3073. ENUMERATION AT BIRTH.**

(a) IMPROVEMENT OF APPLICATION PROCESS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall transmit to each House of the Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(b) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. Such study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth.

**SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC IDENTIFICATION IN CONNECTION WITH APPLICATIONS FOR BENEFITS, SOCIAL SECURITY ACCOUNT NUMBERS, AND SOCIAL SECURITY CARDS.**

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to—

(1) determine the best method of requiring and obtaining photographic identification of applicants for old-age, survivors, and disability insurance benefits under title II of the Social Security Act, for a social security account number, or for a replacement social security card, and of providing for reasonable exceptions to any requirement for photographic identification of such applicants that may be necessary to promote efficient and effective administration of such title, and

(2) evaluate the benefits and costs of instituting such a requirement for photographic identification, including the degree to which the security and integrity of the old-age, survivors, and disability insurance program would be enhanced.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under subsection (a). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary relating to requirements for photographic identification of applicants described in subsection (a).

**SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.**

(a) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at the end the following new sentence: ''The Commissioner shall restrict the issuance of multiple replacement social security cards to any individual to 3 per year and to 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.''.

(b) REGULATIONS AND EFFECTIVE DATE.—The Commissioner of Social Security shall issue regulations under the amendment made by subsection (a) not later than 1 year after the date of the enactment of this Act. Systems controls developed by the Commissioner pursuant to such amendment shall take effect upon the earlier of the issuance of such regulations or the end of such 1-year period.

**SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SOCIAL SECURITY ACCOUNT NUMBERING SYSTEM TO SHOW WORK AUTHORIZATION STATUS.**

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall undertake a study to examine the best method of modifying the social security account number assigned to individuals who—

(1) are not citizens of the United States,

(2) have not been admitted for permanent residence, and

(3) are not authorized by the Secretary of Homeland Security to work in the United States, or are so authorized subject to one or more restrictions,

so as to include an indication of such lack of authorization to work or such restrictions on such an authorization.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under this section. Such report shall include the Commissioner's recommendations of feasible options for modifying the social security account number in the manner described in subsection (a).

**Subtitle C—Targeting Terrorist Travel**

**SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS AND TRAVEL HISTORY DATABASE.**

(a) IN GENERAL.—Not later than May 31, 2005, the Comptroller General of the United States, the Secretary of State, and the Secretary of Homeland Security each shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate the results of a separate study on the subjects described in subsection (c).

(b) STUDY.—The study submitted by the Secretary of State under subsection (a) shall be completed by the Office of Visa and Passport Control of the Department of State, in coordination with the appropriate officials of the Department of Homeland Security.

(c) CONTENTS.—The studies described in subsection (a) shall examine the feasibility, cost, potential benefits, and relative importance to the objectives of tracking suspected terrorists' travel, and apprehending suspected terrorists, of each of the following:

(1) Requiring nationals of all countries to present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers.

(2) Creation of a database containing information on the lifetime travel history of each foreign national or United States citizen who might seek to enter the United States or another country at any time, in order that border and visa issuance officials may ascertain the travel history of a prospective entrant by means other than a passport.

(d) INCENTIVES.—The studies described in subsection (a) shall also make recommendations on incentives that might be offered to encourage foreign nations to participate in the initiatives described in paragraphs (1) and (2) of subsection (c).

**SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIRPORTS.**

(a) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) is amended—

(1) by striking ''October 31, 2000,'' and inserting ''January 1, 2008,'';

(2) by striking ''5 additional'' and inserting ''at least 15 and up to 25 additional'';

(3) by striking ''number of aliens'' and inserting ''number of inadmissible aliens, especially aliens who are potential terrorists,'';

(4) by striking ''who are inadmissible to the United States.'' and inserting a period; and

(5) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''.

(b) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate on the progress being made in implementing the amendments made by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) $24,000,000 for fiscal year 2005;

(2) $48,000,000 for fiscal year 2006; and

(3) $97,000,000 for fiscal year 2007.

**SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

(a) IN GENERAL.—Section 235A(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended—

(1) in the subsection heading, by inserting ''AND IMMIGRATION SECURITY INITIATIVE'' after ''PROGRAM''; and

(2) by adding at the end the following:

''Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) $25,000,000 for fiscal year 2005;

(2) $40,000,000 for fiscal year 2006; and

(3) $40,000,000 for fiscal year 2007.

**SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.**

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR NONIMMIGRANT VISA SCREENING.—Section 222(d) of the Immigration and Nationality Act (8 U.S.C. 1202(d)) is amended by adding at the end the following:

''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

**SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RELATED ACTIVITY.**

Section 1028 of title 18, United States Code, relating to penalties for fraud and related activity in connection with identification documents and information, is amended—

(1) in subsection (b)(1)(A)(i), by striking ''issued by or under the authority of the United States'' and inserting the following: ''as described in subsection (d)'';

(2) in subsection (b)(2), by striking ''three years'' and inserting ''six years'';

(3) in subsection (b)(3), by striking ''20 years'' and inserting ''25 years'';

(4) in subsection (b)(4), by striking ''25 years'' and inserting ''30 years''; and

(5) in subsection (c)(1), by inserting after ''United States'' the following: ''Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization,''.

**SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.**

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of subsection (f) and inserting ''; or''; and

(2) by inserting after subsection (f) the following:

''(g) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to enter into, or remain in, the United States—''.

**SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE DEPARTMENT OF STATE.**

(a) LIMITATION.—Notwithstanding any other provision of law, the Secretary of State shall ensure, subject to subsection (b), that the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) is carried out primarily to provide training to host nation security services for the specific purpose of ensuring the physical security and safety of United States Government facilities and personnel abroad (as well as foreign dignitaries and training related to the protection of such dignitaries), including security detail training and offenses related to passport or visa fraud.

(b) EXCEPTION.—The limitation contained in subsection (a) shall not apply, and the Secretary of State may expand the ATA program to include other types of antiterrorism assistance training, if the Secretary first obtains the approval of the Attorney General and provides written notification of such proposed expansion to the appropriate congressional committees.

(c) DEFINITION.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on International Relations and the Committee on the Judiciary of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

**SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS.**

(a) FINDINGS.—Congress finds the following:

(1) International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.

(2) The international terrorists who planned and carried out the attack on the World Trade Center on February 26, 1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.

(3) The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.

(4) Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.

(5) Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than one passport.

(6) Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner and several other hijackers whose passports did not survive the attacks on the World Trade Center and Pentagon were likely to have carried passports that were similarly manipulated.

(7) The National Commission on Terrorist Attacks upon the United States, (commonly referred to as the 9/11 Commission), stated that ''Targeting travel is at least as powerful a weapon against terrorists as targeting their money.''.

(b) INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—

(1) INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS.—The President shall lead efforts to track and curtail the travel of terrorists by supporting the drafting, adoption, and implementation of international agreements, and by supporting the expansion of existing international agreements, to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment existing United Nations and other international anti-terrorism efforts.

(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President shall seek, in the appropriate fora, the drafting, adoption, and implementation of an effective international agreement requiring—

(A) the establishment of a system to share information on lost, stolen, and fraudulent passports and other travel documents for the purposes of preventing the undetected travel of persons using such passports and other travel documents that were obtained improperly;

(B) the establishment and implementation of a real-time verification system of passports and other travel documents with issuing authorities;

(C) the assumption of an obligation by countries that are parties to the agreement to share with officials at ports of entry in any such country information relating to lost, stolen, and fraudulent passports and other travel documents;

(D) the assumption of an obligation by countries that are parties to the agreement—

(i) to criminalize—

(I) the falsification or counterfeiting of travel documents or breeder documents for any purpose;

(II) the use or attempted use of false documents to obtain a visa or cross a border for any purpose;

(III) the possession of tools or implements used to falsify or counterfeit such documents;

(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

(V) the facilitation of travel by a terrorist; and

(VI) attempts to commit, including conspiracies to commit, the crimes specified above;

(ii) to impose significant penalties so as to appropriately punish violations and effectively deter these crimes; and

(iii) to limit the issuance of citizenship papers, passports, identification documents, and the like to persons whose identity is proven to the issuing authority, who have a bona fide entitlement to or need for such documents, and who are not issued such documents principally on account of a disproportional payment made by them or on their behalf to the issuing authority;

(E) the provision of technical assistance to State Parties to help them meet their obligations under the convention;

(F) the establishment and implementation of a system of self-assessments and peer reviews to examine the degree of compliance with the convention; and

(G) an agreement that would permit immigration and border officials to confiscate a lost, stolen, or falsified passport at ports of entry and permit the traveler to return to the sending country without being in possession of the lost, stolen, or falsified passport, and for the detention and investigation of such traveler upon the return of the traveler to the sending country.

(3) INTERNATIONAL CIVIL AVIATION ORGANIZATION.—The United States shall lead efforts to track and curtail the travel of terrorists by supporting efforts at the International Civil Aviation Organization to continue to strengthen the security features of passports and other travel documents.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and at least annually thereafter, the President shall submit to the appropriate congressional committees a report on progress toward achieving the goals described in subsection (b).

(2) TERMINATION.—Paragraph (1) shall cease to be effective when the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved.

**SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION OF NAMES INTO THE ROMAN ALPHABET FOR INTERNATIONAL TRAVEL DOCUMENTS AND NAME-BASED WATCHLIST SYSTEMS.**

(a) FINDINGS.—Congress finds that—

(1) the current lack of a single convention for translating Arabic names enabled some of the 19 hijackers of aircraft used in the terrorist attacks against the United States that occurred on September 11, 2001, to vary the spelling of their names to defeat name-based terrorist watchlist systems and to make more difficult any potential efforts to locate them; and

(2) although the development and utilization of terrorist watchlist systems using biometric identifiers will be helpful, the full development and utilization of such systems will take several years, and name-based terrorist watchlist systems will always be useful.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should seek to enter into an international agreement to modernize and improve standards for the translation of names into the Roman alphabet in order to ensure one common spelling for such names for international travel documents and name-based watchlist systems.

**SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, the Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system required by applicable sections of—

(A) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(B) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(C) the Visa Waiver Permanent Program Act (Public Law 106–396);

(D) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(E) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107–56).

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the automated entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the entry and exit data system; and

(D) a description of plans for improved or added interoperability with any other databases or data systems.

(c) INTEGRATION REQUIREMENT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security shall integrate the biometric entry and exit data system with all databases and data systems maintained by U.S. Citizenship and Immigration Services that process or contain information on aliens.

(d) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with other appropriate agencies, shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system, and databases and data systems linked to the entry and exit data system, that ensure the accuracy and integrity of the data.

(2) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under paragraph (1) shall—

(A) incorporate a simple and timely method for—

(i) correcting errors; and

(ii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to seek corrections of data contained in the data systems.

(e) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, the Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the border can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—For purposes of this section, the term ''registered traveler program'' means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PLAN.—

(A) IN GENERAL.—As soon as is practicable, the Secretary of Homeland Security shall develop and implement a plan to expedite the processing of registered travelers who enter and exit the United States through a single registered traveler program.

(B) INTEGRATION.—The registered traveler program developed under this paragraph shall be integrated into the automated biometric entry and exit data system described in this section.

(C) REVIEW AND EVALUATION.—In developing the program under this paragraph, the Secretary of Homeland Security shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs; and

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Congress a report describing the Department of Homeland Security's progress on the development and implementation of the plan required by this subsection.

(f) INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.—With respect to the biometric entry and exit data system referred to in subsections (a) and (b), such system shall accomplish the following:

(1) Ensure that the system's tracking capabilities encompass data related to all immigration benefits processing, including visa applications with the Department of State,

immigration related filings with the Department of Labor, cases pending before the Executive Office for Immigration review, and matters pending or under investigation before the Department of Homeland Security.

(2) Utilize a biometric based identity number tied to an applicant's biometric algorithm established under the entry and exit data system to track all immigration related matters concerning the applicant.

(3) Provide that all information about an applicant's immigration related history, including entry and exit history, can be queried through electronic means. Database access and usage guidelines shall include stringent safeguards to prevent misuse of data.

(4) Provide real-time updates to the information described in paragraph (3), including pertinent data from all agencies referenced in paragraph (1).

(5) Limit access to the information described in paragraph (4) (and any other database used for tracking immigration related processing or entry and exit) to personnel explicitly authorized to do so, and ensure that any such access may be ascertained by authorized persons by review of the person's access authorization code or number.

(6) Provide continuing education in counterterrorism techniques, tools, and methods for all Federal personnel employed in the evaluation of immigration documents and immigration-related policy.

(g) ENTRY-EXIT SYSTEM GOALS.—The Department of Homeland Security shall continue to implement the system described in subsections (a) and (b) in such a manner that it fulfills the following goals:

(1) Serves as a vital counterterrorism tool.

(2) Screens travelers efficiently and in a welcoming manner.

(3) Provides inspectors and related personnel with adequate real-time information.

(4) Ensures flexibility of training and security protocols to most effectively comply with security mandates.

(5) Integrates relevant databases and plans for database modifications to address volume increase and database usage.

(6) Improves database search capacities by utilizing language algorithms to detect alternate names.

(h) DEDICATED SPECIALISTS AND FRONT LINE PERSONNEL TRAINING.—In implementing the provisions of subsections (f) and (g), the Department of Homeland Security and the Department of State shall—

(1) develop cross-training programs that focus on the scope and procedures of the entry and exit data system;

(2) provide extensive community outreach and education on the entry and exit data system's procedures;

(3) provide clear and consistent eligibility guidelines for applicants in low-risk traveler programs; and

(4) establish ongoing training modules on immigration law to improve adjudications at our ports of entry, consulates, and embassies.

(i) INFORMATION ACCURACY STANDARDS.—

(1) AUTHORIZED OFFICERS.—Any information placed in the entry and exit data system shall be entered by authorized officers in compliance with established procedures that guarantee the identification of the person placing the information.

(2) DATA COLLECTED FROM FOREIGN NATIONALS.—The Secretary of Homeland Security, the Secretary of State, and the Attorney General, after consultation with directors of the relevant intelligence agencies, shall standardize the information and data collected from foreign nationals as well as the procedures utilized to collect such data to ensure that the information is consistent and of value to officials accessing that data across multiple agencies.

(j) ACCESSIBILITY.—The Secretary of Homeland Security, the Secretary of State, the Attorney General, and the head of any other department or agency that possesses authority to enter data related to the immigration status of foreign nationals, including lawful permanent resident aliens, or where such information could serve to impede lawful admission of United States citizens to the United States, shall each establish guidelines related to data entry procedures. Such guidelines shall—

(1) strictly limit the agency personnel authorized to enter data into the system;

(2) identify classes of information to be designated as temporary or permanent entries, with corresponding expiration dates for temporary entries; and

(3) identify classes of prejudicial information requiring additional authority of supervisory personnel prior to entry.

(k) SYSTEM ADAPTABILITY.—

(1) IN GENERAL.— Each agency authorized to enter data related to the immigration status of any persons identified in subsection (f) shall develop and implement system protocols to—

(A) correct erroneous data entries in a timely and effective manner;

(B) clarify information known to cause false hits or misidentification errors; and

(C) update all relevant information that is dispositive to the adjudicatory or admission process.

(2) CENTRALIZING AND STREAMLINING CORRECTION PROCESS.—The President or agency director so designated by the President shall establish a clearinghouse bureau as part of the Department of Homeland Security to centralize and streamline the process through which members of the public can seek corrections to erroneous or inaccurate information related to immigration status, or which otherwise impedes lawful admission to the United States, contained in agency databases. Such process shall include specific time schedules for reviewing data correction requests, rendering decisions on such requests, and implementing appropriate corrective action in a timely manner.

(l) TRAINING.—Agency personnel authorized to enter data pursuant to subsection (i)(1) shall undergo extensive training in immigration law and procedure.

(m) IMPLEMENTATION AUDIT.—The Secretary of the Department of Homeland Security shall submit a report to the Congress not later than 6 months after the date of the enactment of this Act. The report shall detail activities undertaken to date to develop the biometric entry and exit data system, areas in which the system currently does not achieve the mandates set forth in this section, and the funding, infrastructure, technology and other factors needed to complete the system, as well as a detailed time frame in which the completion of the system will be achieved.

(n) REPORTS.—

(1) JOINT BIANNUAL REPORTS.—The Secretaries of the Departments of State and Homeland Security jointly shall report biannually to the Congress on the following:

(A) Current infrastructure and staffing at each port of entry and each consular post.

(B) The numbers of immigrant and nonimmigrant visas issued.

(C) the numbers of individuals subject to expedited removal at the ports of entry, as well as within 100 miles of the United States border.

(D) The plan for enhanced database review at entry.

(E) The number of suspected terrorists and criminals intercepted utilizing the biometric entry and exit data system.

(F) The funds spent in the preceding fiscal year to achieve the mandates of this section.

(G) Areas in which they failed to achieve these mandates, and the steps they are taking to address these deficiencies.

(2) PORTS OF ENTRY.—For ports of entry, similar information shall be provided including the number of I–94s issued, immigrant visa admissions made, and nonimmigrant admissions.

(3) STATUS REPORT ON COMPLIANCE WITH ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of State, after consultation with the Director of the National Institute of Standards and Technology and the Commission on Interoperable Data Sharing, shall issue a report addressing the following:

(A) The status of agency compliance with the mandates set forth in section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722).

(B) The status of agency compliance with section 201(c)(3) of such Act (8 U.S.C. 1721(c)(3)).

(4) STATUS REPORT ON COMPLIANCE WITH SECTION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security, the Secretary of State, the Attorney General, and the head of any other department or agency bound by the mandates in this section, shall issue both individual status reports and a joint status report detailing compliance with each mandate contained in this section.

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

**SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COORDINATOR FOR COUNTERTERRORISM.**

(a) DECLARATION OF UNITED STATES POLICY.—Congress declares that it shall be the policy of the United States to—

(1) make combating terrorist travel and those who assist them a priority for the United States counterterrorism policy; and

(2) ensure that the information relating to individuals who help facilitate terrorist travel by creating false passports, visas, documents used to obtain such travel documents, and other documents are fully shared within the United States Government and, to the extent possible, with and from foreign governments, in order to initiate United States and foreign prosecutions of such individuals.

(b) AMENDMENT.—Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)) is amended by adding at the end the following:

''(C) ADDITIONAL DUTIES RELATING TO TERRORIST TRAVEL.—In addition to the principal duties of the Coordinator described in subparagraph (B), the Coordinator shall analyze methods used by terrorists to travel internationally, develop policies with respect to curtailing terrorist travel, and coordinate such policies with the appropriate bureaus and other entities of the Department of State, other United States Government agencies, the Human Trafficking and Smuggling Center, and foreign governments.''.

**SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND PASSPORT SECURITY IN THE DEPARTMENT OF STATE.**

(a) ESTABLISHMENT.—There is established within the Bureau of Diplomatic Security of the Department of State an Office of Visa and Passport Security (in this section referred to as the ''Office'').

(b) HEAD OF OFFICE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the head of the Office

shall be an individual who shall have the rank and status of Deputy Assistant Secretary of State for Diplomatic Security (in this section referred to as the ''Deputy Assistant Secretary'').

(2) RECRUITMENT.—The Under Secretary of State for Management shall chose the Deputy Assistant Secretary from among individuals who are Diplomatic Security Agents.

(3) QUALIFICATIONS.—The Diplomatic Security Agent chosen to serve as the Deputy Assistant Secretary shall have expertise and experience in investigating and prosecuting visa and passport fraud.

(c) DUTIES.—

(1) PREPARATION OF STRATEGIC PLAN.—

(A) IN GENERAL.—The Deputy Assistant Secretary, in coordination with the appropriate officials of the Department of Homeland Security, shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations at home and in foreign countries that are involved in the fraudulent production, distribution, use, or other similar activity—

(i) of a United States visa or United States passport;

(ii) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(iii) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(B) EMPHASIS.—Such plan shall—

(i) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

(ii) require the development of a strategic training course under the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) to train participants in the identification of fraudulent documents and the forensic detection of such documents which may be used to obtain unlawful entry into the United States; and

(iii) determine the benefits and costs of providing technical assistance to foreign governments to ensure the security of passports, visas, and related documents and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents to obtain such passports and visas, and other types of travel documents.

(2) DUTIES OF OFFICE.—The Office shall have the following duties:

(A) ANALYSIS OF METHODS.—Analyze methods used by terrorists to travel internationally, particularly the use of false or altered travel documents to illegally enter foreign countries and the United States, and advise the Bureau of Consular Affairs and the Secretary of Homeland Security on recommended changes to the visa issuance process that could combat such methods, including the introduction of new technologies into such process.

(B) IDENTIFICATION OF INDIVIDUALS AND DOCUMENTS.—Identify, in cooperation with the Human Trafficking and Smuggling Center, individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents, and ensure that the appropriate agency is notified for further investigation and prosecution or, in the case of such individuals abroad for which no further investigation or prosecution is initiated, ensure that all appropriate information is shared with foreign governments in order to facilitate investigation, arrest, and prosecution of such individuals.

(C) IDENTIFICATION OF FOREIGN COUNTRIES NEEDING ASSISTANCE.—Identify foreign countries that need technical assistance, such as law reform, administrative reform, prosecutorial training, or assistance to police and other investigative services, to ensure passport, visa, and related document security and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents.

(D) INSPECTION OF APPLICATIONS.—Randomly inspect visa and passport applications for accuracy, efficiency, and fraud, especially at high terrorist threat posts, in order to prevent a recurrence of the issuance of visas to those who submit incomplete, fraudulent, or otherwise irregular or incomplete applications.

(3) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Deputy Assistant Secretary shall submit to Congress a report containing—

(A) a description of the strategic plan prepared under paragraph (1); and

(B) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

## Subtitle D—Terrorist Travel

### SEC. 3101. INFORMATION SHARING AND COORDINATION.

The Secretary of Homeland Security shall establish a mechanism to—

(1) ensure the coordination and dissemination of terrorist travel intelligence and operational information among the appropriate agencies within the Department of Homeland Security, including the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, the Bureau of Citizenship and Immigration Services, the Transportation Security Administration, the Coast Guard, and other agencies as directed by the Secretary; and

(2) ensure the sharing of terrorist travel intelligence and operational information with the Department of State, the National Counterterrorism Center, and other appropriate Federal agencies.

### SEC. 3102. TERRORIST TRAVEL PROGRAM.

The Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center, shall establish a program to—

(1) analyze and utilize information and intelligence regarding terrorist travel tactics, patterns, trends, and practices; and

(2) disseminate that information to all front-line Department of Homeland Security personnel who are at ports of entry or between ports of entry, to immigration benefits offices, and, in coordination with the Secretary of State, to appropriate individuals at United States embassies and consulates.

### SEC. 3103. TRAINING PROGRAM.

(a) REVIEW, EVALUATION, AND REVISION OF EXISTING TRAINING PROGRAMS.—The Secretary of Homeland Security shall—

(1) review and evaluate the training currently provided to Department of Homeland Security personnel and, in consultation with the Secretary of State, relevant Department of State personnel with respect to travel and identity documents, and techniques, patterns, and trends associated with terrorist travel; and

(2) develop and implement a revised training program for border, immigration, and consular officials in order to teach such officials how to effectively detect, intercept, and disrupt terrorist travel.

(b) REQUIRED TOPICS OF REVISED PROGRAMS.—The training program developed under subsection (a)(2) shall include training in the following areas:

(1) Methods for identifying fraudulent and genuine travel documents.

(2) Methods for detecting terrorist indicators on travel documents and other relevant identity documents.

(3) Recognizing travel patterns, tactics, and behaviors exhibited by terrorists.

(4) Effectively utilizing information contained in databases and data systems available to the Department of Homeland Security.

(5) Other topics determined to be appropriate by the Secretary of Homeland Security in consultation with the Secretary of State or the National Intelligence Director.

### SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.

(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the Congress a plan to ensure that the Department of Homeland Security and the Department of State acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(b) INTEROPERABILITY REQUIREMENT.—To the extent possible, technologies to be acquired and deployed under the plan shall be compatible with current systems used by the Department of Homeland Security to detect and identify fraudulent documents and genuine documents.

(c) PASSPORT SCREENING.—The plan shall address the feasibility of using such technologies to screen passports submitted for identification purposes to a United States consular, border, or immigration official.

## Subtitle E—Maritime Security Requirements

### SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARITIME SECURITY REQUIREMENTS.

(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—Section 70103(a) of the 46, United States Code, is amended by striking ''The Secretary'' and inserting ''Not later than December 31, 2004, the Secretary''.

(b) FACILITY AND VESSEL VULNERABILITY ASSESSMENTS.—Section 70102(b)(1) of the 46, United States Code, is amended by striking '', the Secretary'' and inserting ''and by not later than December 31, 2004, the Secretary''.

(c) TRANSPORTATION SECURITY CARD REGULATIONS.—Section 70105(a) of the 46, United States Code, is amended by striking ''The Secretary'' and inserting ''Not later than December 31, 2004, the Secretary''.

# TITLE IV—INTERNATIONAL COOPERATION AND COORDINATION

## Subtitle A—Attack Terrorists and Their Organizations

## CHAPTER 1—PROVISIONS RELATING TO TERRORIST SANCTUARIES

### SEC. 4001. UNITED STATES POLICY ON TERRORIST SANCTUARIES.

It is the sense of Congress that it should be the policy of the United States—

(1) to identify and prioritize foreign countries that are or that could be used as terrorist sanctuaries;

(2) to assess current United States resources being provided to such foreign countries;

(3) to develop and implement a coordinated strategy to prevent terrorists from using such foreign countries as sanctuaries; and

(4) to work in bilateral and multilateral fora to prevent foreign countries from being used as terrorist sanctuaries.

**SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to Congress a report that describes a strategy for addressing and, where possible, eliminating terrorist sanctuaries.

(2) CONTENT.—The report required under this subsection shall include the following:

(A) A list that prioritizes each actual and potential terrorist sanctuary and a description of activities in the actual and potential sanctuaries.

(B) An outline of strategies for preventing the use of, disrupting, or ending the use of such sanctuaries.

(C) A detailed description of efforts, including an assessment of successes and setbacks, by the United States to work with other countries in bilateral and multilateral fora to address or eliminate each actual or potential terrorist sanctuary and disrupt or eliminate the security provided to terrorists by each such sanctuary.

(D) A description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries.

(b) SUBSEQUENT REPORTS.—

(1) REQUIREMENT OF REPORTS.—Section 140(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)(1)) is amended—

(A) by striking ''(1)'' and inserting ''(1)(A)'';

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(C) in subparagraph (A)(iii) (as redesignated), by adding ''and'' at the end; and

(D) by adding at the end the following:

''(B) detailed assessments with respect to each foreign country whose territory is being used or could potentially be used as a sanctuary for terrorists or terrorist organizations;''.

(2) PROVISIONS TO BE INCLUDED IN REPORT.—Section 140(b) of such Act (22 U.S.C. 2656f(b)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)''; and

(ii) by striking ''and'' at the end;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

''(2) with respect to subsection (a)(1)(B)—

''(A) the extent of knowledge by the government of the country with respect to terrorist activities in the territory of the country; and

''(B) the actions by the country—

''(i) to eliminate each terrorist sanctuary in the territory of the country;

''(ii) to cooperate with United States antiterrorism efforts; and

''(iii) to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country;'';

(D) by striking the period at the end of paragraph (3) (as redesignated) and inserting a semicolon; and

(E) by inserting after paragraph (3) (as redesignated) the following:

''(4) a strategy for addressing and, where possible, eliminating terrorist sanctuaries that shall include—

''(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

''(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

''(C) a description of efforts by the United States to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

''(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries;

''(5) an update of the information contained in the report required to be transmitted to Congress pursuant to section 4002(a)(2) of the 9/11 Recommendations Implementation Act;

''(6) to the extent practicable, complete statistical information on the number of individuals, including United States citizens and dual nationals, killed, injured, or kidnapped by each terrorist group during the preceding calendar year; and

''(7) an analysis, as appropriate, relating to trends in international terrorism, including changes in technology used, methods and targets of attacks, demographic information on terrorists, and other appropriate information.''.

(3) DEFINITIONS.—Section 140(d) of such Act (22 U.S.C. 2656f(d)) is amended—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(4) the term 'territory' and 'territory of the country' means the land, waters, and airspace of the country; and

''(5) 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—

''(A) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

''(B) to provide transit through the country.''.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, by April 30, 2006, and by April 30 of each subsequent year.

**SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE TERRORIST SANCTUARIES.**

(a) AMENDMENTS.—Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

''(B) Any part of the territory of the country is being used as a sanctuary for terrorists or terrorist organizations.'';

(2) in paragraph (3), by striking ''paragraph (1)(A)'' and inserting ''subparagraph (A) or (B) of paragraph (1)'';

(3) by redesignating paragraph (5) as paragraph (6);

(4) by inserting after paragraph (4) the following:

''(5) A determination made by the Secretary of State under paragraph (1)(B) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate before the proposed rescission would take effect a report certifying that the government of the country concerned —

''(A) is taking concrete, verifiable steps to eliminate each terrorist sanctuary in the territory of the country;

''(B) is cooperating with United States antiterrorism efforts; and

''(C) is taking all appropriate actions to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country.''; and

(5) by inserting after paragraph (6) (as redesignated) the following:

''(7) In this subsection—

''(A) the term 'territory of the country' means the land, waters, and airspace of the country; and

''(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—

''(i) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

''(ii) to provide transit through the country.''.

(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.).

## CHAPTER 2—OTHER PROVISIONS

**SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS CONTROL AND NONPROLIFERATION ADVISORY BOARD.**

(a) REQUIREMENT.—Not later than December 31, 2004, the Secretary of State shall appoint individuals to the Arms Control and Nonproliferation Advisory Board to fill all vacancies in the membership of the Board that exist on the date of the enactment of this Act.

(b) CONSULTATION.—Appointments to the Board under subsection (a) shall be made in consultation with the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 4012. REVIEW OF UNITED STATES POLICY ON PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND CONTROL OF STRATEGIC WEAPONS.**

(a) REVIEW.—

(1) IN GENERAL.—The Undersecretary of State for Arms Control and International Security shall instruct the Arms Control and Nonproliferation Advisory Board (in this section referred to as the ''Advisory Board'') to carry out a review of existing policies of the United States relating to the proliferation of weapons of mass destruction and the control of strategic weapons.

(2) COMPONENTS.—The review required under this subsection shall contain at a minimum the following:

(A) An identification of all major deficiencies in existing United States policies relating to the proliferation of weapons of mass destruction and the control of strategic weapons.

(B) Proposals that contain a range of options that if implemented would adequately address any significant threat deriving from the deficiencies in existing United States policies described in subparagraph (A).

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than June 15, 2005, the Advisory Board shall prepare and submit to the Undersecretary of State for Arms Control and International Security an interim report that contains the initial results of the review carried out pursuant to subsection (a).

(2) FINAL REPORT.—Not later than December 1, 2005, the Advisory Board shall prepare

and submit to the Undersecretary of State for Arms Control and International Security, and to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, a final report that contains the comprehensive results of the review carried out pursuant to subsection (a).

(c) EXPERTS AND CONSULTANTS.— In carrying out this section, the Advisory Board may procure temporary and intermittent services of experts and consultants, including experts and consultants from nongovernmental organizations, under section 3109(b) of title 5, United States Code.

(d) FUNDING AND OTHER RESOURCES.—The Secretary of State shall provide to the Advisory Board an appropriate amount of funding and other resources to enable the Advisory Board to carry out this section.

**SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT ACTS OF INTERNATIONAL TERRORISM.**

Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)), as amended by section 3091(b), is further amended by adding at the end the following:

''(D) ADDITIONAL DUTIES RELATING TO INTERNATIONAL AGREEMENTS TO INTERDICT ACTS OF INTERNATIONAL TERRORISM.—

''(i) IN GENERAL.—In addition to the principal duties of the Coordinator described in subparagraph (B), the Coordinator, in consultation with relevant United States Government agencies, shall seek to negotiate on a bilateral basis international agreements under which parties to an agreement work in partnership to address and interdict acts of international terrorism.

''(ii) TERMS OF INTERNATIONAL AGREEMENT.—It is the sense of Congress that—

''(I) each party to an international agreement referred to in clause (i)—

''(aa) should be in full compliance with United Nations Security Council Resolution 1373 (September 28, 2001), other appropriate international agreements relating to antiterrorism measures, and such other appropriate criteria relating to antiterrorism measures;

''(bb) should sign and adhere to a 'Counterterrorism Pledge' and a list of 'Interdiction Principles', to be determined by the parties to the agreement;

''(cc) should identify assets and agree to multilateral efforts that maximizes the country's strengths and resources to address and interdict acts of international terrorism or the financing of such acts;

''(dd) should agree to joint training exercises among the other parties to the agreement; and

''(ee) should agree to the negotiation and implementation of other relevant international agreements and consensus-based international standards; and

''(II) an international agreement referred to in clause (i) should contain provisions that require the parties to the agreement—

''(aa) to identify regions throughout the world that are emerging terrorist threats;

''(bb) to establish terrorism interdiction centers in such regions and other regions, as appropriate;

''(cc) to deploy terrorism prevention teams to such regions, including United States-led teams; and

''(dd) to integrate intelligence, military, and law enforcement personnel from countries that are parties to the agreement in order to work directly with the regional centers described in item (bb) and regional teams described in item (cc).''.

**SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.**

It is the sense of Congress that the President should pursue by all appropriate diplomatic means with countries that are participating in the Coalition to fight terrorism the development of an effective approach toward the detention and humane treatment of captured terrorists. The effective approach referred to in this section may, as appropriate, draw on Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva on August 12, 1949 (6 UST 3316).

## Subtitle B—Prevent the Continued Growth of Terrorism

## CHAPTER 1—UNITED STATES PUBLIC DIPLOMACY

**SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC DIPLOMACY STRATEGY.**

(a) IN GENERAL.—The Secretary of State, in coordination with all appropriate Federal agencies, shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate an annual assessment of the impact of public diplomacy efforts on target audiences. Each assessment shall review the United States public diplomacy strategy worldwide and by region, including an examination of the allocation of resources and an evaluation and assessment of the progress in, and barriers to, achieving the goals set forth under previous plans submitted under this section. Not later than March 15 of every year, the Secretary shall submit the assessment required by this subsection.

(b) FURTHER ACTION.— On the basis of such review, the Secretary, in coordination with all appropriate Federal agencies, shall submit, as part of the annual budget submission, a public diplomacy strategy plan which specifies goals, agency responsibilities, and necessary resources and mechanisms for achieving such goals during the next fiscal year. The plan may be submitted in classified form.

**SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

(a) STATEMENT OF POLICY.—It should be the policy of the United States:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) United States chiefs of mission should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and should be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training on public diplomacy and the tools and technology of mass communication.

(b) PERSONNEL.—

(1) QUALIFICATIONS.—In the recruitment, training, and assignment of members of the Foreign Service, the Secretary of State shall emphasize the importance of public diplomacy and applicable skills and techniques. The Secretary shall consider the priority recruitment into the Foreign Service, at middle-level entry, of individuals with expertise and professional experience in public diplomacy, mass communications, or journalism. The Secretary shall give special consideration to individuals with language facility and experience in particular countries and regions.

(2) LANGUAGES OF SPECIAL INTEREST.—The Secretary of State shall seek to increase the number of Foreign Service officers proficient in languages spoken in predominantly Muslim countries. Such increase shall be accomplished through the recruitment of new officers and incentives for officers in service.

**SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM COUNTRIES.**

(a) DECLARATION OF POLICY.—Congress declares that the United States should commit to a long-term and sustainable investment in promoting engagement with people of all levels of society in countries with predominantly Muslim populations, particularly with youth and those who influence youth. Such an investment should make use of the talents and resources in the private sector and should include programs to increase the number of people who can be exposed to the United States and its fundamental ideas and values in order to dispel misconceptions. Such programs should include youth exchange programs, young ambassadors programs, international visitor programs, academic and cultural exchange programs, American Corner programs, library programs, journalist exchange programs, sister city programs, and other programs related to people-to-people diplomacy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should significantly increase its investment in the people-to-people programs described in subsection (a).

**SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PROMOTION IN FOREIGN SERVICE.**

(a) IN GENERAL.—Section 603(b) of the Foreign Service Act of 1980 (22 U.S.C. 4003(b)) is amended by adding at the end the following new sentences: ''The precepts for such selection boards shall also consider whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has served in at least one position in which the primary responsibility of such member was related to public diplomacy. A member may not be promoted into or within the Senior Foreign Service if such member has not served in at least one such position.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2009.

## CHAPTER 2—UNITED STATES MULTILATERAL DIPLOMACY

**SEC. 4031. PURPOSE.**

It is the purpose of this chapter to strengthen United States leadership and effectiveness at international organizations and multilateral institutions.

**SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAUCUS.**

(a) IN GENERAL.—The President, acting through the Secretary of State and the relevant United States chiefs of mission, shall—

(1) continue to strongly support and seek to expand the work of the democracy caucus at the United Nations General Assembly and the United Nations Human Rights Commission; and

(2) seek to establish a democracy caucus at the United Nations Conference on Disarmament and at other broad-based international organizations.

(b) PURPOSES OF THE CAUCUS.—A democracy caucus at an international organization should—

(1) forge common positions, including, as appropriate, at the ministerial level, on matters of concern before the organization and work within and across regional lines to promote agreed positions;

(2) work to revise an increasingly outmoded system of membership selection, regional voting, and decision making; and

(3) establish a rotational leadership agreement to provide member countries an opportunity, for a set period of time, to serve as the designated president of the caucus, responsible for serving as its voice in each organization.

**SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.**

(a) UNITED STATES POLICY.—The President, acting through the Secretary of State, the relevant United States chiefs of mission, and, where appropriate, the Secretary of the Treasury, shall use the voice, vote, and influence of the United States to—

(1) where appropriate, reform the criteria for leadership and, in appropriate cases, for membership, at all United Nations bodies and at other international organizations and multilateral institutions to which the United States is a member so as to exclude countries that violate the principles of the specific organization;

(2) make it a policy of the United Nations and other international organizations and multilateral institutions of which the United States is a member that a member country may not stand in nomination for membership or in nomination or in rotation for a leadership position in such bodies if the member country is subject to sanctions imposed by the United Nations Security Council; and

(3) work to ensure that no member country stand in nomination for membership, or in nomination or in rotation for a leadership position in such organizations, or for membership on the United Nations Security Council, if the member country is subject to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

(b) REPORT TO CONGRESS.—Not later than 15 days after a country subject to a determination under one or more of the provisions of law specified in subsection (a)(3) is selected for membership or a leadership post in an international organization of which the United States is a member or for membership on the United Nations Security Council, the Secretary of State shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on any steps taken pursuant to subsection (a)(3).

**SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLOMACY.**

(a) TRAINING PROGRAMS.—Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following new subsection:

''(c) TRAINING IN MULTILATERAL DIPLOMACY.—

''(1) IN GENERAL.—The Secretary shall establish a series of training courses for officers of the Service, including appropriate chiefs of mission, on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments.

''(2) PARTICULAR PROGRAMS.—The Secretary shall ensure that the training described in paragraph (1) is provided at various stages of the career of members of the service. In particular, the Secretary shall ensure that after January 1, 2006—

''(A) officers of the Service receive training on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments as part of their training upon entry into the Service; and

''(B) officers of the Service, including chiefs of mission, who are assigned to United States missions representing the United States to international organizations and other multilateral institutions or who are assigned in Washington, D.C., to positions that have as their primary responsibility formulation of policy towards such organizations and institutions or towards participation in broad-based multilateral negotiations of international instruments, receive specialized training in the areas described in paragraph (1) prior to beginning of service for such assignment or, if receiving such training at that time is not practical, within the first year of beginning such assignment.''.

(b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The Secretary shall ensure that employees of the Department of State who are members of the civil service and who are assigned to positions described in section 708(c) of the Foreign Service Act of 1980 (as amended by subsection (a)) receive training described in such section.

(c) CONFORMING AMENDMENTS.—Section 708 of such Act is further amended—

(1) in subsection (a), by striking ''(a) The'' and inserting ''(a) TRAINING ON HUMAN RIGHTS.—The''; and

(2) in subsection (b), by striking ''(b) The'' and inserting ''(b) TRAINING ON REFUGEE LAW AND RELIGIOUS PERSECUTION.—The''.

**SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OFFICE ON MULTILATERAL NEGOTIATIONS.**

(a) ESTABLISHMENT OF OFFICE.—The Secretary of State is authorized to establish, within the Bureau of International Organization Affairs, an Office on Multilateral Negotiations to be headed by a Special Representative for Multilateral Negotiations (in this section referred to as the ''Special Representative'').

(b) APPOINTMENT.—The Special Representative shall be appointed by the President and shall have the rank of Ambassador-at-Large. At the discretion of the President another official at the Department may serve as the Special Representative.

(c) STAFFING.—The Special Representative shall have a staff of Foreign Service and civil service officers skilled in multilateral diplomacy.

(d) DUTIES.—The Special Representative shall have the following responsibilities:

(1) IN GENERAL.—The primary responsibility of the Special Representative shall be to assist in the organization of, and preparation for, United States participation in multilateral negotiations, including advocacy efforts undertaken by the Department of State and other United States Government agencies.

(2) CONSULTATIONS.—The Special Representative shall consult with Congress, international organizations, nongovernmental organizations, and the private sector on matters affecting multilateral negotiations.

(3) ADVISORY ROLE.—The Special Representative shall advise the Assistant Secretary for International Organization Affairs and, as appropriate, the Secretary of State, regarding advocacy at international organizations, multilateral institutions, and negotiations, and shall make recommendations regarding—

(A) effective strategies (and tactics) to achieve United States policy objectives at multilateral negotiations;

(B) the need for and timing of high level intervention by the President, the Secretary of State, the Deputy Secretary of State, and other United States officials to secure support from key foreign government officials for United States positions at such organizations, institutions, and negotiations; and

(C) the composition of United States delegations to multilateral negotiations.

(4) ANNUAL DIPLOMATIC MISSIONS OF MULTILATERAL ISSUES.—The Special Representative, in coordination with the Assistant Secretary for International Organization Affairs, shall organize annual diplomatic missions to appropriate foreign countries to conduct consultations between principal officers responsible for advising the Secretary of State on international organizations and high-level representatives of the governments of such foreign countries to promote the United States agenda at the United Nations General Assembly and other key international fora (such as the United Nations Human Rights Commission).

(5) LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.—The Special Representative, in coordination with the Assistant Secretary of International Organization Affairs, shall direct the efforts of the United States to reform the criteria for leadership of and membership in international organizations as described in section 4033.

(6) PARTICIPATION IN MULTILATERAL NEGOTIATIONS.—The Secretary of State may direct the Special Representative to serve as a member of a United States delegation to any multilateral negotiation.

(7) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—

(A) COORDINATION AND CONSULTATION.—The Special Representative shall coordinate and consult with the relevant staff at the Department of the Treasury in order to prepare recommendations for the Secretary of State regarding multilateral negotiations involving international financial institutions and other multilateral financial policymaking bodies.

(B) NEGOTIATING AUTHORITY CLARIFIED.—Notwithstanding any other provision of law, the Secretary of the Treasury shall remain the lead representative and lead negotiator for the United States within the international financial institutions and other multilateral financial policymaking bodies.

(C) DEFINITIONS.—In this paragraph:

(i) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term ''international financial institutions'' has the meaning given in section 1701(c)(2) of the International Financial Institutions Act.

(ii) OTHER MULTILATERAL FINANCIAL POLICYMAKING BODIES.—The term ''other multilateral financial policymaking bodies'' means—

(I) the Financial Action Task Force at the Organization for Economic Cooperation and Development;

(II) the international network of financial intelligence units known as the ''Egmont Group'';

(III) the United States, Canada, the United Kingdom, France, Germany, Italy, Japan, and Russia, when meeting as the Group of Eight; and

(IV) any other multilateral financial policymaking group in which the Secretary of the Treasury represents the United States.

(iii) FINANCIAL ACTION TASK FORCE.—The term ''Financial Action Task Force'' means the international policy-making and standard-setting body dedicated to combating money laundering and terrorist financing that was created by the Group of Seven (G–7) in 1989.

## CHAPTER 3—OTHER PUBLIC DIPLOMACY PROVISIONS

**SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.**

(a) FINDINGS.—Congress finds the following:

(1) During the 2003–2004 school year, the Office of Overseas Schools of the Department of State is financially assisting 189 elementary and secondary schools in foreign countries.

(2) American-sponsored elementary and secondary schools are located in more than

20 countries with significant Muslim populations in the Near East, Africa, South Asia, Central Asia, and East Asia.

(3) American-sponsored elementary and secondary schools provide an American-style education in English, with curricula that typically include an emphasis on the development of critical thinking and analytical skills.

(b) PURPOSE.—The United States has an interest in increasing the level of financial support provided to American-sponsored elementary and secondary schools in predominantly Muslim countries, in order to—

(1) increase the number of students in such countries who attend such schools;

(2) increase the number of young people who may thereby gain at any early age an appreciation for the culture, society, and history of the United States; and

(3) increase the number of young people who may thereby improve their proficiency in the English language.

(c) PILOT PROGRAM AUTHORIZED.—The Secretary of State, acting through the Director of the Office of Overseas Schools of the Department of State, may conduct a pilot program to make grants to American-sponsored elementary and secondary schools in predominantly Muslim countries for the purpose of providing full or partial merit-based scholarships to students from lower- and middle-income families of such countries to attend such schools.

(d) DETERMINATION OF ELIGIBLE STUDENTS.—For purposes of expending grant funds, an American-sponsored elementary and secondary school that receives a grant under subsection (c) is authorized to establish criteria to be implemented by such school to determine what constitutes lower- and middle-income families in the country (or region of the country, if regional variations in income levels in the country are significant) in which such school is located.

(e) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to the Secretary of State pursuant to the authorization of appropriations in subsection (h) shall be used for the sole purpose of making grants under this section, and may not be used for the administration of the Office of Overseas Schools of the Department of State or for any other activity of the Office.

(f) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed to require participation in the pilot program by an American-sponsored elementary or secondary school in a predominantly Muslim country.

(g) REPORT.—Not later than April 15, 2006, the Secretary shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the pilot program. The report shall assess the success of the program, examine any obstacles encountered in its implementation, and address whether it should be continued, and if so, provide recommendations to increase its effectiveness.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of State such sums as may be necessary for each of fiscal years 2005, 2006, and 2007 to carry out this section.

**SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

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

(1) Freedom of speech and freedom of the press are fundamental human rights.

(2) The United States has a national interest in promoting these freedoms by supporting free media abroad, which is essential to the development of free and democratic societies consistent with our own.

(3) Free media is undermined, endangered, or nonexistent in many repressive and transitional societies around the world, including in Eurasia, Africa, and the Middle East.

(4) Individuals lacking access to a plurality of free media are vulnerable to misinformation and propaganda and are potentially more likely to adopt anti-American views.

(5) Foreign governments have a responsibility to actively and publicly discourage and rebut unprofessional and unethical media while respecting journalistic integrity and editorial independence.

(b) STATEMENTS OF POLICY.—It shall be the policy of the United States, acting through the Secretary of State, to—

(1) ensure that the promotion of press freedoms and free media worldwide is a priority of United States foreign policy and an integral component of United States public diplomacy;

(2) respect the journalistic integrity and editorial independence of free media worldwide; and

(3) ensure that widely accepted standards for professional and ethical journalistic and editorial practices are employed when assessing international media.

(c) GRANTS TO PRIVATE SECTOR GROUP TO ESTABLISH MEDIA NETWORK.—

(1) IN GENERAL.—Grants made available to the National Endowment for Democracy (NED) pursuant to paragraph (3) shall be used by NED to provide funding to a private sector group to establish and manage a free and independent media network in accordance with paragraph (2).

(2) PURPOSE.—The purpose of the network shall be to provide an effective forum to convene a broad range of individuals, organizations, and governmental participants involved in journalistic activities and the development of free and independent media to—

(A) fund a clearinghouse to collect and share information concerning international media development and training;

(B) improve research in the field of media assistance and program evaluation to better inform decisions regarding funding and program design for government and private donors;

(C) explore the most appropriate use of existing means to more effectively encourage the involvement of the private sector in the field of media assistance; and

(D) identify effective methods for the development of a free and independent media in societies in transition.

(3) FUNDING.—For grants made by the Department of State to NED as authorized by the National Endowment for Democracy Act (Pub. L. 98–164, 97 Stat. 1039), there are authorized to be appropriated to the Secretary of State such sums as may be necessary for each of fiscal years 2005, 2006, and 2007 to carry out this section.

**SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA COVERAGE OF THE UNITED STATES.**

(a) FINDINGS.—Congress finds the following:

(1) Biased or false media coverage of the United States and its allies is a significant factor encouraging terrorist acts against the people of the United States.

(2) Public diplomacy efforts designed to encourage an accurate understanding of the people of the United States and the policies of the United States are unlikely to succeed if foreign publics are subjected to unrelenting biased or false local media coverage of the United States.

(3) Where freedom of the press exists in foreign countries the United States can combat biased or false media coverage by responding in the foreign media or by communicating directly to foreign publics in such countries.

(4) Foreign governments which encourage biased or false media coverage of the United States bear a significant degree of responsibility for creating a climate within which terrorism can flourish. Such governments are responsible for encouraging biased or false media coverage if they—

(A) issue direct or indirect instructions to the media to publish biased or false information regarding the United States;

(B) make deliberately biased or false charges expecting that such charges will be disseminated; or

(C) so severely constrain the ability of the media to express criticism of any such government that one of the few means of political expression available is criticism of the United States.

(b) STATEMENTS OF POLICY.—

(1) FOREIGN GOVERNMENTS.—It shall be the policy of the United States to regard foreign governments as knowingly engaged in unfriendly acts toward the United States if such governments—

(A) instruct their state-owned or influenced media to include content that is anti-American or prejudicial to the foreign and security policies of the United States; or

(B) make deliberately false charges regarding the United States or permit false or biased charges against the United States to be made while constraining normal political discourse.

(2) SEEKING MEDIA ACCESS; RESPONDING TO FALSE CHARGES.—It shall be the policy of the United States to—

(A) seek access to the media in foreign countries on terms no less favorable than those afforded any other foreign entity or on terms available to the foreign country in the United States; and

(B) combat biased or false media coverage in foreign countries of the United States and its allies by responding in the foreign media or by communicating directly to foreign publics.

(c) RESPONSIBILITIES REGARDING BIASED OR FALSE MEDIA COVERAGE.—

(1) SECRETARY OF STATE.—The Secretary of State shall instruct chiefs of mission to report on and combat biased or false media coverage originating in or received in foreign countries to which such chiefs are posted. Based on such reports and other information available to the Secretary, the Secretary shall prioritize efforts to combat such media coverage, giving special attention to audiences where fostering popular opposition to terrorism is most important and such media coverage is most prevalent.

(2) CHIEFS OF MISSION.—Chiefs of mission shall have the following responsibilities:

(A) Chiefs of mission shall give strong priority to combatting biased or false media reports in foreign countries to which such chiefs are posted regarding the United States.

(B) Chiefs of mission posted to foreign countries in which freedom of the press exists shall inform the governments of such countries of the policies of the United States regarding biased or false media coverage of the United States, and shall make strong efforts to persuade such governments to change policies that encourage such media coverage.

(d) REPORTS.—Not later than 120 days after the date of the enactment of this Act and at least annually thereafter until January 1, 2015, the Secretary shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report regarding the major themes of biased or false media coverage of the United States in foreign countries, the actions taken to persuade foreign governments to change policies that encourage such media coverage (and the results of such actions), and any other actions

taken to combat such media coverage in foreign countries.

**SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media.

(b) CONTENT.—The report required under subsection (a) shall contain the following:

(1) An assessment of the Broadcasting Board of Governors and the public diplomacy activities of the Department of State with respect to outreach to foreign Muslim audiences through broadcast media.

(2) An outline of recommended actions that the United States should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizeable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(3) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in Muslim countries in order to present those programs to a much broader Muslim audience than is currently reached.

(4) An assessment of providing a training program in media and press affairs for members of the Foreign Service.

**SEC. 4045. OFFICE RELOCATION.**

As soon as practicable after the date of the enactment of this Act, the Secretary of State shall take such actions as are necessary to consolidate within the Harry S. Truman Building all offices of the Department of State that are responsible for the conduct of public diplomacy, including the Bureau of Educational and Cultural Affairs.

**SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOCRACIES FOR MUSLIM COUNTRIES.**

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

(1) should work with the Community of Democracies to discuss, develop, and refine policies and assistance programs to support and promote political, economic, judicial, educational, and social reforms in Muslim countries;

(2) should, as part of that effort, secure support to require countries seeking membership in the Community of Democracies to be in full compliance with the Community's criteria for participation, as established by the Community's Convening Group, should work to ensure that the criteria are part of a legally binding document, and should urge other donor countries to use compliance with the criteria as a basis for determining diplomatic and economic relations (including assistance programs) with such participating countries; and

(3) should seek support for international contributions to the Community of Democracies and should seek authority for the Community's Convening Group to oversee adherence and compliance of participating countries with the criteria.

(b) MIDDLE EAST PARTNERSHIP INITIATIVE AND BROADER MIDDLE EAST AND NORTH AFRICA INITIATIVE.—Amounts made available to carry out the Middle East Partnership Initiative and the Broader Middle East and North Africa Initiative may be made available to the Community of Democracies in order to strengthen and expand its work with Muslim countries.

(c) REPORT.—The Secretary of State shall include in the annual report entitled ''Supporting Human Rights and Democracy: The U.S. Record'' a description of efforts by the Community of Democracies to support and promote political, economic, judicial, educational, and social reforms in Muslim countries and the extent to which such countries meet the criteria for participation in the Community of Democracies.

**Subtitle C—Reform of Designation of Foreign Terrorist Organizations**

**SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.**

(a) PERIOD OF DESIGNATION.—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''Subject to paragraphs (5) and (6), a'' and inserting ''A''; and

(B) by striking ''for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B)'' and inserting ''until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c)'';

(2) by striking subparagraph (B) and inserting the following:

''(B) REVIEW OF DESIGNATION UPON PETITION.—

''(i) IN GENERAL.—The Secretary shall review the designation of a foreign terrorist organization under the procedures set forth in clauses (iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

''(ii) PETITION PERIOD.—For purposes of clause (i)—

''(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

''(II) if the designated organization has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

''(iii) PROCEDURES.—Any foreign terrorist organization that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the organization is warranted.

''(iv) DETERMINATION.—

''(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Secretary shall make a determination as to such revocation.

''(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

''(III) PUBLICATION OF DETERMINATION.—A determination made by the Secretary under this clause shall be published in the Federal Register.

''(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6).''; and

(3) by adding at the end the following:

''(C) OTHER REVIEW OF DESIGNATION.—

''(i) IN GENERAL.—If in a 6-year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist organization in order to determine whether such designation should be revoked pursuant to paragraph (6).

''(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

''(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.''.

(b) ALIASES.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) AMENDMENTS TO A DESIGNATION.—

''(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.

''(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

''(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

''(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(B), by striking ''subsection (b)'' and inserting ''subsection (c)'';

(B) in paragraph (6)(A)—

(i) in the matter preceding clause (i), by striking ''or a redesignation made under paragraph (4)(B)'' and inserting ''at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4)''; and

(ii) in clause (i), by striking ''or redesignation'';

(C) in paragraph (7), by striking '', or the revocation of a redesignation under paragraph (6),''; and

(D) in paragraph (8)—

(i) by striking '', or if a redesignation under this subsection has become effective under paragraph (4)(B),''; and

(ii) by striking ''or redesignation''; and

(2) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking ''of the designation in the Federal Register,'' and all that follows through ''review of the designation'' and inserting ''in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated organization may seek judicial review'';

(B) in paragraph (2), by inserting '', amended designation, or determination in response to a petition for revocation'' after ''designation'';

(C) in paragraph (3), by inserting ''amended designation, or determination in response to a petition for revocation'' after ''designation''; and

(D) in paragraph (4), by inserting ''amended designation, or determination in response to a petition for revocation'' after ''designation'' each place that term appears.

(d) SAVINGS PROVISION.—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term ''designation'', as used in that section, includes all redesignations made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

**SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE COUNTRY REPORTS ON TERRORISM OF INFORMATION ON TERRORIST GROUPS THAT SEEK WEAPONS OF MASS DESTRUCTION AND GROUPS THAT HAVE BEEN DESIGNATED AS FOREIGN TERRORIST ORGANIZATIONS.**

(a) INCLUSION IN REPORTS.—Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction,'' after ''during the preceding five years,''; and

(B) by inserting ''any group designated by the Secretary as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189),'' after ''Export Administration Act of 1979,'';

(2) in subsection (b)(1)(C)(iii), by striking ''and'' at the end;

(3) in subsection (b)(1)(C)—

(A) by redesignating clause (iv) as clause (v); and

(B) by inserting after clause (iii) the following new clause:

''(iv) providing weapons of mass destruction, or assistance in obtaining or developing such weapons, to terrorists or terrorist groups; and''; and

(4) in subsection (b)(3) (as redesignated by section 4002(b)(2)(B) of this Act)—

(A) by redesignating subparagraphs (C), (D), and (E) as (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) efforts by those groups to obtain or develop weapons of mass destruction;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), submitted more than one year after the date of the enactment of this Act.

## Subtitle D—Afghanistan Freedom Support Act Amendments of 2004

**SEC. 4061. SHORT TITLE.**

This subtitle may be cited as the ''Afghanistan Freedom Support Act Amendments of 2004''.

**SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANISTAN.**

(a) FINDINGS.—Congress finds that—

(1) the Final Report of the National Commission on Terrorist Attacks Upon the United States criticized the provision of United States assistance to Afghanistan for being too inflexible; and

(2) the Afghanistan Freedom Support Act of 2002 (Public Law 107–327; 22 U.S.C. 7501 et seq.) contains provisions that provide for flexibility in the provision of assistance for Afghanistan and are not subject to the requirements of typical foreign assistance programs and provide for the designation of a coordinator to oversee United States assistance for Afghanistan.

(b) DESIGNATION OF COORDINATOR.—Section 104(a) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7514(a)) is amended in the matter preceding paragraph (1) by striking ''is strongly urged to'' and inserting ''shall''.

(c) OTHER MATTERS.—Section 104 of such Act (22 U.S.C. 7514) is amended by adding at the end the following:

''(c) PROGRAM PLAN.—The coordinator designated under subsection (a) shall annually submit to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate the Administration's plan for assistance to Afghanistan together with a description of such assistance in prior years.

''(d) COORDINATION WITH INTERNATIONAL COMMUNITY.—The coordinator designated under subsection (a) shall work with the international community and the Government of Afghanistan to ensure that assistance to Afghanistan is implemented in a coherent, consistent, and efficient manner to prevent duplication and waste. The coordinator designated under subsection (a) shall work through the Secretary of the Treasury and the United States Executive Directors at the international financial institutions in order to effectuate these responsibilities within the international financial institutions. The term 'international financial institution' has the meaning given in section 1701(c)(2) of the International Financial Institutions Act.''.

**SEC. 4063. GENERAL PROVISIONS RELATING TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.**

(a) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL AND SOCIAL DEVELOPMENT.—

(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) 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''.

(b) DECLARATIONS OF POLICY.—Congress makes the following declarations:

(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.

(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.

(3)(A) The United States continues to urge North Atlantic Treaty Organization members and other friendly countries to make much greater military contributions toward securing the peace in Afghanistan.

(B) The United States should continue to lead in the security domain by, among other things, providing logistical support to facilitate those contributions.

(C) In coordination with the Government of Afghanistan, the United States should urge others, and act itself, to increase efforts to promote disarmament, demobilization, and reintegration efforts, to enhance counternarcotics activities, to expand deployments of Provincial Reconstruction Teams, and to increase training of Afghanistan's National Army and its police and border security forces.

(c) LONG-TERM STRATEGY.—

(1) STRATEGY.—Title III of such Act (22 U.S.C. 7551 et seq.) is amended by adding at the end the following:

**''SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR AFGHANISTAN.**

''(a) STRATEGY.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004, the President shall formulate and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a 5-year strategy for Afghanistan that includes specific and measurable goals, timeframes for accomplishing such goals, and specific resource levels necessary for accomplishing such goals for addressing the long-term development and security needs of Afghanistan, including sectors such as agriculture and irrigation, parliamentary and democratic development, the judicial system and rule of law, human rights, education, health, telecommunications, electricity, women's rights, counternarcotics, police, border security, anti-corruption, and other law-enforcement activities.

''(2) ADDITIONAL REQUIREMENT.—The strategy shall also delineate responsibilities for achieving such goals and identify and address possible external factors that could significantly affect the achievement of such goals.

''(b) IMPLEMENTATION.—Not later than 30 days after the date of the transmission of the strategy required by subsection (a), the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Defense shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a written 5-year action plan to implement the strategy developed pursuant to subsection (a). Such action plan shall include a description and schedule of the program evaluations that will monitor progress toward achieving the goals described in subsection (a).

''(c) REVIEW.—The Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Defense shall carry out an annual review of the strategy required by subsection (a) and the action plan required by subsection (b).

''(d) MONITORING.—The report required by section 206(c)(2) of this Act shall include—

''(1) a description of progress toward implementation of both the strategy required by subsection (a) and the action plan required by subsection (b); and

''(2) a description of any changes to the strategy or action plan since the date of the submission of the last report required by such section.''.

(2) CLERICAL AMENDMENT.—The table of contents for such Act (22 U.S.C. 7501 note) is amended by adding after the item relating to section 303 the following:

''Sec. 304. Formulation of long-term strategy for Afghanistan.''.

**SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

Section 103(a)(5)(A) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amended—

(1) in clause (v), to read as follows:

''(v) support for the activities of the Government of Afghanistan to develop modern

legal codes and court rules, to provide for the creation of legal assistance programs, and other initiatives to promote the rule of law in Afghanistan;'';

(2) in clause (xii), to read as follows:

''(xii) support for the effective administration of justice at the national, regional, and local levels, including programs to improve penal institutions and the rehabilitation of prisoners, to establish a responsible and community-based police force, and to rehabilitate or construct courthouses and detention facilities;''; and

(3) in clause (xiii), by striking ''and'' at the end;

(4) in clause (xiv), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(xv) assistance for the protection of Afghanistan's culture, history, and national identity, including with the rehabilitation of Afghanistan's museums and sites of cultural significance.''.

**SEC. 4065. MONITORING OF ASSISTANCE.**

Section 108 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7518) is amended by adding at the end the following:

''(c) MONITORING OF ASSISTANCE FOR AFGHANISTAN.—

''(1) REPORT.—The Secretary of State, in consultation with the Administrator for the United States Agency for International Development, shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the obligations and expenditures of United States assistance for Afghanistan from all United States Government agencies. The first report under this paragraph shall be submitted not later than January 15, 2005, and subsequent reports shall be submitted every six months thereafter and may be included in the report required by section 206(c)(2) of this Act.

''(2) SUBMISSION OF INFORMATION FOR REPORT.—The head of each United States Government agency referred to in paragraph (1) shall provide on a timely basis to the Secretary of State such information as the Secretary may reasonably require to allow the Secretary to prepare and submit the report required by such paragraph.''.

**SEC. 4066. UNITED STATES POLICY TO SUPPORT DISARMAMENT OF PRIVATE MILITIAS AND TO SUPPORT EXPANSION OF INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.**

(a) DISARMAMENT OF PRIVATE MILITIAS.—Section 103 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513) is amended by adding at the end the following:

''(d) UNITED STATES POLICY RELATING TO DISARMAMENT OF PRIVATE MILITIAS.—

''(1) IN GENERAL.—It shall be the policy of the United States to take immediate steps to provide active support for the disarmament, demobilization, and reintegration of armed soldiers, particularly child soldiers, in Afghanistan, in close consultation with the President of Afghanistan.

''(2) REPORT.—The report required by section 206(c)(2) of this Act shall include a description of the progress to implement paragraph (1).''.

(b) INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—Section 103 of such Act (22 U.S.C. 7513(d)), as amended by subsection (a), is further amended by adding at the end the following:

''(e) UNITED STATES POLICY RELATING TO INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—It shall be the policy of the United States to make every effort to support the expansion of international peacekeeping and security operations in Afghanistan in order to—

''(1) increase the area in which security is provided and undertake vital tasks related to promoting security, such as disarming warlords, militias, and irregulars, and disrupting opium production; and

''(2) safeguard highways in order to allow the free flow of commerce and to allow material assistance to the people of Afghanistan, and aid personnel in Afghanistan, to move more freely.''.

**SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.**

Section 206(d)(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as follows:

''(1) EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

''(A) EFFORTS.—The President shall encourage, and, as authorized by law, enable other countries to actively participate in expanded international peacekeeping and security operations in Afghanistan, especially through the provision of military personnel for extended periods of time.

''(B) REPORTS.—The President shall prepare and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on efforts carried out pursuant to subparagraph (A). The first report under this subparagraph shall be transmitted not later than 60 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004 and subsequent reports shall be transmitted every six months thereafter and may be included in the report required by subsection (c)(2).''.

**SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN.**

(a) COUNTERNARCOTICS EFFORTS.—The Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) is amended—

(1) by redesignating—

(A) title III as title IV; and

(B) sections 301 through 305 as sections 401 through 405, respectively; and

(2) by inserting after title II the following:

**''TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN**

**''SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EFFORTS.**

''In addition to programs established pursuant to section 103(a)(3) of this Act or other similar programs, the President is authorized and encouraged to implement specific initiatives to assist in the eradication of poppy cultivation and the disruption of heroin production in Afghanistan, such as—

''(1) promoting alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers;

''(2) enhancing the ability of farmers to bring legitimate agricultural goods to market;

''(3) notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), assistance, including nonlethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2006 through 2008, for salaries for special counternarcotics police and supporting units;

''(4) training the Afghan National Army in counternarcotics activities; and

''(5) creating special counternarcotics courts, prosecutors, and places of incarceration.

**''SEC. 302. SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

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

''(1) the President should make the substantial reduction of illegal drug production and trafficking in Afghanistan a priority in the Global War on Terrorism;

''(2) the Secretary of Defense, in coordination with the Secretary of State and the heads of other appropriate Federal agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

''(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

''(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

''(A) the progress made towards substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

''(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

''(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of the 9/11 Recommendations Implementation Act.''.

(b) CLERICAL AMENDMENTS.—The table of contents for such Act (22 U.S.C. 7501 note) is amended—

(1) by redesignating—

(A) the item relating to title III as the item relating to title IV; and

(B) the items relating to sections 301 through 305 as the items relating to sections 401 through 405; and

(2) by inserting after the items relating to title II the following:

''TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN

''Sec. 301. Assistance for counternarcotics efforts.

''Sec. 302. Sense of Congress and report regarding counter-drug efforts in Afghanistan.''.

**SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.**

(a) TECHNICAL AMENDMENT.—Section 103(a)(7)(A)(xii) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(7)(A)(xii)) is amended by striking ''National'' and inserting ''Afghan Independent''.

(b) REPORTING REQUIREMENT.—Section 206(c)(2) of such Act (22 U.S.C. 7536(c)(2)) is amended in the matter preceding subparagraph (A) by striking ''2007'' and inserting ''2012''.

**SEC. 4070. REPEAL.**

Section 620D of the Foreign Assistance Act of 1961 (22 U.S.C. 2374; relating to prohibition on assistance to Afghanistan) is hereby repealed.

**Subtitle E—Provisions Relating to Saudi Arabia and Pakistan**

**SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATIONSHIP WITH SAUDI ARABIA.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the relationship between the United States and Saudi Arabia should include a more robust dialogue between the

people and Government of the United States and the people and Government of Saudi Arabia in order to provide for a reevaluation of, and improvements to, the relationship by both sides.

(b) REPORT.—

(1) IN GENERAL.— Not later than one year after the date of the enactment of this Act, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a strategy for collaboration with the people and Government of Saudi Arabia on subjects of mutual interest and importance to the United States.

(2) CONTENTS.—The strategy required under paragraph (1) shall include the following provisions:

(A) A framework for security cooperation in the fight against terrorism, with special reference to combating terrorist financing and an examination of the origins of modern terrorism.

(B) A framework for political and economic reform in Saudi Arabia and throughout the Middle East.

(C) An examination of steps that should be taken to reverse the trend toward extremism in Saudi Arabia and other Muslim countries and throughout the Middle East.

(D) A framework for promoting greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East.

(3) FORM.—The strategy required by this subsection may contain a classified annex.

**SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE OF PAKISTAN.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, over a long-term period, help to ensure a promising, stable, and secure future for Pakistan, and should in particular provide assistance to encourage and enable Pakistan—

(1) to continue and improve upon its commitment to combating extremists;

(2) to seek to resolve any outstanding difficulties with its neighbors and other countries in its region;

(3) to continue to make efforts to fully control its territory and borders;

(4) to progress towards becoming a more effective and participatory democracy;

(5) to participate more vigorously in the global marketplace and to continue to modernize its economy;

(6) to take all necessary steps to halt the spread of weapons of mass destruction;

(7) to continue to reform its education system; and

(8) to, in other ways, implement a general strategy of moderation.

(b) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress a detailed proposed strategy for the future, long-term, engagement of the United States with Pakistan. The strategy required by this subsection may contain a classified annex.

**SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.**

The Act entitled ''An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes'', approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), as amended by section 2213 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1232), is further amended—

(1) in section 1(b)—

(A) in the heading, by striking ''FISCAL YEAR 2004'' and inserting ''FISCAL YEARS 2005 AND 2006''; and

(B) in paragraph (1), by striking ''2004'' and inserting ''2005 or 2006'';

(2) in section 3(2), by striking ''and 2004,'' and inserting ''2004, 2005, and 2006''; and

(3) in section 6, by striking ''2004'' and inserting ''2006''.

**Subtitle F—Oversight Provisions**

**SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

(a) AVAILABILITY OF TREATIES AND INTERNATIONAL AGREEMENTS.—Section 112a of title 1, United States Code, is amended by adding at the end the following:

''(d) The Secretary of State shall cause to be published in slip form or otherwise made publicly available through the Internet website of the Department of State each treaty or international agreement proposed to be published in the compilation entitled 'United States Treaties and Other International Agreements' not later than 180 days after the date on which the treaty or agreement enters into force.''.

(b) TRANSMISSION TO CONGRESS.—Section 112b(a) of title 1, United States Code (commonly referred to as the ''Case-Zablocki Act''), is amended—

(1) in the first sentence, by striking ''has entered into force'' and inserting ''has been signed or entered into force''; and

(2) in the second sentence, by striking ''Committee on Foreign Affairs'' and inserting ''Committee on International Relations''.

(c) REPORT.—Section 112b of title 1, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

''(d)(1) The Secretary of State shall submit to Congress on an annual basis a report that contains an index of all international agreements (including oral agreements), listed by country, date, title, and summary of each such agreement (including a description of the duration of activities under the agreement and the agreement itself), that the United States—

''(A) has signed, proclaimed, or with reference to which any other final formality has been executed, or that has been extended or otherwise modified, during the preceding calendar year; and

''(B) has not been published, or is not proposed to be published, in the compilation entitled 'United States Treaties and Other International Agreements'.

''(2) The report described in paragraph (1) may be submitted in classified form.''.

(d) DETERMINATION OF INTERNATIONAL AGREEMENT.—Subsection (e) of section 112b of title 1, United States Code, (as redesignated) is amended—

(1) by striking ''(e) The Secretary of State'' and inserting ''(e)(1) Subject to paragraph (2), the Secretary of State''; and

(2) by adding at the end the following:

''(2)(A) An arrangement shall constitute an international agreement within the meaning of this section (other than subsection (c) of this section) irrespective of the duration of activities under the arrangement or the arrangement itself.

''(B) Arrangements that constitute an international agreement within the meaning of this section (other than subsection (c) of this section) include, but are not limited to, the following:

''(i) A bilateral or multilateral counterterrorism agreement.

''(ii) A bilateral agreement with a country that is subject to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).''.

(e) ENFORCEMENT OF REQUIREMENTS.—Section 139(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 is amended to read as follows:

''(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of the enactment of the 9/11 Recommendations Implementation Act and shall apply during fiscal years 2005, 2006, and 2007.''.

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

**SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL FLIGHT DECK OFFICERS.**

The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals and Federal flight deck officers on international flights.

**SEC. 4102. FEDERAL AIR MARSHAL TRAINING.**

Section 44917 of title 49, United States Code, is amended by adding at the end the following:

''(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

''(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

''(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against appropriate records in the consolidated and integrated terrorist watchlists of the Federal Government.

''(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.''.

**SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).**

(a) UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.—

(1) TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

(2) TO LIMIT THE PROLIFERATION OF MANPADS.—The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—

(A) prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

(B) prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and

(C) prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

(3) TO ACHIEVE DESTRUCTION OF MANPADS.—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

(4) REPORTING AND BRIEFING REQUIREMENT.—

(A) PRESIDENT'S REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under paragraphs (1), (2), and (3) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting Office set forth in its report GAO–04–519, entitled ''Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems''.

(B) ANNUAL BRIEFINGS.—Annually after the date of submission of the report under subparagraph (A) and until completion of the diplomatic and compliance efforts referred to in subparagraph (A), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

(b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

(1) IN GENERAL.—As soon as practicable, but not later than the date of completion of Phase II of the Department of Homeland Security's counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

(2) CERTIFICATION ACCEPTANCE.—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

(3) EXPEDITIOUS CERTIFICATION.—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(4) REPORTS.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

(c) PROGRAMS TO REDUCE MANPADS.—

(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary of State shall brief the appropriate congressional committees on the status of programs.

(3) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) MANPADS VULNERABILITY ASSESSMENTS REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security's plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

(2) MATTERS TO BE ADDRESSED.—The Secretary's report shall address, at a minimum, the following:

(A) The status of the Department's efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

(B) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

(C) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

(D) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

(E) Any other issues that the Secretary deems relevant.

(3) FORMAT.—The report required by this subsection may be submitted in a classified format.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term ''MANPADS'' means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

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

**SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.**

(a) FINDINGS.—The Congress finds as follows:

(1) The global war on terrorism and cutting off terrorist financing is a policy priority for the United States and its partners, working bilaterally and multilaterally through the United Nations (UN), the UN Security Council and its Committees, such as the 1267 and 1373 Committees, the Financial Action Task Force (FATF) and various international financial institutions, such as the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the regional multilateral development banks, and other multilateral fora.

(2) The Secretary of the Treasury has engaged the international financial community in the global fight against terrorist financing. Specifically, the Department of the Treasury helped redirect the focus of the Financial Action Task Force on the new threat posed by terrorist financing to the international financial system, resulting in the establishment of the FATF's Eight Special Recommendations on Terrorist Financing as the international standard on combating terrorist financing. The Secretary of the Treasury has engaged the Group of Seven and the Group of Twenty Finance Ministers to develop action plans to curb the financing of terror. In addition, other economic and regional fora, such as the Asia-Pacific Economic Cooperation (APEC) Forum, the Western Hemisphere Financial Ministers, have been used to marshal political will and actions in support of countering the financing of terrorism (CFT) standards.

(3) FATF's Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing are the recognized global standards for fighting money laundering and terrorist financing. The FATF has engaged in an assessment process for jurisdictions based on their compliance with these standards.

(4) In March 2004, the IMF and IBRD Boards agreed to make permanent a pilot program of collaboration with the FATF to assess global compliance with the FATF Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing. As a result, anti-money laundering (AML) and combating the financing of terrorism (CFT) assessments are now a regular part of their Financial Sector Assessment Progam (FSAP) and Offshore Financial Center assessments, which provide for a comprehensive analysis of the strength of a jurisdiction's financial system. These reviews assess potential systemic vulnerabilities, consider sectoral development needs and priorities, and review the state of implementation of and compliance with key financial codes and regulatory standards, among them the AML and CFT standards.

(5) To date, 70 FSAPs have been conducted, with over 24 of those incorporating AML and CFT assessments. The international financial institutions (IFIs), the FATF, and the FATF-style regional bodies together are expected to assess AML and CFT regimes in up to 40 countries or jurisdictions per year. This will help countries and jurisdictions identify deficiencies in their AML and CFT regimes and help focus technical assistance (TA) efforts.

(6) TA programs from the United States and other nations, coordinated with the Department of State and other departments and agencies, are playing an important role in helping countries and jurisdictions address shortcomings in their AML and CFT regimes and bringing their regimes into conformity with international standards. Training is coordinated within the United States Government, which leverages multilateral organizations and bodies and international financial institutions to internationalize the conveyance of technical assistance.

(7) In fulfilling its duties in advancing incorporation of AML and CFT standards into the IFIs as part of the IFIs' work on protecting the integrity of the international monetary system, the Department of the

Treasury, under the guidance of the Secretary of the Treasury, has effectively brought together all of the key United States Government agencies. In particular, United States Government agencies continue to work together to foster broad support for this important undertaking in various multilateral fora, and United States Government agencies recognize the need for close coordination and communication within our own government.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Secretary of the Treasury should continue to promote the dissemination of international AML and CFT standards, and to press for full implementation of the FATF 40 + 8 Recommendations by all countries in order to curb financial risks and hinder terrorist financing around the globe.

**SEC. 4112. EXPANDED REPORTING AND TESTIMONY REQUIREMENTS FOR THE SECRETARY OF THE TREASURY.**

(a) REPORTING REQUIREMENTS.—Section 1503(a) of the International Financial Institutions Act (22 U.S.C. 262o-2(a)) is amended by adding at the end the following new paragraph:

''(15) Work with the International Monetary Fund to—

''(A) foster strong global anti-money laundering (AML) and combat the financing of terrorism (CFT) regimes;

''(B) ensure that country performance under the Financial Action Task Force anti-money laundering and counter-terrorist financing standards is effectively and comprehensively monitored;

''(C) ensure note is taken of AML and CFT issues in Article IV reports, International Monetary Fund programs, and other regular reviews of country progress;

''(D) ensure that effective AML and CFT regimes are considered to be indispensable elements of sound financial systems; and

''(E) emphasize the importance of sound AML and CFT regimes to global growth and development.''.

(b) TESTIMONY.—Section 1705(b) of such Act (22 U.S.C. 262r-4(b)) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and'' and

(3) by adding at the end the following:

''(4) the status of implementation of international anti-money laundering and counter-terrorist financing standards by the International Monetary Fund, the multilateral development banks, and other multilateral financial policymaking bodies.''.

**SEC. 4113. COORDINATION OF UNITED STATES GOVERNMENT EFFORTS.**

The Secretary of the Treasury, or the designee of the Secretary as the lead United States Government official to the Financial Action Task Force (FATF), shall continue to convene the interagency United States Government FATF working group. This group, which includes representatives from all relevant federal agencies, shall meet at least once a year to advise the Secretary on policies to be pursued by the United States regarding the development of common international AML and CFT standards, to assess the adequacy and implementation of such standards, and to recommend to the Secretary improved or new standards as necessary.

**SEC. 4114. DEFINITIONS.**

In this subtitle:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term ''international financial institutions'' has the meaning given in section 1701(c)(2) of the International Financial Institutions Act.

(2) FINANCIAL ACTION TASK FORCE.—The term ''Financial Action Task Force'' means the international policy-making and standard-setting body dedicated to combating money laundering and terrorist financing that was created by the Group of Seven in 1989.

## TITLE V—GOVERNMENT RESTRUCTURING

### Subtitle A—Faster and Smarter Funding for First Responders

**SEC. 5001. SHORT TITLE.**

This subtitle may be cited as the ''Faster and Smarter Funding for First Responders Act of 2004''.

**SEC. 5002. FINDINGS.**

The Congress finds the following:

(1) In order to achieve its objective of minimizing the damage, and assisting in the recovery, from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to respond to a terrorist attack.

(2) First responder funding is not reaching the men and women of our Nation's first response teams quickly enough, and sometimes not at all.

(3) To reform the current bureaucratic process so that homeland security dollars reach the first responders who need it most, it is necessary to clarify and consolidate the authority and procedures of the Department of Homeland Security that support first responders.

(4) Ensuring adequate resources for the new national mission of homeland security, without degrading the ability to address effectively other types of major disasters and emergencies, requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-September 11 priorities, on the other.

(5) While a discrete homeland security grant making process is necessary to ensure proper focus on the unique aspects of terrorism prevention, preparedness, and response, it is essential that State and local strategies for utilizing such grants be integrated, to the greatest extent practicable, with existing State and local emergency management plans.

(6) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation's greatest threats, vulnerabilities, and consequences.

(7) The Nation's first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(8) An essential prerequisite to achieving the Nation's homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(9) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial resources required to fulfill them, and to direct funding to meet those needs and to measure preparedness levels on a national scale.

(10) To facilitate progress in achieving, maintaining, and enhancing essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(12) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

(13) An important aspect of essential capabilities is measurability, so that it is possible to determine how prepared a State or local government is now, and what additional steps it needs to take, in order to respond to acts of terrorism.

(14) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equipment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

**SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.**

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by 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 training.''; and

(2) by adding at the end the following:

**''TITLE XVIII—FUNDING FOR FIRST RESPONDERS**

**''SEC. 1801. DEFINITIONS.**

''In this title:

''(1) BOARD.—The term 'Board' means the First Responder Grants Board established under section 1805(f).

''(2) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1802.

''(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

''(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

''(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

''(C)(i) is located on, or within 5 miles of, an international border or waterway;

''(ii) is located within 5 miles of a facility within a critical infrastructure sector identified in section 1803(c)(2);

''(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

''(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

''(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

''(5) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

''(6) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.

''(7) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider'.

''(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(9) REGION.—The term 'region' means—

''(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

''(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

''(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

''(ii) the incorporated municipalities, counties, and parishes that they encompass.

''(10) TASK FORCE.—The term 'Task Force' means the Task Force on Essential Capabilities for First Responders established under section 1804.

**"SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.**

''(a) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving weapons of mass destruction, administered under the following:

''(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

''(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

''(4) CITIZEN CORPS PROGRAM.—The Citizen Corps Program of the Department, or any successor to such grant program.

''(b) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

''(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

''(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

''(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

**"SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.**

''(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

''(1) IN GENERAL.—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

''(A) the Task Force on Essential Capabilities for First Responders established under section 1804;

''(B) the Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Director of the Office for Domestic Preparedness;

''(C) the Secretary of Health and Human Services;

''(D) other appropriate Federal agencies;

''(E) State and local first responder agencies and officials; and

''(F) consensus-based standard making organizations responsible for setting standards relevant to the first responder community.

''(2) DEADLINES.—The Secretary shall—

''(A) establish essential capabilities under paragraph (1) within 30 days after receipt of the report under section 1804(b); and

''(B) regularly update such essential capabilities as necessary, but not less than every 3 years.

''(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that a detailed description of the essential capabilities established under paragraph (1) is provided promptly to the States and to the Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments within their jurisdictions.

''(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

''(1) SPECIFICITY.—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department's goals for terrorism preparedness based upon—

''(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States;

''(B) the types of threats, vulnerabilities, geography, size, and other factors that the Secretary has determined to be applicable to each different type of community; and

''(C) the principles of regional coordination and mutual aid among State and local governments.

''(2) FLEXIBILITY.—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while reaching nationally determined terrorism preparedness levels within a specified time period.

''(3) MEASURABILITY.—The establishment of essential capabilities shall be designed to enable measurement of progress towards specific terrorism preparedness goals.

''(4) COMPREHENSIVENESS.—The determination of essential capabilities for terrorism preparedness shall be made within the context of a comprehensive State emergency management system.

''(c) FACTORS TO BE CONSIDERED.—

''(1) IN GENERAL.—In establishing essential capabilities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to the Nation's population (including transient commuting and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

''(2) CRITICAL INFRASTRUCTURE SECTORS.—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:

''(A) Agriculture.

''(B) Banking and finance.

''(C) Chemical industries.

''(D) The defense industrial base.

''(E) Emergency services.

''(F) Energy.

''(G) Food.

''(H) Government.

''(I) Postal and shipping.

''(J) Public health.

''(K) Information and telecommunications networks.

''(L) Transportation.

''(M) Water.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

''(3) TYPES OF THREAT.—The Secretary specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the Nation, urban and rural:

''(A) Biological threats.

''(B) Nuclear threats.

''(C) Radiological threats.

''(D) Incendiary threats.

''(E) Chemical threats.

''(F) Explosives.

''(G) Suicide bombers.

''(H) Cyber threats.

''(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

''(4) CONSIDERATION OF ADDITIONAL FACTORS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.

**''SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.**

''(a) ESTABLISHMENT.—To assist the Secretary in establishing essential capabilities under section 1803(a)(1), the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Essential Capabilities for First Responders.

''(b) REPORT.—

''(1) IN GENERAL.—The Task Force shall submit to the Secretary, not later than 9 months after its establishment by the Secretary under subsection (a) and every 3 years thereafter, a report on its recommendations for essential capabilities for preparedness for terrorism.

''(2) CONTENTS.—The report shall—

''(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to the Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

''(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

''(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

''(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

''(E) include such revisions to the contents of past reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

''(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

''(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

''(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent or prepare for terrorist attacks.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

''(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

''(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

''(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

''(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

''(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate the selection with the Secretary of Health and Human Services.

''(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate one or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

''(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

**''SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.**

''(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

''(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for first responders established by the Secretary under section 1803.

''(c) STATE HOMELAND SECURITY PLANS.—

''(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

''(A) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

''(B) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

''(C) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

''(D) describes how the State intends—

''(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

''(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

''(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

''(E) is developed in consultation with and subject to appropriate comment by local governments within the State; and

''(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan.

''(2) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

''(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

''(e) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

''(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

''(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

''(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

''(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

''(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities specified in such plan or plans;

''(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

''(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

''(E) if the applicant is a region—

''(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

''(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

''(iii) a designation of a specific individual to serve as regional liaison;

''(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

''(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

''(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

''(5) REGIONAL APPLICATIONS.—

''(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

''(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

''(ii) shall supplement and avoid duplication with such State application; and

''(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

''(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

''(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application; *Provided* That, in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

''(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

''(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

''(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

''(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

''(6) TRIBAL APPLICATIONS.—

''(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

''(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

''(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

''(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

''(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

''(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

''(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

''(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1807(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

''(f) FIRST RESPONDER GRANTS BOARD.—

''(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

''(A) the Secretary;

''(B) the Under Secretary for Emergency Preparedness and Response;

''(C) the Under Secretary for Border and Transportation Security;

''(D) the Under Secretary for Information Analysis and Infrastructure Protection;

''(E) the Under Secretary for Science and Technology; and

''(F) the Director of the Office for Domestic Preparedness.

''(2) CHAIRMAN.—

''(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

''(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

''(3) RANKING OF GRANT APPLICATIONS.—

''(A) PRIORITIZATION OF GRANTS.—The Board—

''(i) shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure; and

''(ii) in evaluating the threat to persons and critical infrastructure for purposes of prioritizing covered grants, shall give greater weight to threats of terrorism based on their specificity and credibility, including any pattern of repetition.

''(B) MINIMUM AMOUNTS.—After evaluating and prioritizing grant applications under subparagraph (A), the Board shall ensure that, for each fiscal year—

''(i) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C);

''(ii) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under subparagraph (C) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C);

''(iii) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C); and

''(iv) directly eligible tribes collectively receive no less than 0.08 percent of the funds available for covered grants for such fiscal year for purposes of addressing the needs identified in the applications of such tribes, consistent with the homeland security plan of each State within the boundaries of which any part of any such tribe is located, except that this clause shall not apply with respect to funds available for a fiscal year if the Secretary receives less than 5 applications for such fiscal year from such tribes under subsection (e)(6)(A) or does not approve at least one such application.

''(C) ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.—For purposes of subparagraph (B)(ii), additional high-risk qualifying criteria consist of—

''(i) having a significant international land border; or

''(ii) adjoining a body of water within North America through which an international boundary line extends.

''(4) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under subsection (e)(5)(C) shall not be considered in calculating the minimum State award under paragraph (3)(B) of this subsection.

''(5) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

**''SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.**

''(a) IN GENERAL.—A covered grant may be used for—

''(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness and response;

''(2) exercises to strengthen terrorism preparedness and response;

''(3) training for prevention (including detection) of, preparedness for, or response to attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

''(4) developing or updating response plans;

''(5) establishing or enhancing mechanisms for sharing terrorism threat information;

''(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, lifecycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;

''(7) additional personnel costs resulting from—

''(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

''(B) travel to and participation in exercises and training in the use of equipment and on prevention activities;

''(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities; and

''(D) participation in information, investigative, and intelligence sharing activities specifically related to terrorism prevention;

''(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

''(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

''(A) $1,000,000 per project; or

''(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

''(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

''(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

''(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prepare for and respond to an act of terrorism;

''(13) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant; and

''(14) other appropriate activities as determined by the Secretary.

''(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

''(1) to supplant State or local funds;

''(2) to construct buildings or other physical facilities;

''(3) to acquire land; or

''(4) for any State or local government cost sharing contribution.

''(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary under section 1803.

''(d) REIMBURSEMENT OF COSTS.—In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(e) ASSISTANCE REQUIREMENT.—The Secretary may not request that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

''(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

''(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

''(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

''(2) COST SHARING.—

''(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State, region, or directly eligible tribe awarded after the 2-year period beginning on the date of the enactment of this section shall not exceed 75 percent.

''(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.

''(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

''(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

''(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in paragraph (2)(A) may be increased by up to 2 percent for any State, region, or directly eligible tribe that, not later than 30 days after the end of each fiscal quarter, submits to the Secretary a report on that fiscal quarter. Each such report must include, for each recipient of a covered grant or a pass-through under paragraph (1)—

''(A) the amount obligated to that recipient in that quarter;

''(B) the amount expended by that recipient in that quarter; and

''(C) a summary description of the items purchased by such recipient with such amount.

''(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

''(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

''(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

''(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

''(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

''(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

''(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

''(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

''(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

''(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

''(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

''(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

''(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

''(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

''(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

''(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

''(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1805(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

''(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

''(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

''(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

''(iii) the local government complies with subparagraphs (B) and (C).

''(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

''(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

''(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

''(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

''(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

''(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

''(i) shall not affect any payment to another local government under this paragraph; and

''(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

''(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

''(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by December 31 of each year—

''(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

''(2) containing information on the use of such grant funds by grantees; and

''(3) describing—

''(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established under section 1803(a) as a result of the expenditure of covered grant funds during the preceding fiscal year; and

''(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established under section 1803(a).

**''SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.**

''(a) EQUIPMENT STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

''(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

''(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

''(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

''(D) shall cover all appropriate uses of the equipment.

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

''(A) Thermal imaging equipment.

''(B) Radiation detection and analysis equipment.

''(C) Biological detection and analysis equipment.

''(D) Chemical detection and analysis equipment.

''(E) Decontamination and sterilization equipment.

''(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

''(G) Respiratory protection equipment.

''(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

''(I) Explosive mitigation devices and explosive detection and analysis equipment.

''(J) Containment vessels.

''(K) Contaminant-resistant vehicles.

''(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

''(b) TRAINING STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

''(A) enable first responders to prevent, prepare for, respond to, and mitigate terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

''(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

''(A) Regional planning.

''(B) Joint exercises.

''(C) Intelligence collection, analysis, and sharing.

''(D) Emergency notification of affected populations.

''(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

''(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

''(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

''(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

''(1) the National Institute of Standards and Technology;

''(2) the National Fire Protection Association;

''(3) the National Association of County and City Health Officials;

''(4) the Association of State and Territorial Health Officials;

''(5) the American National Standards Institute;

''(6) the National Institute of Justice;

''(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

''(8) the National Public Health Performance Standards Program;

''(9) the National Institute for Occupational Safety and Health;

''(10) ASTM International;

''(11) the International Safety Equipment Association;

''(12) the Emergency Management Accreditation Program; and

''(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

''(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.''.

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking ''includes'' and all that follows and inserting ''includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.''.

(c) TEMPORARY LIMITATIONS ON APPLICATION.—

(1) 1-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as amended by subsection (a), shall not apply during the 1-year period beginning on the date of the enactment of this Act:

(A) Subsections (b), (c), and (e)(4)(A) and (B) of section 1805.

(B) In section 1805(f)(3)(A), the phrase '', by enhancing the essential capabilities of the applicants,''.

(2) 2-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as amended by subsection (a), shall not apply during the 2-year period beginning on the date of the enactment of this Act:

(A) Subparagraphs (D) and (E) of section 1806(g)(5).

(B) Section 1806(i)(3).

**SEC. 5004. COORDINATION OF INDUSTRY EFFORTS.**

Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking ''and'' after the semicolon at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following:

''(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.''.

**SEC. 5005. SUPERSEDED PROVISION.**

This subtitle supersedes section 1014 of Public Law 107–56.

**SEC. 5006. SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.**

(a) FINDING.—The Congress finds that—

(1) many emergency response providers (as defined under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act) working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(2) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the emergency response provider community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

**SEC. 5007. SENSE OF CONGRESS REGARDING CITIZEN CORPS COUNCILS.**

(a) FINDING.—The Congress finds that Citizen Corps councils help to enhance local citizen participation in terrorism preparedness by coordinating multiple Citizen Corps programs, developing community action plans, assessing possible threats, and identifying local resources.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that individual Citizen Corps councils should seek to enhance the preparedness and response capabilities of all organizations participating in the councils, including by providing funding to as many of their participating organizations as practicable to promote local terrorism preparedness programs.

**SEC. 5008. STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.**

(a) STUDY.—The Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost-effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that will—

(1) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and

(2) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(b) TECHNOLOGIES TO CONSIDER.—In conducting the study, the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report regarding the conclusions of the study.

**SEC. 5009. REQUIRED COORDINATION.**

The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

## Subtitle B—Government Reorganization Authority

**SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY REORGANIZATION PLANS.**

(a) REORGANIZATION PLANS.—Section 903(a)(2) of title 5, United States Code, is amended to read as follows:

''(2) the abolition of all or a part of the functions of an agency;''.

(b) REPEAL OF LIMITATIONS.—Section 905 of title 5, United States Code, is amended to read as follows:

**''§ 905. Limitation on authority.**

''The authority to submit reorganization plans under this chapter is limited to the following organizational units:

''(1) The Office of the National Intelligence Director.

''(2) The Central Intelligence Agency.

''(3) The National Security Agency.

''(4) The Defense Intelligence Agency.

''(5) The National Geospatial-Intelligence Agency.

''(6) The National Reconnaissance Office.

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

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

''(9) The Bureau of Intelligence and Research of the Department of State.

''(10) The Office of Intelligence Analysis of the Department of Treasury.

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

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

(c) REORGANIZATION PLANS.—903(a) of title 5, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' after the semicolon;

(2) in paragraph (6), by striking the period and inserting ''; or''; and

(3) by inserting after paragraph (6) the following:

''(7) the creation of an agency.''.

(d) APPLICATION OF CHAPTER.—Chapter 9 of title 5, United States Code, is amended by adding at the end the following:

**''§ 913. Application of chapter**

''This chapter shall apply to any reorganization plan transmitted to Congress in accordance with section 903(b) on or after the date of enactment of this section.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 9 of title 5, United States Code, is amended by adding after the item relating to section 912 the following:

''913. Application of chapter.''.

(2) REFERENCES.—Chapter 9 of title 5, United States Code, is amended—

(A) in section 908(1), by striking ''on or before December 31, 1984''; and (B) in section 910, by striking ''Government Operations'' each place it appears and inserting ''Government Reform''.

(3) DATE MODIFICATION.—Section 909 of title 5, United States Code, is amended in the first sentence by striking ''19'' and inserting ''20''.

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

**SEC. 5025. RESPONSIBILITIES OF COUNTERNARCOTICS OFFICE.**

(a) AMENDMENT.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended to read as follows:

**''SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.**

''(a) OFFICE.—There shall be in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate.

''(b) ASSIGNMENT OF PERSONNEL.—(1) The Secretary shall assign to the Office permanent staff and other appropriate personnel detailed from other subdivisions of the Department to carry out responsibilities under this section.

''(2) The Secretary shall designate senior employees from each appropriate subdivision of the Department that has significant counternarcotics responsibilities to act as a liaison between that subdivision and the Office of Counternarcotics Enforcement.

''(c) LIMITATION ON CONCURRENT EMPLOYMENT.—Except as provided in subsection (d), the Director of the Office of Counternarcotics Enforcement shall not be employed by, assigned to, or serve as the head of, any other branch of the Federal Government, any State or local government, or any subdivision of the Department other than the Office of Counternarcotics Enforcement.

''(d) ELIGIBILITY TO SERVE AS THE UNITED STATES INTERDICTION COORDINATOR.—The Director of the Office of Counternarcotics Enforcement may be appointed as the United States Interdiction Coordinator by the Director of the Office of National Drug Control Policy, and shall be the only person at the Department eligible to be so appointed.

''(e) RESPONSIBILITIES.—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

''(1) to coordinate policy and operations within the Department, between the Department and other Federal departments and agencies, and between the Department and State and local agencies with respect to stopping the entry of illegal drugs into the United States;

''(2) to ensure the adequacy of resources within the Department for stopping the entry of illegal drugs into the United States;

''(3) to recommend the appropriate financial and personnel resources necessary to help the Department better fulfill its responsibility to stop the entry of illegal drugs into the United States;

''(4) within the Joint Terrorism Task Force construct to track and sever connections between illegal drug trafficking and terrorism; and

''(5) to be a representative of the Department on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of the Department and other Federal, state or local agencies.

''(f) REPORTS TO CONGRESS.—

''(1) ANNUAL BUDGET REVIEW.—The Director of the Office of Counternarcotics Enforcement shall, not later than 30 days after the submission by the President to Congress of any request for expenditures for the Department, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of such request. The review and evaluation shall—

''(A) identify any request or subpart of any request that affects or may affect the counternarcotics activities of the Department or any of its subdivisions, or that affects the ability of the Department or any subdivision of the Department to meet its responsibility to stop the entry of illegal drugs into the United States;

''(B) describe with particularity how such requested funds would be or could be expended in furtherance of counternarcotics activities; and

''(C) compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year.

''(2) EVALUATION OF COUNTERNARCOTICS ACTIVITIES.—The Director of the Office of Counternarcotics Enforcement shall, not later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year. The review and evaluation shall—

''(A) describe the counternarcotics activities of the Department and each subdivision of the Department (whether individually or in cooperation with other subdivisions of the Department, or in cooperation with other branches of the Federal Government or with State or local agencies), including the methods, procedures, and systems (including computer systems) for collecting, analyzing, sharing, and disseminating information concerning narcotics activity within the Department and between the Department and other Federal, State, and local agencies;

''(B) describe the results of those activities, using quantifiable data whenever possible;

''(C) state whether those activities were sufficient to meet the responsibility of the Department to stop the entry of illegal drugs into the United States, including a description of the performance measures of effectiveness that were used in making that determination; and

''(D) recommend, where appropriate, changes to those activities to improve the performance of the Department in meeting its responsibility to stop the entry of illegal drugs into the United States.

''(3) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of a review and evaluation described in the reports required in this subsection that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to Congress separately from the rest of the review and evaluation.''.

(b) CONFORMING AMENDMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

''(8) A Director of the Office of Counternarcotics Enforcement.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts appropriated for the Department of Homeland Security for Departmental management and operations for fiscal year 2005, there is authorized up to $6,000,000 to carry out section 878 of the Department of Homeland Security Act of 2002 (as amended by this section).

**SEC. 5026. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.**

(a) IN GENERAL.—Subtitle E of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 411 and following) is amended by adding at the end the following:

**''SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.**

''(a) IN GENERAL.—Each subdivision of the Department that is a National Drug Control Program Agency shall include as one of the criteria in its performance appraisal system, for each employee directly or indirectly involved in the enforcement of Federal, State, or local narcotics laws, the performance of that employee with respect to the enforcement of Federal, State, or local narcotics laws, relying to the greatest extent practicable on objective performance measures, including—

''(1) the contribution of that employee to seizures of narcotics and arrests of violators of Federal, State, or local narcotics laws; and

''(2) the degree to which that employee cooperated with or contributed to the efforts of other employees, either within the Department or other Federal, State, or local agencies, in counternarcotics enforcement.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'National Drug Control Program Agency' means—

''(A) a National Drug Control Program Agency, as defined in section 702(7) of the Office of National Drug Control Policy Reauthorization Act of 1998 (as last in effect); and

''(B) any subdivision of the Department that has a significant counternarcotics responsibility, as determined by—

''(i) the counternarcotics officer, appointed under section 878; or

''(ii) if applicable, the counternarcotics officer's successor in function (as determined by the Secretary); and

''(2) the term 'performance appraisal system' means a system under which periodic appraisals of job performance of employees are made, whether under chapter 43 of title 5, United States Code, or otherwise.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 is amended by inserting after the item relating to section 842 the following:

''Sec. 843. Use of counternarcotics enforcement activities in certain employee performance appraisals.''.

**SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES ON ADDRESSING HOMELAND SECURITY FOR THE AMERICAN PEOPLE.**

(a) FINDINGS.—The House of Representatives finds that—

(1) the House of Representatives created a Select Committee on Homeland Security at the start of the 108th Congress to provide for vigorous congressional oversight for the implementation and operation of the Department of Homeland Security;

(2) the House of Representatives also charged the Select Committee on Homeland Security with undertaking a thorough and complete study of the operation and implementation of the rules of the House, including the rule governing committee jurisdiction, with respect to the issue of homeland security and to make its recommendations to the Committee on Rules;

(3) on February 11, 2003, the Committee on Appropriations of the House of Representatives created a new Subcommittee on Homeland Security with jurisdiction over the Transportation Security Administration, the Coast Guard, and other entities within the Department of Homeland Security to help address the integration of the Department of Homeland Security's 22 legacy agencies; and

(4) during the 108th Congress, the House of Representatives has taken several steps to help ensure its continuity in the event of a terrorist attack, including—

(A) adopting H.R. 2844, the Continuity of Representation Act, a bill to require States to hold expedited special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker in extraordinary circumstances;

(B) granting authority for joint-leadership recalls from a period of adjournment to an alternate place;

(C) allowing for anticipatory consent with the Senate to assemble in an alternate place;

(D) establishing the requirement that the Speaker submit to the Clerk a list of Members in the order in which each shall act as Speaker pro tempore in the case of a vacancy in the Office of Speaker (including physical inability of the Speaker to discharge his duties) until the election of a Speaker or a Speaker pro tempore, exercising such authorities of the Speaker as may be necessary and appropriate to that end;

(E) granting authority for the Speaker to declare an emergency recess of the House subject to the call of the Chair when notified of an imminent threat to the safety of the House;

(F) granting authority for the Speaker, during any recess or adjournment of not more than three days, in consultation with the Minority Leader, to postpone the time for reconvening or to reconvene before the time previously appointed solely to declare the House in recess, in each case within the constitutional three-day limit;

(G) establishing the authority for the Speaker to convene the House in an alternate place within the seat of Government; and

(H) codifying the long-standing practice that the death, resignation, expulsion, disqualification, or removal of a Member results in an adjustment of the quorum of the House, which the Speaker shall announce to the House and which shall not be subject to appeal.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that the Committee on Rules should act upon the recommendations provided by the Select Committee on Homeland Security, and other committees of existing jurisdiction, regarding the jurisdiction over proposed legislation, messages, petitions, memorials and other matters relating to homeland security prior to or at the start of the 109th Congress.

**SEC. 5028. ASSISTANT SECRETARY FOR CYBERSECURITY.**

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 USC 121 et. seq.) is amended by adding at the end the following:

**"SEC. 203. ASSISTANT SECRETARY FOR CYBERSERCURITY.**

''(a) IN GENERAL.—There shall be in the Department an Assistant Secretary for Cybersecurity, who shall be appointed by the President.

''(b) RESPONSIBILITIES.—The Assistant Secretary for Cybersecurity shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this subtitle.

''(c) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 202 the following:

''203. Assistant Secretary for Cybersecurity.''.

**Subtitle D—Improvements to Information Security**

**SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.**

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting ''security,'' after ''use,'';

(2) in section 11302(c), by inserting '', including information security risks,'' after ''risks'' both places it appears;

(3) in section 11312(b)(1), by striking ''information technology investments'' and inserting ''investments in information technology (including information security needs)''; and

(4) in section 11315(b)(2), by inserting '', secure,'' after ''sound''.

**Subtitle E—Personnel Management Improvements**

**CHAPTER 1—APPOINTMENTS PROCESS REFORM**

**SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSITIONS.**

(a) DEFINITION OF NATIONAL SECURITY POSITION.—For purposes of this section, the term ''national security position'' shall include—

(1) those positions that involve activities of the United States Government that are concerned with the protection of the Nation from foreign aggression, terrorism, or espionage, including development of defense plans or policies, intelligence or counterintelligence activities, and related activities concerned with the preservation of military strength of the United States and protection of the homeland; and

(2) positions that require regular use of, or access to, classified information.

(b) PUBLICATION IN THE FEDERAL REGISTER.—Not later than 60 days after the effective date of this section, the Director of the Office of Personnel Management shall publish in the Federal Register a list of offices that constitute national security positions under section (a) for which Senate confirmation is required by law, and the Director shall revise such list from time to time as appropriate.

(c) PRESIDENTIAL APPOINTMENTS.—(1) With respect to appointment of individuals to offices identified under section (b) and listed in sections 5315 or 5316 of title 5, United States Code, which shall arise after the publication of the list required by section (b), and notwithstanding any other provision of law, the advice and consent of the Senate shall not be required, but rather such appointment shall be made by the President alone.

(2) With respect to appointment of individuals to offices identified under section (b) and listed in sections 5313 or 5314 of title 5, United States Code, which shall arise after the publication of the list required by section (b), and notwithstanding any other provision of law, the advice and consent of the Senate shall be required, except that if 30 legislative days shall have expired from the date on which a nomination is submitted to the Senate without a confirmation vote occurring in the Senate, such appointment shall be made by the President alone.

(3) For the purposes of this subsection, the term ''legislative day'' means a day on which the Senate is in session.

**SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.**

Subsections (a) and (b) of section 3349a of title 5, United States Code, are amended to read as follows:

''(a) As used in this section—

''(1) the term 'inauguration day' means the date on which any person swears or affirms the oath of office as President; and

''(2) the term 'specified national security position' shall mean not more than 20 positions requiring Senate confirmation, not to include more than 3 heads of Executive Departments, which are designated by the President on or after an inauguration day as positions for which the duties involve substantial responsibility for national security.

''(b) With respect to any vacancy that exists during the 60-day period beginning on an inauguration day, except where the person swearing or affirming the oath of office was the President on the date preceding the date of swearing or affirming such oath of office, the 210-day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

''(1) 90 days after such transitional inauguration day; or

''(2) 90 days after the date on which the vacancy occurs.

''(c) With respect to any vacancy in any specified national security position that exists during the 60-day period beginning on an inauguration day, the requirements of subparagraphs (A) and (B) of section 3345(a)(3) shall not apply.''.

**SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting before title IV the following:

**"TITLE III—INTELLIGENCE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS**

**"SEC. 301. PERSONS REQUIRED TO FILE.**

''(a) Within 30 days of assuming the position of an officer or employee described in subsection (e), an individual shall file a report containing the information described in section 302(b) unless the individual has left another position described in subsection (e) within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

''(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 302(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 302(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

''(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

''(c) Any individual who is an officer or employee described in subsection (e) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 302(a).

''(d) Any individual who occupies a position described in subsection (e) shall, on or before the 30th day after termination of employment in such position, file a report containing the information described in section 302(a) covering the preceding calendar year if the report required by subsection (c) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (e) or section 101(f).

''(e) The officers and employees referred to in subsections (a), (c), and (d) are those officers and employees who—

''(1) are employed in or under—

''(A) the Office of the National Intelligence Director; or

''(B) an element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

''(2) would (but for this subsection) otherwise be subject to title I by virtue of paragraph (3) of section 101(f), including—

''(A) any special Government employee and any member of a uniformed service who is described in such paragraph; and

''(B) any officer or employee in any position with respect to which the Director of the Office of Government Ethics makes a determination described in such paragraph.

''(f)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

''(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for

purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

''(i) the last day of the individual's service in such area during such designated period; or

''(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

''(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

''(g) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this title with respect to an individual if the Director determines that—

''(1) such individual is not a full-time employee of the Government;

''(2) such individual is able to provide special services needed by the Government;

''(3) it is unlikely that such individual's outside employment or financial interests will create a conflict of interest;

''(4) such individual is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year; and

''(5) public financial disclosure by such individual is not necessary in the circumstances.

**''SEC. 302. CONTENTS OF REPORTS.**

''(a) Each report filed pursuant to section 301 (c) and (d) shall include a full and complete statement with respect to the following:

''(1)(A) The source, description, and category of amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than $500 in amount or value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

''(B) The source, description, and category of amount or value of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $500 in amount or value.

''(C) The categories for reporting the amount or value of income covered in subparagraphs (A) and (B) are—

''(i) greater than $500 but not more than $20,000;

''(ii) greater than $20,000 but not more than $100,000;

''(iii) greater than $100,000 but not more than $1,000,000;

''(iv) greater than $1,000,000 but not more than $2,500,000; and

''(v) greater than $2,500,000.

''(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

''(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

''(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

''(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating $100,000 or less in a financial institution, or any Federal Government securities aggregating $100,000 or less.

''(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $20,000 at any time during the preceding calendar year, excluding—

''(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

''(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $20,000 as of the close of the preceding calendar year need be reported under this paragraph.

''(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, and stocks, bonds, commodities futures, and other forms of securities, if—

''(A) purchased, sold, or exchanged during the preceding calendar year;

''(B) the value of the transaction exceeded $5,000; and

''(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3).

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

''(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States Government. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

''(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of $25,000 in the calendar year in which, or the calendar year prior to the calendar year in which, the individual files his first report under this title, the individual shall include in the report—

''(i) the identity of each source of such compensation; and

''(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

''(C) Subparagraph (B) shall not require any individual to include in such report any information—

''(i) with respect to a person for whom services were provided by any firm or association of which such individual was a member, partner, or employee, unless the individual was directly involved in the provision of such services;

''(ii) that is protected by a court order or is under seal; or

''(iii) that is considered confidential as a result of—

''(I) a privileged relationship established by a confidentiality agreement entered into at the time the person retained the services of the individual;

''(II) a grand jury proceeding or a nonpublic investigation, if there are no public filings, statements, appearances, or reports that identify the person for whom such individual is providing services; or

''(III) an applicable rule of professional conduct that prohibits disclosure of the information and that can be enforced by a professional licensing body.

''(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date of that agreement.

''(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

''(b)(1) Each report filed pursuant to subsections (a) and (b) of section 301 shall include a full and complete statement with respect to the information required by—

''(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

''(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

''(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

''(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director of the Office of Government Ethics for a reporting individual.

''(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

''(c) In the case of any individual described in section 301(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

''(d)(1) The categories for reporting the amount or value of the items covered in subsection (a)(3) are—

''(A) greater than $5,000 but not more than $15,000;

''(B) greater than $15,000 but not more than $25,000;

''(C) greater than $25,000 but not more than $100,000;

''(D) greater than $100,000 but not more than $1,000,000;

''(E) greater than $1,000,000 but not more than $2,500,000; and

''(F) greater than $2,500,000.

''(2) For the purposes of subsection (a)(3) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1). If the current value of any other item required to be reported under subsection (a)(3) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

''(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—

''(A) greater than $20,000 but not more than $100,000;

''(B) greater than $100,000 but not more than $500,000;

''(C) greater than $500,000 but not more than $1,000,000; and

''(D) greater than $1,000,000.

''(e)(1) Except as provided in subparagraph (F), each report required by section 301 shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individual as follows:

''(A) The sources of earned income earned by a spouse, including honoraria, which exceed $500, except that, with respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

''(B) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.

''(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

''(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

''(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) are ones from which he neither derives, nor expects to derive, any financial or economic benefit.

''(F) Reports required by subsections (a), (b), and (c) of section 301 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a).

''(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation, or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

''(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

''(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

''(A) any qualified blind trust (as defined in paragraph (3));

''(B) a trust—

''(i) which was not created directly by such individual, his spouse, or any dependent child, and

''(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge; or

''(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B).

''(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

''(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

''(I) is independent of and not affiliated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

''(I) is independent of and not affiliated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

''(C) The trust instrument which establishes the trust provides that—

''(i) except to the extent provided in subparagraph (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

''(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

''(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

''(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

''(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

''(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

''(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

''(D) The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.

''(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

''(4)(A) An asset placed in a trust by an interested party shall be considered a financial

interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

''(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

''(I) the assets placed in the trust consist of a widely-diversified portfolio of readily marketable securities;

''(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

''(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv), from making public or informing any interested party of the sale of any securities;

''(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v), to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

''(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

''(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

''(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

''(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

''(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d).

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7).

''(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d).

''(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall (i) notify the Office of Government Ethics of such dissolution, and (ii) file with such Office and his designated agency ethics official a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (c) of each such asset.

''(D) Documents filed under subparagraphs (A), (B), and (C) and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 305 and the provisions of that section shall apply with respect to such documents and lists.

''(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

''(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3); (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) or the trust agreement; or (iv) fail to file any document required by this subsection.

''(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) or (ii) fail to file any document required by this subsection.

''(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B). The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $11,000.

''(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B). The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,500.

''(7) Any trust may be considered to be a qualified blind trust if—

''(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;paragraph;

''(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d), are filed with such office and made available to the public as provided under paragraph (5)(D); and

''(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

''(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

''(A)(i) the fund is publicly traded; or

''(ii) the assets of the fund are widely diversified; and

''(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

''(9)(A) A reporting individual described in subsection (a), (b), or (c) of section 301 shall not be required to report the assets or sources of income of any publicly available investment fund if—

''(i) the identity of such assets and sources of income is not provided to investors;

''(ii) the reporting individual neither exercises control over nor has the ability to exercise control over the fund; and

''(iii) the reporting individual—

''(I) does not otherwise have knowledge of the individual assets of the fund and provides written certification by the fund manager that individual assets of the fund are not disclosed to investors; or

''(II) has executed a written ethics agreement that contains a commitment to divest the interest in the investment fund no later than 90 days after the date of the agreement. The reporting individual shall file the written certification by the fund manager as an attachment to the report filed pursuant to section 301.

''(B) The provisions of subparagraph (A) shall apply to an individual described in subsection (d) or (e) of section 301 if—

''(i) the interest in the trust or investment fund is acquired, during the period to be covered by the report, involuntarily (such as through inheritance) or as a legal incident of marriage; and

''(ii) for an individual described in subsection (d), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date the report is due.

Failure to divest within the time specified or within an extension period granted by the supervising ethics office for good cause shown shall result in an immediate requirement to report as specified in paragraph (1).

''(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

''(h) A report filed pursuant to subsection (a), (c), or (d) of section 301 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

''(i) A reporting individual shall not be required under this title to report—

''(1) financial interests in or income derived from—

''(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

''(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

''(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

**"SEC. 303. FILING OF REPORTS.**

''(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 301(d), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

''(b) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

''(c) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

**''SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

''(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 302. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $11,000, order the individual to file or report any information required by section 302, or both.

''(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual which such official has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

''(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

''(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

''(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

''(B) if a filing extension is granted to such individual under section 301(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of $500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

''(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

**''SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

''Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be made available to the public (in the same manner as described in section 105) and retained by such agency or Office, as the case may be, for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed 1 year after the individual is no longer under consideration by the Senate, unless needed in an ongoing investigation.

**''SEC. 306. REVIEW OF REPORTS.**

''(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

''(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

''(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

''(A) believes additional information is required to be submitted to complete the report or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

''(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

''(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

''(A) divestiture,

''(B) restitution,

''(C) the establishment of a blind trust,

''(D) request for an exemption under section 208(b) of title 18, United States Code, or

''(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

''(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch, appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

''(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

''(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action.

''(7) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

**''SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.**

''(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency listed in section 301(e) shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 301 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Section 305 shall not apply with respect to any such report.

''(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

''(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

''(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

''(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

**''SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.**

''The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

**''SEC. 309. DEFINITIONS.**

''For the purposes of this title—

''(1) the term 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

''(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

''(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

''(2) the term 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

''(3) the term 'executive branch' includes—

''(A) each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office; and

''(B) any other entity or administrative unit in the executive branch;

''(4) the term 'gift' means a payment, advance, forbearance, rendering, or deposit of

money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

''(A) bequests and other forms of inheritance;

''(B) suitable mementos of a function honoring the reporting individual;

''(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

''(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

''(F) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.

''(5) the term 'honorarium' means a payment of money or anything of value for an appearance, speech, or article;

''(6) the term 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

''(7) the term 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

''(8) the term 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

''(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

''(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

''(9) the term 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiancé or fiancée of the reporting individual;

''(10) the term 'Secretary concerned' has the meaning set forth in section 101(a)(9) of title 10, United States Code; and

''(11) the term 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

**''SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.**

''(a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.

''(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the Office of Government Ethics not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

**''SEC. 311. ADMINISTRATION OF PROVISIONS.**

''The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.''.

(b) EXEMPTION FROM PUBLIC ACCESS TO FINANCIAL DISCLOSURES.—Section 105(a)(1) of such Act is amended by inserting ''the Office of the National Intelligence Director,'' before ''the Central Intelligence Agency''.

(c) CONFORMING AMENDMENT.—Section 101(f) of such Act is amended—

(1) in paragraph (12), by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following:

''but do not include any officer or employee of any department or agency listed in section 301(e).''.

**SEC. 5044. REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.**

(a) DEFINITION.—In this section, the term ''agency'' means an Executive agency, as defined under section 105 of title 5, United States Code.

(b) REDUCTION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate; and

(C) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The plan under this subsection shall provide for the reduction of—

(A) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(B) the number of levels of such positions within that agency.

**SEC. 5045. EFFECTIVE DATES.**

(a) SECTION 5043.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 5043 shall take effect on January 1 of the year following the year in which occurs the date of enactment of this Act.

(2) LATER DATE.—If this Act is enacted on or after July 1 of a year, the amendments made by section 301 shall take effect on July 1 of the following year.

(b) SECTION 5044.—Section 5044 shall take effect on the date of enactment of this Act.

## CHAPTER 2—FEDERAL BUREAU OF INVESTIGATION REVITALIZATION

**SEC. 5051. MANDATORY SEPARATION AGE.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code, is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)''; and

(2) by adding at the end the following:

''(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The authority to grant exemptions in accordance with the preceding sentence shall cease to be available after December 31, 2009.''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)''; and

(2) by adding at the end the following:

''(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The authority to grant exemptions in accordance with the preceding sentence shall cease to be available after December 31, 2009.''.

**SEC. 5052. RETENTION AND RELOCATION BONUSES.**

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

**''§ 5759. Retention and relocation bonuses for the Federal Bureau of Investigation**

''(a) AUTHORITY.—The Director of the Federal Bureau of Investigation, after consultation with the Director of the Office of Personnel Management, may pay, on a case-by-case basis, a bonus under this section to an employee of the Bureau if—

''(1)(A) the unusually high or unique qualifications of the employee or a special need of the Bureau for the employee's services makes it essential to retain the employee; and

''(B) the Director of the Federal Bureau of Investigation determines that, in the absence of such a bonus, the employee would be likely to leave—

''(i) the Federal service; or

''(ii) for a different position in the Federal service; or

''(2) the individual is transferred to a different geographic area with a higher cost of living (as determined by the Director of the Federal Bureau of Investigation).

''(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Bureau to complete a period of service, not to exceed 4 years, with the Bureau. Such agreement shall include—

''(1) the period of service the individual shall be required to complete in return for the bonus; and

''(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

''(c) LIMITATIONS ON AUTHORITY.—A bonus paid under this section—

''(1) shall not exceed 50 percent of the annual rate of basic pay of the employee as of the beginning of the period of service (established under subsection (b)) multiplied by the number of years (including a fractional part of a year) in the required period of service of the employee involved, but shall in no event exceed 100 percent of the annual rate of basic pay of the employee as of the beginning of the service period; and

''(2) may not be paid to an individual who is appointed to or who holds a position—

''(A) to which an individual is appointed by the President, by and with the advice and consent of the Senate; or

''(B) in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)).

''(d) IMPACT ON BASIC PAY.—A retention bonus is not part of the basic pay of an employee for any purpose.

''(e) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this section shall cease to be available after December 31, 2009.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 57 of title 5, United States Code, is amended by adding at the end the following:

''5759. Retention and relocation bonuses for the Federal Bureau of Investigation.''.

**SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE SERVICE.**

(a) IN GENERAL.—Chapter 35 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

**''§ 3598. Federal Bureau of Investigation Reserve Service**

''(a) ESTABLISHMENT.—The Director of the Federal Bureau of Investigation may provide for the establishment and training of a Federal Bureau of Investigation Reserve Service (hereinafter in this section referred to as the 'FBI Reserve Service') for temporary reemployment of employees in the Bureau during periods of emergency, as determined by the Director.

''(b) MEMBERSHIP.—Membership in the FBI Reserve Service shall be limited to individuals who previously served as full-time employees of the Bureau.

''(c) ANNUITANTS.—If an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby. An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84.

''(d) NO IMPACT ON BUREAU PERSONNEL CEILING.—FBI Reserve Service members reemployed on a temporary basis pursuant to this section shall not count against any personnel ceiling applicable to the Bureau.

''(e) EXPENSES.—The Director may provide members of the FBI Reserve Service transportation and per diem in lieu of subsistence, in accordance with applicable provisions of this title, for the purpose of participating in any training that relates to service as a member of the FBI Reserve Service.

''(f) LIMITATION ON MEMBERSHIP.—Membership of the FBI Reserve Service is not to exceed 500 members at any given time.

''(g) LIMITATION ON DURATION OF SERVICE.—An individual may not be reemployed under this section for more than 180 days in connection with any particular emergency unless, in the judgment of the Director, the public interest so requires.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 35 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII--RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

''3598. Federal Bureau of Investigation Reserve Service.''.

**SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE DIRECTORATE.**

Section 5377(a)(2) of title 5, United States Code, is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(3) by inserting after subparagraph (F) the following:

''(G) a position at the Federal Bureau of Investigation, the primary duties and responsibilities of which relate to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).''.

CHAPTER 3—REPORTING REQUIREMENT

**SEC. 5061. REPORTING REQUIREMENT.**

The President shall, within 6 months after the date of enactment of this Act, submit to Congress a report that—

(1) evaluates the hiring policies of the Federal Government with respect to its foreign language needs and the war on terrorism, including an analysis of the personnel requirements at the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Homeland Security, the Department of State, the Department of Defense, and all other Federal agencies the President identifies as having responsibilities in the war on terrorism;

(2) describes with respect to each agency identified under paragraph (1) the Federal Government's current workforce capabilities with respect to its foreign language needs and the war on terrorism;

(3) summarizes for each agency identified under paragraph (1) any shortfall in the Federal Government's workforce capabilities relative to its foreign language needs with respect to the war on terrorism; and

(4) provides a specific plan to eliminate any shortfalls identified under paragraph (3) and a cost estimate, by agency, for eliminating those shortfalls.

**Subtitle F—Security Clearance Modernization**

**SEC. 5071. DEFINITIONS.**

In this subtitle:

(1) The term ''Director'' means the National Intelligence Director.

(2) The term ''agency'' means—

(A) an executive agency, as defined in section 105 of title 5, United States Code;

(B) a military department, as defined in section 102 of title 5, United States Code; and

(C) elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term ''authorized investigative agency'' means an agency authorized by law, regulation or direction of the Director to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(4) The term ''authorized adjudicative agency'' means an agency authorized by law, regulation or direction of the Director to determine eligibility for access to classified information in accordance with Executive Order 12968.

(5) The term ''highly sensitive program'' means—

(A) a government program designated as a Special Access Program (as defined by section 4.1(h) of Executive Order 12958); and

(B) a government program that applies restrictions required for—

(i) Restricted Data (as defined by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)); or

(ii) other information commonly referred to as ''Sensitive Compartmented Information''.

(6) The term ''current investigation file'' means, with respect to a security clearance, a file on an investigation or adjudication that has been conducted during—

(A) the 5-year period beginning on the date the security clearance was granted, in the case of a Top Secret Clearance, or the date access was granted to a highly sensitive program;

(B) the 10-year period beginning on the date the security clearance was granted in the case of a Secret Clearance; and

(C) the 15-year period beginning on the date the security clearance was granted in the case of a Confidential Clearance.

(7) The term ''personnel security investigation'' means any investigation required for the purpose of determining the eligibility of any military, civilian, or government contractor personnel to access classified information.

(8) The term ''periodic reinvestigations'' means—

(A) investigations conducted for the purpose of updating a previously completed background investigation—

(i) every five years in the case of a Top Secret Clearance or access to a highly sensitive program;

(ii) every 10 years in the case of a Secret Clearance; and

(iii) every 15 years in the case of a Confidential Clearance;

(B) on-going investigations to identify personnel security risks as they develop, pursuant to section 5075(c).

(9) The term ''appropriate committees of Congress'' means—

(A) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Judiciary, and Government Reform of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committees on Armed Services, Judiciary, and Governmental Affairs of the Senate.

**SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE PROGRAMS OVERSIGHT AND ADMINISTRATION.**

The Deputy National Intelligence Director for Community Management and Resources shall have responsibility for the following:

(1) Directing day-to-day oversight of investigations and adjudications for personnel security clearances and highly sensitive programs throughout the Federal Government.

(2) Developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of security clearances and determinations for access to highly sensitive programs, including the standardization of security questionnaires, financial disclosure requirements for security clearance applicants, and polygraph policies and procedures.

(3) Serving as the final authority to designate an authorized investigative agency or authorized adjudicative agency pursuant to section 5074(d).

(4) Ensuring reciprocal recognition of access to classified information among agencies, including acting as the final authority to arbitrate and resolve disputes involving the reciprocity of security clearances and access to highly sensitive programs.

(5) Ensuring, to the maximum extent practicable, that sufficient resources are available in each agency to achieve clearance and investigative program goals.

(6) Reviewing and coordinating the development of tools and techniques for enhancing the conduct of investigations and granting of clearances.

**SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND ACCESS DETERMINATIONS.**

(a) REQUIREMENT FOR RECIPROCITY.—(1) All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies.

(2) All security clearance background investigations initiated by an authorized investigative agency shall be transferable to any other authorized investigative agency.

(b) PROHIBITION ON ESTABLISHING ADDITIONAL.—(1) An authorized investigative agency or authorized adjudicative agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed requirements specified in Executive Orders establishing security requirements for access to classified information.

(2) Notwithstanding the paragraph (1), the Director may establish additional requirements as needed for national security purposes.

(c) PROHIBITION ON DUPLICATIVE INVESTIGATIONS.—An authorized investigative agency or authorized adjudicative agency may not conduct an investigation for purposes of determining whether to grant a security clearance to an individual where a current investigation or clearance of equal level already exists or has been granted by another authorized adjudicative agency.

**SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE.**

(a) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Personnel Management, in cooperation with the Director, shall establish, and begin operating and maintaining, an integrated, secure, national database into which appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or government contractor personnel shall be entered from all authorized investigative and adjudicative agencies.

(b) INTEGRATION.—The national database established under subsection (a) shall function to integrate information from existing Federal clearance tracking systems from other authorized investigative and adjudicative agencies into a single consolidated database.

(c) REQUIREMENT TO CHECK DATABASE.—Each authorized investigative or adjudicative agency shall check the national database established under subsection (a) to determine whether an individual the agency has identified as requiring a security clearance has already been granted or denied a security clearance, or has had a security clearance revoked, by any other authorized investigative or adjudicative agency.

(d) CERTIFICATION OF AUTHORIZED INVESTIGATIVE AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.—The Director shall evaluate the extent to which an agency is submitting information to, and requesting information from, the national database established under subsection (a) as part of a determination of whether to certify the agency as an authorized investigative agency or authorized adjudicative agency.

(e) EXCLUSION OF CERTAIN INTELLIGENCE OPERATIVES.—The Director may authorize an agency to withhold information about certain individuals from the database established under subsection (a) if the Director determines it is necessary for national security purposes.

(f) COMPLIANCE.—The Director shall establish a review procedure by which agencies can seek review of actions required under section 5073.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year for the implementation, maintenance and operation of the database established in subsection (a).

**SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEARANCE INVESTIGATIONS.**

(a) INVESTIGATIONS.—Not later than 12 months after the date of the enactment of this Act, each authorized investigative agency that conducts personnel security clearance investigations shall use, to the maximum extent practicable, available information technology and databases to expedite investigative processes and to verify standard information submitted as part of an application for a security clearance.

(b) INTERIM CLEARANCE.—If the application of an applicant for an interim clearance has been processed using the technology under subsection (a), the interim clearances for the applicant at the secret, top secret, and special access program levels may be granted before the completion of the appropriate investigation. Any request to process an interim clearance shall be given priority, and the authority granting the interim clearance shall ensure that final adjudication on the application is made within 90 days after the initial clearance is granted.

(c) ON-GOING MONITORING OF INDIVIDUALS WITH SECURITY CLEARANCES.—(1) Authorized investigative agencies and authorized adjudicative agencies shall establish procedures for the regular, ongoing verification of personnel with security clearances in effect for continued access to classified information. Such procedures shall include the use of available technology to detect, on a regularly recurring basis, any issues of concern that may arise involving such personnel and such access.

(2) Such regularly recurring verification may be used as a basis for terminating a security clearance or access and shall be used in periodic reinvestigations to address emerging threats and adverse events associated with individuals with security clearances in effect to the maximum extent practicable.

(3) If the Director certifies that the national security of the United States is not harmed by the discontinuation of periodic reinvestigations, the regularly recurring verification under this section may replace periodic reinvestigations.

**SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECURITY CLEARANCE PROCESS.**

(a) 60-DAY PERIOD FOR DETERMINATION ON CLEARANCES.—Each authorized adjudicative agency shall make a determination on an application for a personnel security clearance within 60 days after the date of receipt of the completed application for a security clearance by an authorized investigative agency. The 60-day period shall include—

(1) a period of not longer than 40 days to complete the investigative phase of the clearance review; and

(2) a period of not longer than 20 days to complete the adjudicative phase of the clearance review.

(b) EFFECTIVE DATE AND PHASE-IN.—

(1) EFFECTIVE DATE.—Subsection (a) shall take effect 5 years after the date of the enactment of this Act.

(2) PHASE-IN.—During the period beginning on a date not later than 2 years after the date of the enactment of this Act and ending on the date on which subsection (a) takes effect as specified in paragraph (1), each authorized adjudicative agency shall make a determination on an application for a personnel security clearance pursuant to this title within 120 days after the date of receipt of the application for a security clearance by an authorized investigative agency. The 120-day period shall include—

(A) a period of not longer than 90 days to complete the investigative phase of the clearance review; and

(B) a period of not longer than 30 days to complete the adjudicative phase of the clearance review.

**SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL TRANSITION.**

(a) CANDIDATES FOR NATIONAL SECURITY POSITIONS.—(1) The President-elect shall submit to the Director the names of candidates for high-level national security positions, for positions at the level of under secretary of executive departments and above, as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

(2) The Director shall be responsible for the expeditious completion of the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.

(b) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—(1) In this section, the term ''major party'' has the meaning provided under section 9002(6) of the Internal Revenue Code of 1986.

(2) Each major party candidate for President, except a candidate who is the incumbent President, shall submit, before the date of the general presidential election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general presidential election.

**SEC. 5078. REPORTS.**

Not later than February 15, 2006, and annually thereafter through 2016, the Director shall submit to the appropriate committees of Congress a report on the progress made during the preceding year toward meeting the requirements specified in this Act. The report shall include—

(1) the periods of time required by the authorized investigative agencies and authorized adjudicative agencies during the year covered by the report for conducting investigations, adjudicating cases, and granting clearances, from date of submission to ultimate disposition and notification to the subject and the subject's employer;

(2) a discussion of any impediments to the smooth and timely functioning of the implementation of this title; and

(3) such other information or recommendations as the Deputy Director deems appropriate.

**Subtitle G—Emergency Financial Preparedness**

**CHAPTER 1—EMERGENCY PREPAREDNESS FOR FISCAL AUTHORITIES**

**SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY OF THE TREASURY.**

Subsection (d) of section 306 of title 31, United States Code, is amended by inserting ''or employee'' after ''another officer''.

**SEC. 5082. TREASURY SUPPORT FOR FINANCIAL SERVICES INDUSTRY PREPAREDNESS AND RESPONSE.**

(a) CONGRESSIONAL FINDING.—The Congress finds that the Secretary of the Treasury—

(1) has successfully communicated and coordinated with the private-sector financial services industry about counter-terrorist financing activities and preparedness;

(2) has successfully reached out to State and local governments and regional public-private partnerships, such as ChicagoFIRST, that protect employees and critical infrastructure by enhancing communication and coordinating plans for disaster preparedness and business continuity; and

(3) has set an example for the Department of Homeland Security and other Federal agency partners, whose active participation is vital to the overall success of the activities described in paragraphs (1) and (2).

(b) FURTHER EDUCATION AND PREPARATION EFFORTS.—It is the sense of Congress that the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and other Federal agency partners, should—

(1) furnish sufficient personnel and technological and financial resources to foster the formation of public-private sector coalitions, similar to ChicagoFIRST, that, in collaboration with the Department of Treasury, the Department of Homeland Security, and other Federal agency partners, would educate consumers and employees of the financial services industry about domestic counter-terrorist financing activities, including—

(A) how the public and private sector organizations involved in counter-terrorist financing activities can help to combat terrorism and simultaneously protect and preserve the lives and civil liberties of consumers and employees of the financial services industry; and

(B) how consumers and employees of the financial services industry can assist the public and private sector organizations involved in counter-terrorist financing activities; and

(2) submit annual reports to the Congress on Federal efforts, in conjunction with public-private sector coalitions, to educate consumers and employees of the financial services industry about domestic counter-terrorist financing activities.

**CHAPTER 2—MARKET PREPAREDNESS**

**SEC. 5084. SHORT TITLE.**

This chapter may be cited as the ''Emergency Securities Response Act of 2004''.

**SEC. 5085. EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION.**

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)(2)) is amended to read as follows:

''(2) EMERGENCY.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

''(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

''(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

''(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of (I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such markets, or (II) the transmission or processing of securities transactions (other than transactions in exempted securities).

''(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), the Commission's action may not continue in effect for more than 30 business days, including extensions.

''(C) An order of the Commission under this paragraph (2) may be extended to continue in effect for more than 30 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 30 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i), (ii), or (iii) of subparagraph (A). In no event shall an order of the Commission under this paragraph (2) continue in effect for more than 90 calendar days.

''(D) If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

''(E) Notwithstanding the exclusion of exempted securities (and markets therein) from the Commission's authority under subparagraph (A), the Commission may use such authority to take action to alter, supplement, suspend, or impose requirements or restrictions with respect to clearing agencies for transactions in such exempted securities. In taking any action under this subparagraph, the Commission shall consult with and consider the views of the Secretary of the Treasury.''.

(b) CONSULTATION; DEFINITION OF EMERGENCY.—Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)) is further amended by striking paragraph (6) and inserting the following:

''(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and consider the views of the Secretary of the Treasury, Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission, unless such consultation is impracticable in light of the emergency.

''(7) DEFINITIONS.—

''(A) EMERGENCY.—For purposes of this subsection, the term 'emergency' means—

''(i) a major market disturbance characterized by or constituting—

''(I) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

''(II) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

''(ii) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

''(I) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

''(II) the transmission or processing of securities transactions.

''(B) SECURITIES LAWS.—Notwithstanding section 3(a)(47), for purposes of this subsection, the term 'securities laws' does not include the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.).''.

**SEC. 5086. PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.**

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–5) is amended by adding at the end the following new subsection:

''(h) EMERGENCY AUTHORITY.—The Secretary may by order take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary thereunder, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) of this title with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).''.

**SEC. 5087. JOINT REPORT ON IMPLEMENTATION OF FINANCIAL SYSTEM RESILIENCE RECOMMENDATIONS.**

(a) REPORT REQUIRED.—Not later than April 30, 2006, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission shall prepare and submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a joint report on the efforts of the private sector to implement the Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) examine the efforts to date of covered private sector financial services firms to implement enhanced business continuity plans;

(2) examine the extent to which the implementation of business continuity plans has been done in a geographically dispersed manner, including an analysis of the extent to which such firms have located their main and backup facilities in separate electrical networks, in different watersheds, in independent transportation systems, and using separate telecommunications centers;

(3) examine the need to cover more financial services entities than those covered by the Interagency Paper; and

(4) recommend legislative and regulatory changes that will—

(A) expedite the effective implementation of the Interagency Paper by all covered financial services entities; and

(B) maximize the effective implementation of business continuity planning by all participants in the financial services industry.

(c) CONFIDENTIALITY.—Any information provided to the Federal Reserve Board, the Comptroller of the Currency, or the Securities and Exchange Commission for the purposes of the preparation and submission of the report required by subsection (a) shall be treated as privileged and confidential. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(d) DEFINITION.—The Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System is the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

**SEC. 5088. PRIVATE SECTOR PREPAREDNESS.**

It is the sense of the Congress that the insurance industry and credit-rating agencies, where relevant, should carefully consider a company's compliance with standards for private sector disaster and emergency preparedness in assessing insurability and creditworthiness, to ensure that private sector investment in disaster and emergency preparedness is appropriately encouraged.

**SEC. 5089. REPORT ON PUBLIC/PRIVATE PARTNERSHIPS.**

Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

(1) information on the efforts the Department of the Treasury has made to encourage the formation of public/private partnerships to protect critical financial infrastructure and the type of support that the Department has provided to these partnerships; and

(2) recommendations for administrative or legislative action regarding these partnerships as the Secretary may determine to be appropriate.

**Subtitle H—Other Matters**

**Chapter 1—Privacy Matters**

**SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING TAKE INTO CONSIDERATION IMPACTS ON INDIVIDUAL PRIVACY.**

(a) SHORT TITLE.—This section may be cited as the ''Federal Agency Protection of Privacy Act of 2004''.

(b) IN GENERAL.—Title 5, United States Code, is amended by adding after section 553 the following new section:

**''§ 553a. Privacy impact assessment in rulemaking**

''(a) INITIAL PRIVACY IMPACT ASSESSMENT.—

''(1) IN GENERAL.—Whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for a proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare and make available for public comment an initial privacy impact assessment that describes the impact of the proposed rule on the privacy of individuals. Such assessment or a summary thereof shall be signed by the senior agency official with primary responsibility for privacy policy and be published in the Federal Register at the time of the publication of a general notice of proposed rulemaking for the rule.

''(2) CONTENTS.—Each initial privacy impact assessment required under this subsection shall contain the following:

''(A) A description and analysis of the extent to which the proposed rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

''(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

''(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

''(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

''(iv) provides security for such information.

''(B) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant privacy impact of the proposed rule on individuals.

''(b) FINAL PRIVACY IMPACT ASSESSMENT.—

''(1) IN GENERAL.—Whenever an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare a final privacy impact assessment, signed by the senior agency official with primary responsibility for privacy policy.

''(2) CONTENTS.—Each final privacy impact assessment required under this subsection shall contain the following:

''(A) A description and analysis of the extent to which the final rule will impact the privacy interests of individuals, including the extent to which such rule—

''(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

''(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

''(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

''(iv) provides security for such information.

''(B) A summary of any significant issues raised by the public comments in response to the initial privacy impact assessment, a summary of the analysis of the agency of such issues, and a statement of any changes made in such rule as a result of such issues.

''(C) A description of the steps the agency has taken to minimize the significant privacy impact on individuals consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the privacy interests of individuals was rejected.

''(3) AVAILABILITY TO PUBLIC.—The agency shall make copies of the final privacy impact assessment available to members of the public and shall publish in the Federal Register such assessment or a summary thereof.

''(c) WAIVERS.—

''(1) EMERGENCIES.—An agency head may waive or delay the completion of some or all of the requirements of subsections (a) and (b) to the same extent as the agency head may, under section 608, waive or delay the completion of some or all of the requirements of sections 603 and 604, respectively.

''(2) NATIONAL SECURITY.—An agency head may, for national security reasons, or to protect from disclosure classified information, confidential commercial information, or information the disclosure of which may adversely affect a law enforcement effort, waive or delay the completion of some or all of the following requirements:

''(A) The requirement of subsection (a)(1) to make an assessment available for public comment.

''(B) The requirement of subsection (a)(1) to have an assessment or summary thereof published in the Federal Register.

''(C) The requirements of subsection (b)(3).

''(d) PROCEDURES FOR GATHERING COMMENTS.—When any rule is promulgated which may have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that individuals have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

''(1) the inclusion in an advance notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals;

''(2) the publication of a general notice of proposed rulemaking in publications of national circulation likely to be obtained by individuals;

''(3) the direct notification of interested individuals;

''(4) the conduct of open conferences or public hearings concerning the rule for individuals, including soliciting and receiving comments over computer networks; and

''(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by individuals.

''(e) PERIODIC REVIEW OF RULES.—

''(1) IN GENERAL.—Each agency shall carry out a periodic review of the rules promulgated by the agency that have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals. Under such periodic review, the agency shall determine, for each such rule, whether the rule can be amended or rescinded in a manner that minimizes any such impact while remaining in accordance with applicable statutes. For each such determination, the agency shall consider the following factors:

''(A) The continued need for the rule.

''(B) The nature of complaints or comments received from the public concerning the rule.

''(C) The complexity of the rule.

''(D) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules.

''(E) The length of time since the rule was last reviewed under this subsection.

''(F) The degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since the rule was last reviewed under this subsection.

''(2) PLAN REQUIRED.—Each agency shall carry out the periodic review required by paragraph (1) in accordance with a plan published by such agency in the Federal Register. Each such plan shall provide for the review under this subsection of each rule promulgated by the agency not later than 10 years after the date on which such rule was published as the final rule and, thereafter, not later than 10 years after the date on which such rule was last reviewed under this subsection. The agency may amend such plan at any time by publishing the revision in the Federal Register.

''(3) ANNUAL PUBLICATION.—Each year, each agency shall publish in the Federal Register a list of the rules to be reviewed by such agency under this subsection during the following year. The list shall include a brief description of each such rule and the need for and legal basis of such rule and shall invite public comment upon the determination to

be made under this subsection with respect to such rule.

''(f) JUDICIAL REVIEW.—

''(1) IN GENERAL.—For any rule subject to this section, an individual who is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

''(2) JURISDICTION.—Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

''(3) LIMITATIONS.—

''(A) An individual may seek such review during the period beginning on the date of final agency action and ending 1 year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, such lesser period shall apply to an action for judicial review under this subsection.

''(B) In the case where an agency delays the issuance of a final privacy impact assessment pursuant to subsection (c), an action for judicial review under this section shall be filed not later than—

''(i) 1 year after the date the assessment is made available to the public; or

''(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the assessment is made available to the public.

''(4) RELIEF.—In granting any relief in an action under this subsection, the court shall order the agency to take corrective action consistent with this section and chapter 7, including, but not limited to—

''(A) remanding the rule to the agency; and

''(B) deferring the enforcement of the rule against individuals, unless the court finds that continued enforcement of the rule is in the public interest.

''(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this subsection.

''(6) RECORD OF AGENCY ACTION.—In an action for the judicial review of a rule, the privacy impact assessment for such rule, including an assessment prepared or corrected pursuant to paragraph (4), shall constitute part of the entire record of agency action in connection with such review.

''(7) EXCLUSIVITY.—Compliance or noncompliance by an agency with the provisions of this section shall be subject to judicial review only in accordance with this subsection.

''(8) SAVINGS CLAUSE.—Nothing in this subsection bars judicial review of any other impact statement or similar assessment required by any other law if judicial review of such statement or assessment is otherwise permitted by law.

''(g) DEFINITION.—For purposes of this section, the term 'personally identifiable information' means information that can be used to identify an individual, including such individual's name, address, telephone number, photograph, social security number or other identifying information. It includes information about such individual's medical or financial condition.''.

(c) PERIODIC REVIEW TRANSITION PROVISIONS.—

(1) INITIAL PLAN.—For each agency, the plan required by subsection (e) of section 553a of title 5, United States Code (as added by subsection (a)), shall be published not later than 180 days after the date of the enactment of this Act.

(2) In the case of a rule promulgated by an agency before the date of the enactment of this Act, such plan shall provide for the periodic review of such rule before the expiration of the 10-year period beginning on the date of the enactment of this Act. For any such rule, the head of the agency may provide for a 1-year extension of such period if the head of the agency, before the expiration of the period, certifies in a statement published in the Federal Register that reviewing such rule before the expiration of the period is not feasible. The head of the agency may provide for additional 1-year extensions of the period pursuant to the preceding sentence, but in no event may the period exceed 15 years.

(d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B) of title 5, United States Code, is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

''(iii) the agency's actions relevant to section 553a;''.

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding after the item relating to section 553 the following new item:

553a. Privacy impact assessment in rulemaking.''.

**SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH LAW ENFORCEMENT OR ANTI-TERRORISM FUNCTIONS.**

(a) IN GENERAL.—There shall be within each Federal agency with law enforcement or anti-terrorism functions a chief privacy officer, who shall have primary responsibility within that agency for privacy policy. The agency chief privacy officer shall be designated by the head of the agency.

(b) RESPONSIBILITIES.—The responsibilities of each agency chief privacy officer shall include—

(1) ensuring that the use of technologies sustains, and does not erode, privacy protections relating to the use, collection, and disclosure of personally identifiable information;

(2) ensuring that personally identifiable information contained in systems of records is handled in full compliance with fair information practices as set out in section 552a of title 5, United States Code;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personally identifiable information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the agency on the privacy of personally identifiable information, including the type of personally identifiable information collected and the number of people affected;

(5) preparing and submitting a report to Congress on an annual basis on activities of the agency that affect privacy, including complaints of privacy violations, implementation of section 552a of title 5, United States Code, internal controls, and other relevant matters;

(6) ensuring that the agency protects personally identifiable information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentially, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

(C) availability, which means ensuring timely and reliable access to and use of that information; and

(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access; and

(7) advising the head of the agency and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems.

## CHAPTER 2—MUTUAL AID AND LITIGATION MANAGEMENT

**SEC. 5101. SHORT TITLE.**

This chapter may be cited as the ''Mutual Aid and Litigation Management Authorization Act of 2004''.

**SEC. 5102. MUTUAL AID AUTHORIZED.**

(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—

(1) IN GENERAL.—The authorized representative of a State, locality, or the Federal Government may enter into an interstate mutual aid agreement or a mutual aid agreement with the Federal Government on behalf of the State, locality, or Federal Government under which, at the request of any party to the agreement, the other party to the agreement may—

(A) provide law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event occurring in the jurisdiction of the requesting party;

(B) provide other services to prepare for, mitigate, manage, respond to, or recover from an emergency or public service event occurring in the jurisdiction of the requesting party; and

(C) participate in training events occurring in the jurisdiction of the requesting party.

(b) LIABILITY AND ACTIONS AT LAW.—

(1) LIABILITY.—A responding party or its officers or employees shall be liable on account of any act or omission occurring while providing assistance or participating in a training event in the jurisdiction of a requesting party under a mutual aid agreement (including any act or omission arising from the maintenance or use of any equipment, facilities, or supplies in connection therewith), but only to the extent permitted under and in accordance with the laws and procedures of the State of the responding party and subject to any litigation management agreement entered into pursuant to section 5103.

(2) JURISDICTION OF COURTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and any litigation management agreement entered into pursuant to section 5103, any action brought against a responding party or its officers or employees on account of an act or omission described in subsection (b)(1) may be brought only under the laws and procedures of the State of the responding party and only in the State courts or United States District Courts located therein.

(B) UNITED STATES AS PARTY.—If the United States is the party against whom an action described in paragraph (1) is brought, the action may be brought only in a United States District Court.

(c) WORKERS' COMPENSATION AND DEATH BENEFITS.—

(1) PAYMENT OF BENEFITS.—A responding party shall provide for the payment of workers' compensation and death benefits with respect to officers or employees of the party who sustain injuries or are killed while providing assistance or participating in a training event under a mutual aid agreement in the same manner and on the same terms as if the injury or death were sustained within the jurisdiction of the responding party.

(2) LIABILITY FOR BENEFITS.—No party shall be liable under the law of any State other than its own (or, in the case of the Federal Government, under any law other than Federal law) for the payment of workers' compensation and death benefits with respect to injured officers or employees of the party who sustain injuries or are killed while providing assistance or participating in a training event under a mutual aid agreement.

(d) LICENSES AND PERMITS.—Whenever any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills, such person will be deemed licensed, certified, or permitted by the requesting party to provide assistance involving such skill under a mutual aid agreement.

(e) SCOPE.—Except to the extent provided in this section, the rights and responsibilities of the parties to a mutual aid agreement shall be as described in the mutual aid agreement.

(f) EFFECT ON OTHER AGREEMENTS.—Nothing in this section precludes any party from entering into supplementary mutual aid agreements with fewer than all the parties, or with another, or affects any other agreements already in force among any parties to such an agreement, including the Emergency Management Assistance Compact (EMAC) under Public Law 104–321.

(g) FEDERAL GOVERNMENT.—Nothing in this section may be construed to limit any other expressed or implied authority of any entity of the Federal Government to enter into mutual aid agreements.

(h) CONSISTENCY WITH STATE LAW.—A party may enter into a mutual aid agreement under this chapter only insofar as the agreement is in accord with State law.

**SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

(a) AUTHORIZATION TO ENTER INTO LITIGATION MANAGEMENT AGREEMENTS.—The authorized representative of a State or locality may enter into a litigation management agreement on behalf of the State or locality. Such litigation management agreements may provide that all claims against such Emergency Response Providers arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from such act shall be governed by the following provisions.

(b) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims against Emergency Response Providers arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from such act. As determined by the parties to a litigation management agreement, the substantive law for decision in any such action shall be—

(A) derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law; or

(B) derived from the choice of law principles agreed to by the parties to a litigation management agreement as described in the litigation management agreement, unless such principles are inconsistent with or preempted by Federal law.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim against Emergency Response Providers for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from an act of terrorism.

(3) SPECIAL RULES.—In an action brought for damages that is governed by a litigation management agreement, the following provisions apply:

(A) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(B) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action governed by a litigation management agreement shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism.

(4) EXCLUSIONS.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(A) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(B) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

**SEC. 5104. ADDITIONAL PROVISIONS.**

(a) NO ABROGATION OF OTHER IMMUNITIES.—Nothing in this chapter shall abrogate any constitutional, statutory, or common law immunities that any party may have.

(b) EXCEPTION FOR CERTAIN FEDERAL LAW ENFORCEMENT ACTIVITIES.—A mutual aid agreement or a litigation management agreement may not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or to other law enforcement functions of the United States Secret Service.

(c) SECRET SERVICE.—Section 3056 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(g) The Secret Service shall be maintained as a distinct entity within the Department of Homeland Security and shall not be merged with any other department function. All personnel and operational elements of the United States Secret Service shall report to the Director of the Secret Service, who shall report directly to the Secretary of Homeland Security without being required to report through any other official of the Department.''.

**SEC. 5105. DEFINITIONS.**

For purposes of this chapter, the following definitions apply:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means—

(A) in the case of the Federal Government, any individual designated by the President with respect to the executive branch, the Chief Justice of the United States with respect to the judicial branch, or the President pro Tempore of the Senate and Speaker of the House of Representatives with respect to the Congress, or their designees, to enter into a mutual aid agreement;

(B) in the case of a locality, the official designated by law to declare an emergency in and for the locality, or the official's designee;

(C) in the case of a State, the Governor or the Governor's designee.

(2) EMERGENCY.—The term ''emergency'' means a major disaster or emergency declared by the President, or a State of Emergency declared by an authorized representative of a State or locality, in response to which assistance may be provided under a mutual aid agreement.

(3) EMERGENCY RESPONSE PROVIDER.—The term ''Emergency Response Provider'' means any party to a litigation management agreement that meets the definition of ''emergency response providers'' under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act, except that the term does not include any Federal personnel, agency, or authority.

(4) EMPLOYEE.—The term ''employee'' means, with respect to a party to a mutual aid agreement, the employees of the party, including its agents or authorized volunteers, who are committed to provide assistance under the agreement.

(5) LITIGATION MANAGEMENT AGREEMENT.—The term ''litigation management agreement'' means an agreement entered into pursuant to the authority granted under section 5103.

(6) LOCALITY.—The term ''locality'' means a county, city, or town.

(7) MUTUAL AID AGREEMENT.—The term ''mutual aid agreement'' means an agreement entered into pursuant to the authority granted under section 5102.

(8) PUBLIC SERVICE EVENT.—The term ''public service event'' means any undeclared emergency, incident, or situation in preparation for or response to which assistance may be provided under a mutual aid agreement.

(9) REQUESTING PARTY.—The term ''requesting party'' means, with respect to a mutual aid agreement, the party in whose jurisdiction assistance is provided, or a training event is held, under the agreement.

(10) RESPONDING PARTY.—The term ''responding party'' means, with respect to a mutual aid agreement, the party providing assistance, or participating in a training event, under the agreement, but does not include the requesting party.

(11) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(12) TERRORISM.—The term ''terrorism'' means any activity that meets the definition of ''terrorism'' under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act.

(13) TRAINING EVENT.—The term ''training event'' means an emergency and public service event-related exercise, test, or other activity using equipment and personnel to prepare for or simulate performance of any aspect of the giving or receiving of assistance during emergencies or public service events, but does not include an actual emergency or public service event.

**Chapter 3—Miscellaneous Matters**

**SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.**

(a) COORDINATION OF PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS PROGRAMS.—

(1) PROGRAM.—The Secretary of Homeland Security, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall establish a program to enhance public safety interoperable communications at all levels of government. Such program shall—

(A) establish a comprehensive national approach to achieving public safety interoperable communications;

(B) coordinate with other Federal agencies in carrying out subparagraph (A);

(C) develop, in consultation with other appropriate Federal agencies and State and local authorities, appropriate minimum capabilities for communications interoperability for Federal, State, and local public safety agencies;

(D) accelerate, in consultation with other Federal agencies, including the National Institute of Standards and Technology, the private sector, and nationally recognized standards organizations as appropriate, the development of national voluntary consensus standards for public safety interoperable communications;

(E) encourage the development and implementation of flexible and open architectures incorporating, where possible, technologies that currently are commercially available, with appropriate levels of security, for short-term and long-term solutions to public safety communications interoperability;

(F) assist other Federal agencies in identifying priorities for research, development, and testing and evaluation with regard to public safety interoperable communications;

(G) identify priorities within the Department of Homeland Security for research, development, and testing and evaluation with regard to public safety interoperable communications;

(H) establish coordinated guidance for Federal grant programs for public safety interoperable communications;

(I) provide technical assistance to State and local public safety agencies regarding planning, acquisition strategies, interoperability architectures, training, and other functions necessary to achieve public safety communications interoperability;

(J) develop and disseminate best practices to improve public safety communications interoperability; and

(K) develop appropriate performance measures and milestones to systematically measure the Nation's progress towards achieving public safety communications interoperability, including the development of national voluntary consensus standards.

(2) OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.—

(A) ESTABLISHMENT OF OFFICE.—The Secretary may establish an Office for Interoperability and Compatibility to carry out this subsection.

(B) FUNCTIONS.—If the Secretary establishes such office, the Secretary shall, through such office—

(i) carry out Department of Homeland Security responsibilities and authorities relating to the SAFECOM Program; and

(ii) carry out subsection (c) (relating to rapid interoperable communications capabilities for high risk jurisdictions).

(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to advisory groups established and maintained by the Secretary for purposes of carrying out this subsection.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall report to the Congress on Department of Homeland Security plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development.

(c) RAPID INTEROPERABLE COMMUNICATIONS CAPABILITIES FOR HIGH RISK JURISDICTIONS.—The Secretary, in consultation with other relevant Federal, State, and local government agencies, shall provide technical, training, and other assistance as appropriate to support the rapid establishment of consistent, secure, and effective interoperable communications capabilities for emergency response providers in jurisdictions determined by the Secretary to be at consistently high levels of risk of terrorist attack.

(d) DEFINITIONS.—In this section:

(1) INTEROPERABLE COMMUNICATIONS.—The term ''interoperable communications'' means the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

(2) EMERGENCY RESPONSE PROVIDERS.—The term ''emergency response providers'' has the meaning that term has under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act.

(e) CLARIFICATION OF RESPONSIBILITY FOR INTEROPERABLE COMMUNICATIONS.—

(1) UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—Section 502(7) of the Homeland Security Act of 2002 (6 U.S.C. 312(7)) is amended—

(A) by striking ''developing comprehensive programs for developing interoperative communications technology, and''; and

(B) by striking ''such'' and inserting ''interoperable communications''.

(2) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430(c) of such Act (6 U.S.C. 238(c)) is amended—

(A) in paragraph (7) by striking ''and'' after the semicolon;

(B) in paragraph (8) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(9) helping to ensure the acquisition of interoperable communication technology by State and local governments and emergency response providers.''.

**SEC. 5132. SENSE OF CONGRESS REGARDING THE INCIDENT COMMAND SYSTEM.**

(a) FINDINGS.—The Congress finds that—

(1) in Homeland Security Presidential Directive–5, the President directed the Secretary of Homeland Security to develop an incident command system to be known as the National Incident Management System (NIMS), and directed all Federal agencies to make the adoption of NIMS a condition for the receipt of Federal emergency preparedness assistance by States, territories, tribes, and local governments beginning in fiscal year 2005;

(2) in March 2004, the Secretary of Homeland Security established NIMS, which provides a unified structural framework for Federal, State, territorial, tribal, and local governments to ensure coordination of command, operations, planning, logistics, finance, and administration during emergencies involving multiple jurisdictions or agencies; and

(3) the National Commission on Terrorist Attacks Upon the United States strongly supports the adoption of NIMS by emergency response agencies nationwide, and the decision by the President to condition Federal emergency preparedness assistance upon the adoption of NIMS.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that all levels of government should adopt NIMS, and that the regular use of and training in NIMS by States, territories, tribes, and local governments should be a condition for receiving Federal preparedness assistance.

**SEC. 5133. SENSE OF CONGRESS REGARDING UNITED STATES NORTHERN COMMAND PLANS AND STRATEGIES.**

It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of United States Northern Command's plans and strategies with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States.

The CHAIRMAN pro tempore. No amendment to the amendment in the nature of a substitute is in order except those printed in House Report 108–751. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). It is now in order to consider Amendment No. 1 printed in House report 108–751.

AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MENENDEZ

Mr. MENENDEZ. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 1 in the nature of a substitute offered by Mr. MENENDEZ:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''National Intelligence Reform Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—NATIONAL INTELLIGENCE AUTHORITY

Subtitle A—National Intelligence Authority

Sec. 101. National Intelligence Authority.
Sec. 102. National Intelligence Director.

Subtitle B—Responsibilities and Authorities of National Intelligence Director

Sec. 111. Provision of national intelligence.
Sec. 112. Responsibilities of National Intelligence Director.
Sec. 113. Authorities of National Intelligence Director.
Sec. 114. Enhanced personnel management.
Sec. 115. Security clearances.
Sec. 116. National Intelligence Reserve Corps.
Sec. 117. Appointment and termination of certain officials responsible for intelligence-related activities.
Sec. 118. Reserve for Contingencies of the National Intelligence Director.

Subtitle C—Office of the National Intelligence Director

Sec. 121. Office of the National Intelligence Director.
Sec. 122. Deputy national intelligence directors.
Sec. 123. National Intelligence Council.
Sec. 124. General Counsel of the National Intelligence Authority.
Sec. 125. Intelligence Comptroller.
Sec. 126. Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.
Sec. 127. Privacy Officer of the National Intelligence Authority.

Sec. 128. Chief Information Officer of the National Intelligence Authority.
Sec. 129. Chief Human Capital Officer of the National Intelligence Authority.
Sec. 130. Chief Financial Officer of the National Intelligence Authority.
Sec. 131. National Counterintelligence Executive.

Subtitle D—Additional Elements of National Intelligence Authority

Sec. 141. Inspector General of the National Intelligence Authority.
Sec. 142. Ombudsman of the National Intelligence Authority.
Sec. 143. National Counterterrorism Center.
Sec. 144. National intelligence centers.

Subtitle E—Education and Training of Intelligence Community Personnel

Sec. 151. Framework for cross-disciplinary education and training.
Sec. 152. Intelligence Community Scholarship Program.

Subtitle F—Additional Authorities of National Intelligence Authority

Sec. 161. Use of appropriated funds.
Sec. 162. Acquisition and fiscal authorities.
Sec. 163. Personnel matters.
Sec. 164. Ethics matters.

TITLE II—OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

Subtitle A—Improvements of Intelligence Activities

Sec. 201. Availability to public of certain intelligence funding information.
Sec. 202. Merger of Homeland Security Council into National Security Council.
Sec. 203. Joint Intelligence Community Council.
Sec. 204. Improvement of intelligence capabilities of the Federal Bureau of Investigation.
Sec. 205. Federal Bureau of Investigation Intelligence Career Service.
Sec. 206. Information sharing.

Subtitle B—Privacy and Civil Liberties

Sec. 211. Privacy and Civil Liberties Oversight Board.
Sec. 212. Privacy and civil liberties officers.

Subtitle C—Independence of Intelligence Agencies

Sec. 221. Independence of National Intelligence Director.
Sec. 222. Independence of intelligence.
Sec. 223. Independence of National Counterterrorism Center.
Sec. 224. Access of congressional committees to national intelligence.
Sec. 225. Communications with Congress.

TITLE III—MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE COMMUNITY MANAGEMENT

Subtitle A—Conforming and Other Amendments

Sec. 301. Restatement and modification of basic authority on the Central Intelligence Agency.
Sec. 302. Conforming amendments relating to roles of National Intelligence Director and Director of the Central Intelligence Agency.
Sec. 303. Other conforming amendments
Sec. 304. Modifications of foreign intelligence and counterintelligence under National Security Act of 1947.
Sec. 305. Elements of intelligence community under National Security Act of 1947.
Sec. 306. Redesignation of National Foreign Intelligence Program as National Intelligence Program.
Sec. 307. Conforming amendment on coordination of budgets of elements of the intelligence community within the Department of Defense.
Sec. 308. Repeal of superseded authorities.
Sec. 309. Clerical amendments to National Security Act of 1947.
Sec. 310. Modification of authorities relating to National Counterintelligence Executive.
Sec. 311. Conforming amendment to Inspector General Act of 1978.
Sec. 312. Conforming amendment relating to Chief Financial Officer of the National Intelligence Authority.

Subtitle B—Transfers and Terminations

Sec. 321. Transfer of Office of Deputy Director of Central Intelligence for Community Management.
Sec. 322. Transfer of National Counterterrorism Executive.
Sec. 323. Transfer of Terrorist Threat Integration Center.
Sec. 324. Termination of certain positions within the Central Intelligence Agency.

Subtitle C—Other Transition Matters

Sec. 331. Executive Schedule matters.
Sec. 332. Preservation of intelligence capabilities.
Sec. 333. Reorganization.
Sec. 334. National Intelligence Director report on implementation of intelligence community reform.
Sec. 335. Comptroller General reports on implementation of intelligence community reform.
Sec. 336. General references.

Subtitle D—Effective Date

Sec. 341. Effective date.

Subtitle E—Other Matters

Sec. 351. Severability.
Sec. 352. Authorization of appropriations.

TITLE IV—INFORMATION SHARING

Sec. 401. Information sharing.

TITLE V—CONGRESSIONAL REFORM

Sec. 501. Findings.
Sec. 502. Reorganization of congressional jurisdiction.

TITLE VI—PRESIDENTIAL TRANSITION

Sec. 601. Presidential transition.

TITLE VII—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

Sec. 701. Report on terrorist sanctuaries.
Sec. 702. Role of Pakistan in countering terrorism.
Sec. 703. Aid to Afghanistan.
Sec. 704. The United States-Saudi Arabia relationship.
Sec. 705. Efforts to combat Islamic terrorism by engaging in the struggle of ideas in the Islamic world.
Sec. 706. United States policy toward dictatorships.
Sec. 707. Promotion of United States values through broadcast media.
Sec. 708. Use of United States scholarship and exchange programs in the Islamic world.
Sec. 709. International Youth Opportunity Fund.
Sec. 710. Report on the use of economic policies to combat terrorism.
Sec. 711. Middle East Partnership Initiative.
Sec. 712. Comprehensive coalition strategy for fighting terrorism.
Sec. 713. Detention and humane treatment of captured terrorists.
Sec. 714. Proliferation of weapons of mass destruction.
Sec. 715. Financing of terrorism.

TITLE VIII—TERRORIST TRAVEL AND EFFECTIVE SCREENING

Sec. 801. Counterterrorist travel intelligence.
Sec. 802. Integrated screening system.
Sec. 803. Biometric entry and exit data system.
Sec. 804. Travel documents.
Sec. 805. Exchange of terrorist information.
Sec. 806. Minimum standards for identification-related documents.

TITLE IX—TRANSPORTATION SECURITY

Sec. 901. Definitions.
Sec. 902. National Strategy for Transportation Security.
Sec. 903. Use of watchlists for passenger air transportation screening.
Sec. 904. Enhanced passenger and cargo screening.

TITLE X—NATIONAL PREPAREDNESS

Sec. 1001. Homeland security assistance.
Sec. 1002. The incident command system.
Sec. 1003. National Capital Region Mutual Aid.
Sec. 1004. Assignment of spectrum for public safety.
Sec. 1005. Urban area communications capabilities.
Sec. 1006. Private sector preparedness.
Sec. 1007. Critical infrastructure and readiness assessments.
Sec. 1008. Report on Northern Command and defense of the United States homeland.

TITLE XI—PROTECTION OF CIVIL LIBERTIES

Sec. 1101. Privacy and Civil Liberties Oversight Board.
Sec. 1102. Privacy and Civil Liberties Officers.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) The term ''intelligence'' includes foreign intelligence and counterintelligence.

(2) The term ''foreign intelligence'' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(3) The term ''counterintelligence'' means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

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

(A) The National Intelligence Authority.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The Defense Intelligence Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The National Reconnaissance Office.

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

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

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

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

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

(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the National

Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms ''national intelligence'' and ''intelligence related to the national security''—

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the National Intelligence Director and the Attorney General, or otherwise as expressly provided for in this title.

(6) The term ''National Intelligence Program''—

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

(ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security; and

(iii) includes any other program, project, or activity of a department, agency, or element of the United States Government relating to national intelligence unless the National Intelligence Director and the head of the department, agency, or element concerned determine otherwise; but

(B) except as provided in subparagraph (A)(ii), does not refer to any program, project, or activity of the military departments, including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act, to acquire intelligence principally for the planning and conduct of joint or tactical military operations by the United States Armed Forces.

(7) The term ''congressional intelligence committees'' means—

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

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

## TITLE I—NATIONAL INTELLIGENCE AUTHORITY

### Subtitle A—National Intelligence Authority

**SEC. 101. NATIONAL INTELLIGENCE AUTHORITY.**

(a) INDEPENDENT ESTABLISHMENT.—There is hereby established as an independent establishment in the executive branch of government the National Intelligence Authority.

(b) COMPOSITION.—The National Intelligence Authority is composed of the following:

(1) The Office of the National Intelligence Director.

(2) The elements specified in subtitle D.

(3) Such other elements, offices, agencies, and activities as may be established by law or by the President or the National Intelligence Director.

(c) PRIMARY MISSIONS.—The primary missions of the National Intelligence Authority are as follows:

(1) To unify and strengthen the efforts of the intelligence community of the United States Government.

(2) To ensure the organization of the efforts of the intelligence community of the United States Government in a joint manner relating to intelligence missions rather than through intelligence collection disciplines.

(3) To provide for the operation of the National Counterterrorism Center and national intelligence centers under subtitle D.

(4) To eliminate barriers that impede coordination of the counterterrorism activities of the United States Government between foreign intelligence activities located abroad and foreign intelligence activities located domestically while ensuring the protection of civil liberties.

(5) To establish clear responsibility and accountability for counterterrorism and other intelligence matters relating to the national security of the United States.

(d) SEAL.—The National Intelligence Director shall have a seal for the National Intelligence Authority. The design of the seal is subject to the approval of the President. Judicial notice shall be taken of the seal.

**SEC. 102. NATIONAL INTELLIGENCE DIRECTOR.**

(a) NATIONAL INTELLIGENCE DIRECTOR.—There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any individual nominated for appointment as National Intelligence Director shall have extensive national security expertise.

(c) PROHIBITION ON SIMULTANEOUS SERVICE IN OTHER CAPACITY IN INTELLIGENCE COMMUNITY.—The individual serving as National Intelligence Director may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as National Intelligence Director does so in an acting capacity.

(d) PRINCIPAL DUTIES AND RESPONSIBILITIES.—The National Intelligence Director shall—

(1) serve as head of the intelligence community in accordance with the provisions of this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), and other applicable provisions of law;

(2) act as a principal adviser to the President for intelligence related to the national security;

(3) serve as the head of the National Intelligence Authority; and

(4) direct and oversee the National Intelligence Program.

(e) GENERAL RESPONSIBILITIES AND AUTHORITIES.—In carrying out the duties and responsibilities set forth in subsection (c), the National Intelligence Director shall have the responsibilities set forth in section 112 and the authorities set forth in section 113 and other applicable provisions of law.

### Subtitle B—Responsibilities and Authorities of National Intelligence Director

**SEC. 111. PROVISION OF NATIONAL INTELLIGENCE.**

(a) IN GENERAL.—The National Intelligence Director shall be responsible for providing national intelligence—

(1) to the President;

(2) to the heads of other departments and agencies of the executive branch;

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

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

(5) to such other persons or entities as the President shall direct.

(b) NATIONAL INTELLIGENCE.—Such national intelligence shall be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

**SEC. 112. RESPONSIBILITIES OF NATIONAL INTELLIGENCE DIRECTOR.**

(a) IN GENERAL.—The National Intelligence Director shall—

(1) determine the annual budget for the intelligence and intelligence-related activities of the United States by—

(A) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development the National Intelligence Program budget pertaining to such agencies or elements;

(B) developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments, under subparagraph (A);

(C) providing budget guidance to each element of the intelligence community that does not have one or more program, project, or activity within the National Intelligence Program regarding the intelligence and intelligence-related activities of such element; and

(D) participating in the development by the Secretary of Defense of the annual budgets for the military intelligence programs, projects, and activities not included in the National Intelligence Program;

(2) manage and oversee the National Intelligence Program, including—

(A) the execution of funds within the National Intelligence Program;

(B) the reprogramming of funds appropriated or otherwise made available to the National Intelligence Program; and

(C) the transfer of funds and personnel under the National Intelligence Program;

(3) establish the requirements and priorities to govern the collection, analysis, and dissemination of national intelligence by elements of the intelligence community;

(4) establish collection and analysis requirements for the intelligence community, determine collection and analysis priorities, issue and manage collection and analysis tasking, and resolve conflicts in the tasking of elements of the intelligence community within the National Intelligence Program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;

(5) provide advisory tasking on the collection of intelligence to elements of the United States Government having information collection capabilities that are not elements of the intelligence community;

(6) manage and oversee the National Counterterrorism Center under section 143, and establish, manage, and oversee national intelligence centers under section 144;

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

(8) develop and implement, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(A) encourage and facilitate assignments and details of personnel to the National Counterterrorism Center under section 143, to national intelligence centers under section 144, and between elements of the intelligence community;

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

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

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

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

(F) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters;

(G) provide for the effective management of human capital within the intelligence community, including—

(i) the alignment of human resource policies and programs of the elements of the intelligence community with the missions, goals, and organizational objectives of such elements and of the intelligence community overall;

(ii) the assessment of workforce characteristics and future needs and the establishment of workforce development strategies to meet those needs based on relevant organizational missions and strategic plans;

(iii) the sustainment of a culture that encourages and allows for the development of a high performing workforce; and

(iv) the alignment of expectations for personnel performance with relevant organizational missions and strategic plans;

(H) are consistent with the public employment principles of merit and fitness set forth under section 2301 of title 5, United States Code; and

(I) include the enhancements required under section 114;

(9) promote and evaluate the utility of national intelligence to consumers within the United States Government;

(10) ensure that appropriate officials of the United States Government and other appropriate individuals have access to a variety of intelligence assessments and analytical views;

(11) protect intelligence sources and methods from unauthorized disclosure;

(12) establish requirements and procedures for the classification of intelligence information and for access to classified intelligence information;

(13) establish requirements and procedures for the dissemination of classified information by elements of the intelligence community;

(14) establish intelligence reporting guidelines that maximize the dissemination of information while protecting intelligence sources and methods;

(15) develop, in consultation with the heads of appropriate departments and agencies of the United States Government, an integrated communications network that provides interoperable communications capabilities among all elements of the intelligence community and such other entities and persons as the Director considers appropriate;

(16) establish standards for information technology and communications for the intelligence community;

(17) ensure that the intelligence community makes efficient and effective use of open-source information and analysis;

(18) ensure compliance by elements of the intelligence community with the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States applicable to the intelligence and intelligence-related activities of the United States Government, including the provisions of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States applicable to the protection of the privacy and civil liberties of United States persons;

(19) eliminate waste and unnecessary duplication within the intelligence community; and

(20) perform such other functions as the President may direct.

(b) UNIFORM PROCEDURES FOR SENSITIVE COMPARTMENTED INFORMATION.—The President, acting through the National Intelligence Director, shall establish uniform standards and procedures for the grant to sensitive compartmented information in accordance with section 115.

(c) PERFORMANCE OF COMMON SERVICES.—(1) The National Intelligence Director shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, direct and coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the National Intelligence Director determines can be more efficiently accomplished in a consolidated manner.

(2) The services performed under paragraph (1) shall include research and development on technology for use in national intelligence missions.

(d) REGULATIONS.—The National Intelligence Director may prescribe regulations relating to the discharge and enforcement of the responsibilities of the Director under this section.

**SEC. 113. AUTHORITIES OF NATIONAL INTELLIGENCE DIRECTOR.**

(a) ACCESS TO INTELLIGENCE.—Unless otherwise directed by the President, the National Intelligence Director shall have access to all intelligence related to the national security which is collected by any department, agency, or other element of the United States Government.

(b) DETERMINATION OF BUDGETS FOR NIP AND OTHER INTELLIGENCE ACTIVITIES.—The National Intelligence Director shall determine the annual budget for the intelligence and intelligence-related activities of the United States Government under section 112(a)(1) by—

(1) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development the National Intelligence Program budget pertaining to such agencies or elements;

(2) developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments, under paragraph (1), including, in furtherance of such budget, the review, modification, and approval of budgets of the agencies or elements of the intelligence community with one or more programs, projects, or activities within the National Intelligence Program utilizing the budget authorities in subsection (c)(1);

(3) providing guidance on the development of annual budgets for each element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program utilizing the budget authorities in subsection (c)(2);

(4) participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(4) receiving the appropriations for the National Intelligence Program as specified in subsection (d) and allotting and allocating funds to agencies and elements of the intelligence community; and

(5) managing and overseeing the execution by the agencies or elements of the intelligence community, and, if necessary, the modification of the annual budget for the National Intelligence Program, including directing the reprogramming and transfer of funds, and the transfer of personnel, among and between elements of the intelligence community within the National Intelligence Program utilizing the authorities in subsections (f) and (g).

(c) BUDGET AUTHORITIES.—(1)(A) In developing and presenting an annual budget for the elements of the intelligence community within the National Intelligence Program under subsection (b)(1), the National Intelligence Director shall coordinate, prepare, and present to the President the annual budgets of those elements, in consultation with the heads of those elements.

(B) If any portion of the budget for an element of the intelligence community within the National Intelligence Program is prepared outside the Office of the National Intelligence Director, the Director—

(i) shall approve such budget before submission to the President; and

(ii) may require modifications of such budget to meet the requirements and priorities of the Director before approving such budget under clause (i).

(C) The budget of an agency or element of the intelligence community with one or more programs, projects, or activities within the National Intelligence Program may not be provided to the President unless the Director has first approved such budget.

(2)(A) The Director shall provide guidance for the development of the annual budgets for each agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(B) The heads of the agencies or elements of the intelligence community, and the heads of their respective departments, referred to in subparagraph (A) shall coordinate closely with the Director in the development of the budgets of such agencies or elements, before the submission of their recommendations on such budgets to the President.

(d) JURISDICTION OF FUNDS UNDER NIP.—(1) Notwithstanding any other provision of law and consistent with section 504 of the National Security Act of 1947 (50 U.S.C. 414), any amounts appropriated or otherwise made available for the National Intelligence Program shall be appropriated to the National Intelligence Authority and, pursuant to subsection (e), under the direct jurisdiction of the National Intelligence Director.

(2) The Director shall manage and oversee the execution by each element of the intelligence community of any amounts appropriated or otherwise made available to such element under the National Intelligence Program.

(e) ACCOUNTS FOR ADMINISTRATION OF NIP FUNDS.—(1) The Secretary of the Treasury shall, in consultation with the National Intelligence Director, establish accounts for the funds under the jurisdiction of the Director under subsection (d) for purposes of carrying out the responsibilities and authorities of the Director under this Act with respect to the National Intelligence Program.

(2) The National Intelligence Director shall—

(A) control and manage the accounts established under paragraph (1); and

(B) with the concurrence of the Director of the Office of Management and Budget, establish procedures governing the use (including transfers and reprogrammings) of funds in such accounts.

(3)(A) To the extent authorized by law, a certifying official shall follow the procedures established under paragraph (2)(B) with regard to each account established under paragraph (1). Disbursements from any such account shall only be made against a valid obligation of such account.

(B) In this paragraph, the term ''certifying official', with respect to an element of the intelligence community, means an employee of the element who has responsibilities specified in section 3528(a) of title 31, United States Code.

(4) The National Intelligence Director shall allot funds deposited in an account established under paragraph (1) directly to the head of the elements of the intelligence community concerned in accordance with the procedures established under paragraph (2)(B).

(5) Each account established under paragraph (1) shall be subject to chapters 13 and 15 of title 31, United States Code, other than sections 1503 and 1556 of that title.

(6) Nothing in this subsection shall be construed to impair or otherwise affect the authority granted by subsection (g)(3) or by section 5 or 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403j).

(f) ROLE IN REPROGRAMMING OR TRANSFER OF NIP FUNDS BY ELEMENTS OF INTELLIGENCE COMMUNITY.—(1) No funds made available under the National Intelligence Program may be reprogrammed or transferred by any agency or element of the intelligence community without the prior approval of the National Intelligence Director except in accordance with procedures issued by the Director.

(2) The head of the department concerned shall consult with the Director before reprogramming or transferring funds appropriated or otherwise made available to an agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(3) The Director shall, before reprogramming funds appropriated or otherwise made available for an element of the intelligence community within the National Intelligence Program, consult with the head of the department or agency having jurisdiction over such element regarding such reprogramming.

(4)(A) The Director shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the National Intelligence Program.

(B) Any modification of procedures under subparagraph (A) shall include procedures for the notification of the appropriate committees of Congress of any objection raised by the head of a department or agency to a reprogramming proposed by the Director as a result of consultations under paragraph (3).

(g) TRANSFER OR REPROGRAMMING OF FUNDS AND TRANSFER OF PERSONNEL WITHIN NIP.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget and after consultation with the heads of the departments containing agencies or elements within the intelligence community to the extent their subordinate agencies or elements are affected, with the heads of such subordinate agencies or elements, and with the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected, may—

(A) transfer or reprogram funds appropriated for a program within the National Intelligence Program to another such program;

(B) review, and approve or disapprove, any proposal to transfer or reprogram funds from appropriations that are not for the National Intelligence Program to appropriations for the National Intelligence Program;

(C) in accordance with procedures to be developed by the National Intelligence Director, transfer personnel of the intelligence community funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community; and

(D) in accordance with procedures to be developed by the National Intelligence Director and the heads of the departments and agencies concerned, transfer personnel of the intelligence community not funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community.

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

(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(B) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director; or

(C) the transfer does not exceed applicable ceilings established in law for such transfers.

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

(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of October 24, 1992.

(5)(A) The National Intelligence Director shall promptly submit to the appropriate committees of Congress a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(B) In this paragraph, the term ''appropriate committees of Congress'' means—

(i)(I) the Committee on Appropriations and the Select Committee on Intelligence of the Senate; and

(II) the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives;

(ii) in the case of a transfer of personnel to or from the Department of Defense—

(I) the committees and select committees referred to in clause (i);

(II) the Committee on Armed Services of the Senate; and

(III) the Committee on Armed Services of the House of Representatives;

(iii) in the case of a transfer of personnel to or from the Federal Bureau of Investigation—

(I) the committees and select committees referred to in clause (i);

(II) the Committee on the Judiciary of the Senate; and

(III) the Committee on the Judiciary of the House of Representatives; and

(iv) in the case of a transfer of personnel to or from the Department of Homeland Security—

(I) the committees and select committees referred to in clause (i);

(II) the Committee on Governmental Affairs of the Senate; and

(III) the Select Committee on Homeland Security of the House of Representatives.

(h) INFORMATION TECHNOLOGY AND COMMUNICATIONS.—(1) In conforming with section 205, in carrying out section 112(a)(16), the National Intelligence Director shall—

(A) establish standards for information technology and communications across the intelligence community;

(B) develop an integrated information technology network and enterprise architecture for the intelligence community, including interface standards for interoperability to enable automated information-sharing among elements of the intelligence community;

(C) maintain an inventory of critical information technology and communications systems, and eliminate unnecessary or duplicative systems;

(D) establish contingency plans for the intelligence community regarding information technology and communications; and

(E) establish policies, doctrine, training, and other measures necessary to ensure that the intelligence community develops an integrated information technology and communications network that ensures information-sharing.

(2) Consistent with section 205, the Director shall take any action necessary, including the setting of standards for information technology and communications across the intelligence community, to develop an integrated information technology and communications network that ensures information-sharing across the intelligence community.

(i) COORDINATION WITH FOREIGN GOVERNMENTS.—In a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the National Intelligence Director shall oversee and direct the Director of the Central Intelligence Agency in coordinating, under section 103(f) of the National Security Act of 1947, the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(j) OPEN SOURCE INFORMATION COLLECTION.—The National Intelligence Director shall establish and maintain within the intelligence community an effective and efficient open-source information collection capability.

(k) ACCESS TO INFORMATION.—Except as otherwise directed by the President, the head of each element of the intelligence community shall promptly provide the National Intelligence Director such information in the possession or under the control of such element as the Director may request in order to facilitate the exercise of the authorities and responsibilities of the Director under this Act.

**SEC. 114. ENHANCED PERSONNEL MANAGEMENT.**

(a) REWARDS FOR SERVICE IN CERTAIN POSITIONS.—(1) The National Intelligence Director shall prescribe regulations to provide incentives for service on the staff of the national intelligence centers, on the staff of the National Counterterrorism Center, and in other positions in support of the intelligence community management functions of the Director.

(2) Incentives under paragraph (1) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(b) ENHANCED PROMOTION FOR SERVICE UNDER NID.—Notwithstanding any other provision of law, the National Intelligence Director shall ensure that personnel of an element of the intelligence community who are assigned or detailed to service under the National Intelligence Director shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(c) JOINT CAREER MATTERS.—(1) In carrying out section 112(a)(8), the National Intelligence Director shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, and disciplines.

(2) The mechanisms prescribed under paragraph (1) may include the following:

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

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

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

(3) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate within the intelligence community the joint officer management policies established by the Goldwater–Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) and the amendments on joint officer management made by that Act.

**SEC. 115. SECURITY CLEARANCES.**

(a) IN GENERAL.—The President, in consultation with the National Intelligence Director, the department, agency, or element selected under (b), and other appropriate officials shall—

(1) establish uniform standards and procedures for the grant of access to classified information for employees and contractor personnel of the United States Government who require access to such information;

(2) ensure the consistent implementation of the standards and procedures established under paragraph (1) throughout the departments, agencies, and elements of the United States Government and under contracts entered into by such departments, agencies, and elements;

(3) ensure that an individual who is granted or continued eligibility for access to classified information is treated by each department, agency, or element of the executive branch as eligible for access to classified information at that level for all purposes of each such department, agency, or element, regardless of which department, agency, or element of the executive branch granted or continued the eligibility of such individual for access to classified information;

(4) establish uniform requirements and standards, including for security questionnaires, financial disclosure requirements, and standards for administering polygraph examinations, to be utilized for the performance of security clearance investigations, including by the contractors conducting such investigations; and

(5) ensure that the database established under subsection (b)(2)(B) meets the needs of the intelligence community.

(b) PERFORMANCE OF SECURITY CLEARANCE INVESTIGATIONS.—(1) Not later than 45 days after the date of the enactment of this Act, the President shall select a single department, agency, or element of the executive branch to conduct all security clearance investigations of employees and contractor personnel of the United States Government who require access to classified information and to provide and maintain all security clearances of such employees and contractor personnel.

(2) The department, agency, or element selected under paragraph (1) shall—

(A) take all necessary actions to carry out the requirements of this section, including entering into a memorandum of understanding with any agency carrying out responsibilities relating to security clearances or security clearance investigations before the date of the enactment of this Act;

(B) as soon as practicable, establish and maintain a single database for tracking security clearance applications, security clearance investigations, and determinations of eligibility for security clearances, which database shall incorporate applicable elements of similar databases in existence on the date of the enactment of this Act; and

(C) ensure that security clearance investigations are conducted in accordance with uniform standards and requirements established under subsection (a)(4), including uniform security questionnaires and financial disclosure requirements.

(c) ADJUDICATION AND GRANT OF SECURITY CLEARANCES.—(1) Each agency that adjudicates and grants security clearances as of the date of the enactment of this Act may continue to adjudicate and grant security clearances after that date.

(2) Each agency that adjudicates and grants security clearances shall specify to the department, agency, or element selected under subsection (b) the level of security clearance investigation required for an individual under its jurisdiction.

(3) Upon granting or continuing eligibility for access to classified information to an individual under its jurisdiction, an agency that adjudicates and grants security clearances shall submit to the department, agency, or element selected under subsection (b) notice of that action, including the level of access to classified information granted.

(d) UTILIZATION OF PERSONNEL.—There shall be transferred to the department, agency, or element selected under subsection (b) any personnel of any executive agency whose sole function as of the date of the enactment of this Act is the performance of security clearance investigations.

(e) TRANSITION.—The President shall take appropriate actions to ensure that the performance of security clearance investigations under this section commences not later than one year after the date of the enactment of this Act.

**SEC. 116. NATIONAL INTELLIGENCE RESERVE CORPS.**

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

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

(c) LIMITATION ON MEMBERSHIP.—The total number of individuals who are members of the National Intelligence Reserve Corps at any given time may not exceed 200 individuals.

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

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

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

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

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

**SEC. 117. APPOINTMENT AND TERMINATION OF CERTAIN OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.**

(a) RECOMMENDATION OF NID IN CERTAIN APPOINTMENT.—In the event of a vacancy in the position of Director of the Central Intelligence Agency, the National Intelligence Director shall recommend to the President an individual for nomination to fill the vacancy.

(b) CONCURRENCE OF SECRETARY OF DEFENSE IN CERTAIN APPOINTMENTS RECOMMENDED BY NID.—(1) In the event of a vacancy in a position referred to in paragraph (2), the National Intelligence Director shall obtain the concurrence of the Secretary of Defense before recommending to the President an individual for nomination to fill such vacancy. If the Secretary does not concur in the recommendation, the Director may make the recommendation to the President without the concurrence of the Secretary, but shall include in the recommendation a statement that the Secretary does not concur in the recommendation.

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

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

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

(c) CONCURRENCE OF NID IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in appointment or recommendation (as the case may be).

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

(A) The Under Secretary of Defense for Intelligence.

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

(C) The Director of the Defense Intelligence Agency.

(D) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(d) RECOMMENDATION OF NID ON TERMINATION OF SERVICE.—(1) The National Intelligence Director may recommend to the President or the head of the department or agency concerned the termination of service of any individual serving in any position covered by this section.

(2) In the event the Director intends to recommend to the President the termination of service of an individual under paragraph (1), the Director shall seek the concurrence of the head of the department or agency concerned. If the head of the department or agency concerned does not concur in the recommendation, the Director may make the recommendation to the President without the concurrence of the head of the department or agency concerned, but shall notify the President that the head of the department or agency concerned does not concur in the recommendation.

**SEC. 118. RESERVE FOR CONTINGENCIES OF THE NATIONAL INTELLIGENCE DIRECTOR.**

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Reserve for Contingencies of the National Intelligence Director.

(b) ELEMENTS.—The Reserve shall consist of the following elements:

(1) Amounts authorized to be appropriated to the Reserve.

(2) Any amounts authorized to be transferred to or deposited in the Reserve by law.

(c) AVAILABILITY.—Amounts in the Reserve shall be available for such purposes as are provided by law.

(d) TRANSFER OF FUNDS OF RESERVE FOR CONTINGENCIES OF CIA.—There shall be transferred to the Reserve for Contingencies of the National Intelligence Director all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency as of the date of the enactment of this Act.

**Subtitle C—Office of the National Intelligence Director**

**SEC. 121. OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR.**

(a) OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—There is within the National Intelligence Authority an Office of the National Intelligence Director.

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

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

(1) The Principal Deputy National Intelligence Director.

(2) Any Deputy National Intelligence Director appointed under section 122(b).

(3) The National Intelligence Council.

(4) The General Counsel of the National Intelligence Authority.

(5) The Intelligence Comptroller.

(6) The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.

(7) The Privacy Officer of the National Intelligence Authority.

(8) The Chief Information Officer of the National Intelligence Authority.

(9) The Chief Human Capital Officer of the National Intelligence Authority.

(10) The Chief Financial Officer of the National Intelligence Authority.

(11) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).

(12) Such other offices and officials as may be established by law or the Director may establish or designate in the Office.

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

(2) The staff of the Office of the National Intelligence Director under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the National Intelligence Director under section 321.

(e) PROHIBITION ON CO-LOCATION WITH OTHER ELEMENTS OF INTELLIGENCE COMMUNITY.—Commencing as of October 1, 2006, the Office of the National Intelligence Director may not be co-located with any other element of the intelligence community.

**SEC. 122. DEPUTY NATIONAL INTELLIGENCE DIRECTORS.**

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

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

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

(4) The individual serving as Principal Deputy National Intelligence Director may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Principal Deputy National Intelligence Director is doing so in an acting capacity.

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

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

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

(2) In the event of a vacancy in any position of Deputy National Intelligence Director established under this subsection, the National Intelligence Director shall recommend to the President an individual for appointment to such position.

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

**SEC. 123. NATIONAL INTELLIGENCE COUNCIL.**

(a) NATIONAL INTELLIGENCE COUNCIL.—There is a National Intelligence Council.

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

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

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

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

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

(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director under section 111.

(2) The National Intelligence Director shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence by ensuring that each national intelligence estimate under paragraph (1)—

(A) states separately, and distinguishes between, the intelligence underlying such estimate and the assumptions and judgments of analysts with respect to such intelligence and such estimate;

(B) describes the quality and reliability of the intelligence underlying such estimate;

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and

(D) characterizes the uncertainties, if any, and confidence in such estimate.

(d) SERVICE AS SENIOR INTELLIGENCE ADVISERS.—Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

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

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

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

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

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

**SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) GENERAL COUNSEL OF NATIONAL INTELLIGENCE AUTHORITY.—There is a General Counsel of the National Intelligence Authority who shall be appointed from civilian life

by the President, by and with the advice and consent of the Senate.

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

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

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

**SEC. 125. INTELLIGENCE COMPTROLLER.**

(a) INTELLIGENCE COMPTROLLER.—There is an Intelligence Comptroller who shall be appointed from civilian life by the National Intelligence Director.

(b) SUPERVISION.—The Intelligence Comptroller shall report directly to the National Intelligence Director.

(c) DUTIES.—The Intelligence Comptroller shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(2) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(3) provide unfettered access to the Director to financial information under the National Intelligence Program;

(4) perform such other duties as may be prescribed by the Director or specified by law.

**SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in ensuring that the protection of civil rights and civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, is appropriately incorporated in—

(A) the policies and procedures developed for and implemented by the National Intelligence Authority;

(B) the policies and procedures regarding the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the policies and procedures regarding the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) oversee compliance by the Authority, and in the relationships described in paragraph (1), with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil rights and civil liberties;

(3) review, investigate, and assess complaints and other information indicating possible abuses of civil rights or civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, in the administration of the programs and operations of the Authority, and in the relationships described in paragraph (1), unless, in the determination of the Inspector General of the National Intelligence Authority, the review, investigation, or assessment of a particular complaint or information can better be conducted by the Inspector General;

(4) coordinate with the Privacy Officer of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

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

**SEC. 127. PRIVACY OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) PRIVACY OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Privacy Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the National Intelligence Authority shall have primary responsibility for the privacy policy of the National Intelligence Authority (including in the relationships among the elements of the intelligence community within the National Intelligence Program and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community).

(2) In discharging the responsibility under paragraph (1), the Privacy Officer shall—

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

(B) assure that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

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

(D) coordinate with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner.

**SEC. 128. CHIEF INFORMATION OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) CHIEF INFORMATION OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Information Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in implementing the responsibilities and executing the authorities related to information technology under paragraphs (15) and (16) of section 112(a) and section 113(h); and

(2) perform such other duties as may be prescribed by the Director or specified by law.

**SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) CHIEF HUMAN CAPITAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Human Capital Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the National Intelligence Authority shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the National Intelligence Authority; and

(2) advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community as a whole.

**SEC. 130. CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) CHIEF FINANCIAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Financial Officer of the National Intelligence Authority who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the National Intelligence Authority shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the National Intelligence Authority shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the National Intelligence Authority and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the National Intelligence Authority shall take appropriate actions to ensure the timely and effective integration of the financial systems of the National Intelligence Authority (including any elements or components transferred to the Authority by this Act), and of the financial systems of the Authority with applicable portions of the financial systems of the other elements of the intelligence community, as soon as possible after the date of the enactment of this Act.

(f) PROTECTION OF ANNUAL FINANCIAL STATEMENT FROM DISCLOSURE.—The annual financial statement of the National Intelligence Authority required under section 3515 of title 31, United States Code—

(1) shall be submitted in classified form; and

(2) notwithstanding any other provision of law, shall be withheld from public disclosure.

**SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**

(a) NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, is a component of the Office of the National Intelligence Director.

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

**Subtitle D—Additional Elements of National Intelligence Authority**

**SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) solely on the basis of integrity, compliance with the security standards of the National Intelligence Authority, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(3) The Inspector General shall report directly to and be under the general supervision of the National Intelligence Director.

(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

(d) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the National Intelligence Authority—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing standards.

(e) LIMITATIONS ON ACTIVITIES.—(1) The National Intelligence Director may prohibit the Inspector General of the National Intelligence Authority from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(2) If the Director exercises the authority under paragraph (1), the Director shall submit an appropriately classified statement of the reasons for the exercise of such authority within seven days to the congressional intelligence committees.

(3) The Director shall advise the Inspector General at the time a report under paragraph (1) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

(4) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

(f) AUTHORITIES.—(1) The Inspector General of the National Intelligence Authority shall have direct and prompt access to the National Intelligence Director when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program, whose testimony is needed for the performance of the duties of the Inspector General.

(B) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.

(C) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (B).

(D) Failure on the part of any employee or contractor of the National Intelligence Authority to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, including loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Federal government—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the National Intelligence Authority designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for or on behalf of any other element or component of the Authority.

(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

(g) STAFF AND OTHER SUPPORT.—(1) The Inspector General of the National Intelligence Authority shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(2)(A) Subject to applicable law and the policies of the National Intelligence Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out the functions of the Inspector General.

(B) In making selections under subparagraph (A), the Inspector General shall ensure

that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the National Intelligence Authority a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

(3)(A) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(h) REPORTS.—(1)(A) The Inspector General of the National Intelligence Authority shall, not later than January 31 and July 31 of each year, prepare and submit to the National Intelligence Director a classified semiannual report summarizing the activities of the Office of the Inspector General of the National Intelligence Authority during the immediately preceding six-month periods ending December 31 (of the preceding year) and June 30, respectively.

(B) Each report under this paragraph shall include, at a minimum, the following:

(i) A list of the title or subject of each investigation, inspection, or audit conducted during the period covered by such report.

(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the National Intelligence Authority identified by the Inspector General during the period covered by such report.

(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

(iv) A statement whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

(v) An assessment of the effectiveness of all measures in place in the Authority for the protection of civil liberties and privacy of United States persons.

(vi) A certification whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

(vii) A description of the exercise of the subpoena authority under subsection (f)(5) by the Inspector General during the period covered by such report.

(viii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Authority, and to detect and eliminate fraud and abuse in such programs and operations.

(C) Not later than the 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate.

(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations of the Authority, a relationship between the elements of the intelligence community within the National Intelligence Program, or a relationship between an element of the intelligence community within the National Intelligence Program and another element of the intelligence community.

(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within seven calendar days of receipt of such report, together with such comments as the Director considers appropriate.

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Authority official who holds or held a position in the Authority that is subject to appointment by the President, by and with the advice and consent of the Senate, including such a position held on an acting basis;

(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

(4) Pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

(5)(A) An employee of the Authority, an employee of an entity other than the Authority who is assigned or detailed to the Authority, or an employee of a contractor to the Authority who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within seven calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee's official capacity as a member or employee of such committee.

(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than three days after any such action is taken.

(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(G) In this paragraph, the term ''urgent concern'' means any of the following:

(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

(H) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105–272; 5 U.S.C. App. 8H note).

(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Authority, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

(i) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the National Intelligence Authority.

**SEC. 142. OMBUDSMAN OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) OMBUDSMAN OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Ombudsman of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Ombudsman of the National Intelligence Authority shall—

(1) counsel, arbitrate, or offer recommendations on, and have the authority to initiate inquiries into, real or perceived problems of politicization, biased reporting, or lack of objective analysis within the National Intelligence Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community;

(2) monitor the effectiveness of measures taken to deal with real or perceived politicization, biased reporting, or lack of objective analysis within the Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community; and

(3) conduct reviews of the analytic product or products of the Authority, or any element of the intelligence community within the National Intelligence Program, or of any analysis of national intelligence by any element of the intelligence community, with such reviews to be conducted so as to ensure that analysis is timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

(c) ANALYTIC REVIEW UNIT.—(1) There is within the Office of the Ombudsman of the National Intelligence Authority an Analytic Review Unit.

(2) The Analytic Review Unit shall assist the Ombudsman of the National Intelligence Authority in performing the duties and responsibilities of the Ombudsman set forth in subsection (b)(3).

(3) The Ombudsman shall provide the Analytic Review Unit a staff who possess expertise in intelligence analysis that is appropriate for the function of the Unit.

(4) In assisting the Ombudsman, the Analytic Review Unit shall, subject to the direction and control of the Ombudsman, conduct detailed evaluations of intelligence analysis by the following:

(A) The National Intelligence Council.

(B) The elements of the intelligence community within the National Intelligence Program.

(C) To the extent involving the analysis of national intelligence, other elements of the intelligence community.

(D) The divisions, offices, programs, officers, and employees of the elements specified in subparagraphs (B) and (C).

(5) The results of the evaluations under paragraph (4) shall be provided to the congressional intelligence committees and, upon request, to appropriate heads of other departments, agencies, and elements of the executive branch.

(d) ACCESS TO INFORMATION.—In order to carry out the duties specified in subsection (c), the Ombudsman of the National Intelligence Authority shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community, and to any reports or other material of an Inspector General, that might be pertinent to a matter under consideration by the Ombudsman.

(e) ANNUAL REPORTS.—The Ombudsman of the National Intelligence Authority shall submit to the National Intelligence Director and the congressional intelligence committees on an annual basis a report that includes—

(1) the assessment of the Ombudsman of the current level of politicization, biased reporting, or lack of objective analysis within the National Intelligence Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community;

(2) such recommendations for remedial measures as the Ombudsman considers appropriate; and

(3) an assessment of the effectiveness of remedial measures previously taken within the intelligence community on matters addressed by the Ombudsman.

(f) REFERRAL OF CERTAIN MATTERS FOR INVESTIGATION.—In addition to carrying out activities under this section, the Ombudsman of the National Intelligence Authority may refer serious cases of misconduct related to politicization of intelligence information, biased reporting, or lack of objective analysis within the intelligence community to the Inspector General of the National Intelligence Authority for investigation.

**SEC. 143. NATIONAL COUNTERTERRORISM CENTER.**

(a) NATIONAL COUNTERTERRORISM CENTER.—There is within the National Intelligence Authority a National Counterterrorism Center.

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

(2) Any individual nominated for appointment as the Director of the National Counterterrorism Center shall have significant expertise in matters relating to the national security of the United States and matters relating to terrorism that threatens the national security of the United States.

(3) The individual serving as the Director of the National Counterterrorism Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterterrorism Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterterrorism Center shall report to the National Intelligence Director on—

(A) the budget and programs of the National Counterterrorism Center; and

(B) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (g).

(2) The Director of the National Counterterrorism Center shall report to the President and the National Intelligence Director on the planning and progress of joint counterterrorism operations.

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

(1) To develop and unify strategy for the civilian and military counterterrorism efforts of the United States Government.

(2) To integrate counterterrorism intelligence activities of the United States Government, both inside and outside the United States.

(3) To develop interagency counterterrorism plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of departmental or agency responsibilities.

(4) To ensure that the collection of counterterrorism intelligence, and the conduct of counterterrorism operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—Notwithstanding any other provision of law, at the direction of the President, the National Security Council, and the National Intelligence Director, the Director of the National Counterterrorism Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on joint operations relating to counterterrorism;

(2) provide unified strategic direction for the civilian and military counterterrorism efforts of the United States Government and for the effective integration and deconfliction of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

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

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the operating entities of the United States Government with principal missions relating to counterterrorism; and

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

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterterrorism Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

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

(A) The Director of the Central Intelligence Agency's Counterterrorist Center.

(B) The Assistant Director of the Federal Bureau of Investigation in charge of the Counterterrorism Division.

(C) The Coordinator for Counterterrorism of the Department of State.

(D) The head of such other operating entities of the United States Government having principal missions relating to counterterrorism as the President may designate for purposes of this subsection.

(3) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (2)(D) not later than 30 days after the date of such designation.

(g) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence.

(2) The Directorate shall utilize the capabilities of the Terrorist Threat Integration Center (TTIC) transferred to the Directorate by section 323 and such other capabilities as the Director of the National Counterterrorism Center considers appropriate.

(3) The Directorate shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations from all sources of intelligence, whether collected inside or outside the United States.

(4) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected terrorists, their organizations, and their capabilities;

(B) propose intelligence collection requirements for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities and countermeasures; and

(D) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(h) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing interagency counterterrorism plans, as described in subsection (d)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter terrorist activities based on policy objectives and priorities established by the National Security Council;

(B) develop interagency plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterterrorism;

(C) assign responsibilities for counterterrorism operations to the departments and agencies of the United States Government (including the Department of Defense, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the compliance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterterrorism Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterterrorism Center in fulfilling the duties and responsibilities of the Director of the National Counterterrorism Center under this section, the National Intelligence Director shall employ in the National Counterterrorism Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterterrorism Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterterrorism Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterterrorism Center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterterrorism Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterterrorism Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterterrorism Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterterrorism Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterterrorism Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterterrorism Center has access to all databases maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterterrorism Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterterrorism Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterterrorism Center to ensure that ongoing operations of such department, agency, or element do not conflict with joint operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterterrorism Center on the progress of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterterrorism Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterterrorism Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

**SEC. 144. NATIONAL INTELLIGENCE CENTERS.**

(a) NATIONAL INTELLIGENCE CENTERS.—(1) The National Intelligence Director may establish within the National Intelligence Authority one or more centers (to be known as ''national intelligence centers'') to address intelligence priorities established by the National Security Council.

(2) Each national intelligence center established under this section shall be assigned an area of intelligence responsibility.

(3) National intelligence centers shall be established at the direction of the President, as prescribed by law, or upon the initiative of the National Intelligence Director.

(b) ESTABLISHMENT OF CENTERS.—(1) In establishing a national intelligence center, the National Intelligence Director shall assign lead responsibility for administrative support for such center to an element of the intelligence community selected by the Director for that purpose.

(2) The Director shall determine the structure and size of each national intelligence center.

(3) The Director shall notify Congress of the establishment of each national intelligence center before the date of the establishment of such center.

(c) DIRECTORS OF CENTERS.—(1) Each national intelligence center shall have as its head a Director who shall be appointed by the National Intelligence Director for that purpose.

(2) The Director of a national intelligence center shall serve as the principal adviser to the National Intelligence Director on intelligence matters with respect to the area of intelligence responsibility assigned to the center.

(3) In carrying out duties under paragraph (2), the Director of a national intelligence center shall—

(A) manage the operations of the center;

(B) coordinate the provision of administration and support by the element of the intelligence community with lead responsibility for the center under subsection (b)(1);

(C) submit budget and personnel requests for the center to the National Intelligence Director;

(D) seek such assistance from other departments, agencies, and elements of the United States Government as is needed to fulfill the mission of the center; and

(E) advise the National Intelligence Director of the information technology, personnel, and other requirements of the center for the performance of its mission.

(4) The National Intelligence Director shall ensure that the Director of a national intelligence center has sufficient authority, direction, and control to effectively accomplish the mission of the center.

(d) MISSION OF CENTERS.—Pursuant to the direction of the National Intelligence Director, each national intelligence center shall, in the area of intelligence responsibility assigned to the center by the Director pursuant to intelligence priorities established by the National Security Council—

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

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

(3) have primary responsibility for net assessments and warnings;

(4) ensure that appropriate officials of the United States Government and other appropriate officials have access to a variety of intelligence assessments and analytical views; and

(5) perform such other duties as the National Intelligence Director shall specify.

(e) INFORMATION SHARING.—(1) The National Intelligence Director shall ensure that the Directors of the national intelligence centers and the other elements of the intelligence community undertake appropriate sharing of intelligence analysis and plans for operations in order to facilitate the activities of the centers.

(2) In order to facilitate information sharing under paragraph (1), the Directors of the national intelligence centers shall—

(A) report directly to the National Intelligence Director regarding their activities under this section; and

(B) coordinate with the Principal Deputy National Intelligence Director regarding such activities.

(f) STAFF.—(1) In providing for a professional staff for a national intelligence center, the National Intelligence Director may establish as positions in the excepted service such positions in the center as the National Intelligence Director considers appropriate.

(2)(A) The National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to a national intelligence center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(3) Personnel employed in or assigned or detailed to a national intelligence center under this subsection shall be under the authority, direction, and control of the Director of the center on all matters for which the center has been assigned responsibility and for all matters related to the accomplishment of the mission of the center.

(4) Performance evaluations of personnel assigned or detailed to a national intelligence center under this subsection shall be undertaken by the supervisors of such personnel at the center.

(5) The supervisors of the staff of a national center may, with the approval of the National Intelligence Director, reward the staff of the center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(6) The National Intelligence Director may delegate to the Director of a national intelligence center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (6).

(7) The Director of a national intelligence center may recommend to the National Intelligence Director the reassignment to the home element concerned of any personnel previously assigned or detailed to the center from another element of the intelligence community.

(g) TERMINATION.—(1) The National Intelligence Director may terminate a national intelligence center if the National Intelligence Director determines that the center is no longer required to meet an intelligence priority established by the National Security Council.

(2) The National Intelligence Director shall notify Congress of any determination made under paragraph (1) before carrying out such determination.

**Subtitle E—Education and Training of Intelligence Community Personnel**

**SEC. 151. FRAMEWORK FOR CROSS-DISCIPLINARY EDUCATION AND TRAINING.**

The National Intelligence Director shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.

**SEC. 152. INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM.**

(a) DEFINITIONS.—In this section:

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

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

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

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The National Intelligence Director, in consultation with the head of each agency, shall establish a scholarship program (to be known as the ''Intelligence Community Scholarship Program'') to award scholarships to individuals that is designed to recruit and prepare students for civilian careers in the intelligence community to meet the critical needs of the intelligence community agencies.

(2) SELECTION OF RECIPIENTS.—

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

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

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

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

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

(2) be a United States citizen; and

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

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

(e) PROGRAMS AND FIELDS OF STUDY.—The National Intelligence Director shall—

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

(2) update the list as necessary.

(f) SCHOLARSHIPS.—

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

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

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

(4) AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the National Intelligence Director, but shall in no case exceed the cost of tuition, fees, and other authorized expenses as established by the Director.

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

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

(g) SPECIAL CONSIDERATION FOR CURRENT EMPLOYEES.—

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

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

(h) EMPLOYEE SERVICE.—

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

(2) BEGINNING OF SERVICE.—

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

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

(i) REPAYMENT.—

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

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

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

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

(j) CANCELLATION, WAIVER, OR SUSPENSION OF OBLIGATION.—

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

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

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

## Subtitle F—Additional Authorities of National Intelligence Authority

### SEC. 161. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—(1) If specifically authorized to dispose of real property of the National Intelligence Authority under any law enacted after the date of the enactment of this Act, the National Intelligence Director shall, subject to paragraph (2), exercise such authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code.

(2) The Director shall deposit the proceeds of any disposal of property of the National Intelligence Authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the National Intelligence Authority may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

### SEC. 162. ACQUISITION AND FISCAL AUTHORITIES.

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

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria;

(B) subject to paragraph (4), serve as the exclusive milestone decision authority; and

(C) periodically—

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

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

(2) The National Intelligence Director shall prescribe guidance for the development and implementation of program management plans under this subsection. In prescribing such guidance, the Director shall review Department of Defense guidance on program management plans for Department of Defense programs for the acquisition of major systems and, to the extent feasible, incorporate the principles of the Department of Defense guidance into the Director's guidance under this subsection.

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

(4)(A) The authority conferred by paragraph (1)(B) shall not apply to Department of Defense programs until the National Intelligence Director, in consultation with the Secretary of Defense, determines that the National Intelligence Authority has the personnel and capability to fully and effectively carry out such authority.

(B) The National Intelligence Director may assign any authority under this subsection to the Secretary of Defense. The assignment of such authority shall be made pursuant to a memorandum of understanding between the Director and the Secretary.

(5) In this subsection:

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

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

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

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

(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law (other than the provisions of this Act), sums appropriated or otherwise made available to the National Intelligence Authority may be expended for purposes necessary to carry out its functions, including any function performed by the National Intelligence Authority that is described in section 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(a)).

(c) RELATIONSHIP OF DIRECTOR'S AUTHORITY TO OTHER LAWS ON ACQUISITION AND MANAGEMENT OF PROPERTY AND SERVICES.—Section 113(e) of title 40, United States Code, is amended—

(A) by striking ''or'' at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting ''; or''; and

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

''(20) the National Intelligence Director.''.

(d) NATIONAL INTELLIGENCE DIRECTOR REPORT ON ENHANCEMENT OF NSA AND NGIA ACQUISITION AUTHORITIES.—Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall—

(1) review—

(A) the acquisition authority of the Director of the National Security Agency; and

(B) the acquisition authority of the Director of the National Geospatial-Intelligence Agency; and

(2) submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report setting forth any recommended enhancements of the acquisition authorities of the Director of the National Security Agency and the Director of the National Geospatial-Intelligence Agency that the National Intelligence Director considers necessary.

(e) COMPTROLLER GENERAL REPORT ON ACQUISITION POLICIES AND PROCEDURES.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the extent to which the policies and procedures adopted for managing the acquisition of major systems for national intelligence purposes, as identified by the National Intelligence Director, are likely to result in successful cost, schedule, and performance outcomes.

### SEC. 163. PERSONNEL MATTERS.

(a) IN GENERAL.—In addition to the authorities provided in section 114, the National Intelligence Director may exercise with respect to the personnel of the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this Act to the same extent, and subject to the same

conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(b) RIGHTS AND PROTECTIONS OF EMPLOYEES AND APPLICANTS.—Employees and applicants for employment of the National Intelligence Authority shall have the same rights and protections under the Authority as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this Act.

**SEC. 164. ETHICS MATTERS.**

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

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

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

''(XIV) the National Intelligence Authority; or''.

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

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

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

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

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

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

## TITLE II—OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

### Subtitle A—Improvements of Intelligence Activities

**SEC. 201. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.**

(a) AMOUNTS REQUESTED EACH FISCAL YEAR.—The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested in the budget of the President for such fiscal year for the National Intelligence Program.

(b) AMOUNTS AUTHORIZED AND APPROPRIATED EACH FISCAL YEAR.—Congress shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for such fiscal year for the National Intelligence Program.

(c) STUDY OF DISCLOSURE OF ADDITIONAL INFORMATION.—(1) The National Intelligence Director shall conduct a study to assess the advisability of disclosing to the public amounts as follows:

(A) The aggregate amount of appropriations requested in the budget of the President for each fiscal year for each element of the intelligence community.

(B) The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

(2) The study under paragraph (1) shall—

(A) address whether or not the disclosure to the public of the information referred to in that paragraph would harm the national security of the United States; and

(B) take into specific account concerns relating to the disclosure of such information for each element of the intelligence community.

(3) Not later than 180 days after the effective date of this section, the Director shall submit to Congress a report on the study under paragraph (1).

**SEC. 202. MERGER OF HOMELAND SECURITY COUNCIL INTO NATIONAL SECURITY COUNCIL.**

(a) MERGER OF HOMELAND SECURITY COUNCIL INTO NATIONAL SECURITY COUNCIL.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) in the fourth undesignated paragraph of subsection (a), by striking clauses (5) and (6) and inserting the following new clauses:

''(5) the Attorney General;

''(6) the Secretary of Homeland Security;''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(3) assess the objectives, commitments, and risks of the United States in the interests of homeland security and make recommendations to the President based on such assessments;

''(4) oversee and review the homeland security policies of the Federal Government and make recommendations to the President based on such oversight and review; and

''(5) perform such other functions as the President may direct.''.

(c) REPEAL OF SUPERSEDED AUTHORITY.—(1) Title IX of the Homeland Security Act of 2002 (6 U.S.C. 491 et seq.) is repealed.

(2) The table of contents for that Act is amended by striking the items relating to title IX.

**SEC. 203. JOINT INTELLIGENCE COMMUNITY COUNCIL.**

Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 101 the following new section:

''JOINT INTELLIGENCE COMMUNITY COUNCIL

''SEC. 101A. (a) JOINT INTELLIGENCE COMMUNITY COUNCIL.—There is a Joint Intelligence Community Council.

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

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

''(2) The Secretary of State.

''(3) The Secretary of the Treasury.

''(4) The Secretary of Defense.

''(5) The Attorney General.

''(6) The Secretary of Energy.

''(7) The Secretary of Homeland Security.

''(8) Such other officers of the United States Government as the President may designate from time to time.

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

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

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

''(d) MEETINGS.—The Joint Intelligence Community Council shall meet upon the request of the National Intelligence Director.''.

**SEC. 204. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.**

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

(1) The National Commission on Terrorist Attacks Upon the United States in its final report stated that, under Director Robert Mueller, the Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) In the report, the members of the Commission also urged that the Federal Bureau of Investigation fully institutionalize the shift of the Bureau to a preventive counterterrorism posture.

(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—The Director of the Federal Bureau of Investigation shall continue efforts to improve the intelligence capabilities of the Federal Bureau of Investigation and to develop and maintain within the Bureau a national intelligence workforce.

(c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In developing and maintaining a national intelligence workforce under subsection (b), the Director of the Federal Bureau of Investigation shall, subject to the direction and control of the President, develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner which ensures the existence within the Federal Bureau of Investigation an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.

(2) Each agent employed by the Bureau after the date of the enactment of this Act shall receive basic training in both criminal justice matters and national intelligence matters.

(3) Each agent employed by the Bureau after the date of the enactment of this Act shall, to the maximum extent practicable, be given the opportunity to undergo, during such agent's early service with the Bureau, meaningful assignments in criminal justice matters and in national intelligence matters.

(4) The Director shall—

(A) establish career positions in national intelligence matters for agents and analysts of the Bureau; and

(B) in furtherance of the requirement under subparagraph (A) and to the maximum extent practicable, afford agents and analysts of the Bureau the opportunity to work in the career specialty selected by such agents and analysts over their entire career with the Bureau.

(5) The Director shall carry out a program to enhance the capacity of the Bureau to recruit and retain individuals with backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the Bureau.

(6) The Director shall, to the maximum extent practicable, afford the analysts of the Bureau training and career opportunities commensurate with the training and career opportunities afforded analysts in other elements of the intelligence community.

(7) Commencing as soon as practicable after the date of the enactment of this Act, each direct supervisor of a Field Intelligence Group, and each Bureau Operational Manager at the Section Chief and Assistant Special Agent in Charge (ASAC) level and above, shall be a certified intelligence officer.

(8) The Director shall, to the maximum extent practicable, ensure that the successful discharge of advanced training courses, and of one or more assignments to another element of the intelligence community, is a precondition to advancement to higher level intelligence assignments within the Bureau.

(d) FIELD OFFICE MATTERS.—(1) In improving the intelligence capabilities of the Federal Bureau of Investigation under subsection (b), the Director of the Federal Bureau of Investigation shall ensure that each Field Intelligence Group reports directly to a field office senior manager responsible for intelligence matters.

(2) The Director shall provide for such expansion of the secure facilities in the field offices of the Bureau as is necessary to ensure the discharge by the field offices of the intelligence mission of the Bureau.

(3) The Director shall require that each Field Intelligence Group manager ensures the integration of analysts, agents, linguists, and surveillance personnel in the field.

(e) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation shall, in consultation with the Director of the Office of Management and Budget, modify the budget structure of the Federal Bureau of Investigation in order to organize the budget according to the four principal missions of the Bureau as follows:

(1) Intelligence.

(2) Counterterrorism and counterintelligence.

(3) Criminal Enterprises/Federal Crimes.

(4) Criminal justice services.

(f) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress made as of the date of such report in carrying out the requirements of this section.

(2) The Director shall include in each annual program review of the Federal Bureau of Investigation that is submitted to Congress a report on the progress made by each field office of the Bureau during the period covered by such review in addressing Bureau and national program priorities.

(3) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report assessing the qualifications, status, and roles of analysts at Bureau headquarters and in the field offices of the Bureau.

(4) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report on the progress of the Bureau in implementing information-sharing principles.

**SEC. 205. FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.**

(a) SHORT TITLE.—This section may be cited as the ''Federal Bureau of Investigation Intelligence Career Service Authorization Act of 2005''.

(b) ESTABLISHMENT OF FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management—

(A) may establish positions for intelligence analysts, without regard to chapter 51 of title 5, United States Code;

(B) shall prescribe standards and procedures for establishing and classifying such positions; and

(C) may fix the rate of basic pay for such positions, without regard to subchapter III of chapter 53 of title 5, United States Code, if the rate of pay is not greater than the rate of basic pay payable for level IV of the Executive Schedule.

(2) LEVELS OF PERFORMANCE.—Any performance management system established for intelligence analysts shall have at least 1 level of performance above a retention standard.

(c) REPORTING REQUIREMENT.—Not less than 60 days before the date of the implementation of authorities authorized under this section, the Director of the Federal Bureau of Investigation shall submit an operating plan describing the Director's intended use of the authorities under this section to—

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

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Government Reform of the House of Representatives;

(4) the congressional intelligence committees; and

(5) the Committees on the Judiciary of the Senate and the House of Representatives.

(d) ANNUAL REPORT.—Not later than December 31, 2005, and annually thereafter for 4 years, the Director of the Federal Bureau of Investigation shall submit an annual report of the use of the permanent authorities provided under this section during the preceding fiscal year to—

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

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Government Reform of the House of Representatives;

(4) the congressional intelligence committees; and

(5) the Committees on the Judiciary of the Senate and the House of Representatives.

**SEC. 206. INFORMATION SHARING.**

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term ''Advisory Board'' means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term ''Executive Council'' means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term ''homeland security information'' means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

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

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

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

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

(4) NETWORK.—The term ''Network'' means the Information Sharing Network described under subsection (c).

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

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of ''connecting the dots'', is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

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

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated ''need to know'' before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current ''need-to-know'' culture of information protection needs to be replaced with a ''need-to-share'' culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new ''trusted information network'' is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

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

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using

policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

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

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

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

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

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

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

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

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

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

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act; and

(9) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

(g) DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.—

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Network; and

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

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

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

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

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

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

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

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

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

(2) APPOINTMENT OF PRINCIPAL OFFICER.—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(h) EXECUTIVE COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Executive Council on Information Sharing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) MEMBERSHIP.—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

(F) the Director of the Federal Bureau of Investigation or his designee;

(G) the National Intelligence Director or his designee;

(H) such other Federal officials as the President shall designate;

(I) representatives of State, tribal, and local governments, to be appointed by the President; and

(J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) RESPONSIBILITIES.—The Executive Council shall assist the Director of Management and Budget in—

(A) implementing and managing the Network;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;

(C) ensuring there is coordination among departments and agencies participating in

the Network in the development and implementation of the Network;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;

(E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and

(F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).

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

(5) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(6) INFORMING THE PUBLIC.—The Executive Council shall—

(A) make its reports to Congress available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(i) ADVISORY BOARD ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.

(2) RESPONSIBILITIES.—The Advisory Board shall advise the Executive Council on policy, technical, and management issues related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) MEMBERSHIP AND QUALIFICATIONS.—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) CHAIR.—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

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

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

(B) objective systemwide performance goals for the following year;

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

(D) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

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

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Network;

(ii) have systems which have become integrated into the Network;

(iii) are providing as well as receiving information; and

(iv) are using the Network to communicate with each other;

(J) the extent to which—

(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

(k) AGENCY RESPONSIBILITIES.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Network shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Network under subsections (c) and (g);

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

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

(1) not later than 1 year after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Network in the year following the submission of the report.

(m) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) INFORMATION AVAILABLE TO THE COMPTROLLER GENERAL.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses intelligence or

homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

**Subtitle B—Privacy and Civil Liberties**

**SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.**

(a) IN GENERAL.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this subtitle as the ''Board'').

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

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

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g);

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

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

(i) that the power actually materially enhances security;

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

(iii) that there are adequate guidelines and oversight to properly confine its use.

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

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

(A) review and assess reports and other information from privacy officers and civil liberties officers described in section 212;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

(4) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers described in section 212; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) INFORMING THE PUBLIC.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

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

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

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

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

(D) require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(3) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

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

(4) TERM.—Each member of the Board shall serve a term of six years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

(C) the members initially appointed under this subsection shall serve terms of two, three, four, five, and six years, respectively,

from the effective date of this Act, with the term of each such member to be designated by the President.

(5) QUORUM AND MEETINGS.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

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

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

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

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

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

(k) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

**SEC. 212. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

(a) DESIGNATION AND FUNCTIONS.—The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the National Intelligence Director, the Director of the Central Intelligence Agency, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage under this section shall designate not less than 1 senior officer to—

(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has explained—

(i) that the power actually materially enhances security;

(ii) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(b) EXCEPTION TO DESIGNATION AUTHORITY.—

(1) PRIVACY OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) CIVIL LIBERTIES OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) SUPERVISION AND COORDINATION.—Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

(1) report directly to the head of the department, agency, or element concerned; and

(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

(d) AGENCY COOPERATION.—The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

(1) has the information, material, and resources necessary to fulfill the functions of such officer;

(2) is advised of proposed policy changes;

(3) is consulted by decision makers; and

(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

(e) REPRISAL FOR MAKING COMPLAINT.—No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) PERIODIC REPORTS.—

(1) IN GENERAL.—The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than quarterly, submit a report on the activities of such officers—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

(ii) to the head of such department, agency, or element; and

(iii) to the Privacy and Civil Liberties Oversight Board; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

(A) information on the number and types of reviews undertaken;

(B) the type of advice provided and the response given to such advice;

(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

(g) INFORMING THE PUBLIC.—Each privacy officer and civil liberties officer shall—

(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(h) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

**Subtitle C—Independence of Intelligence Agencies**

**SEC. 221. INDEPENDENCE OF NATIONAL INTELLIGENCE DIRECTOR.**

(a) LOCATION OUTSIDE EXECUTIVE OFFICE OF THE PRESIDENT.—The National Intelligence Director shall not be located within the Executive Office of the President.

(b) PROVISION OF NATIONAL INTELLIGENCE.—The National Intelligence Director shall provide to the President and Congress national intelligence that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

**SEC. 222. INDEPENDENCE OF INTELLIGENCE.**

(a) DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—The Director of the National Counterterrorism Center shall provide to the President, Congress, and the National Intelligence Director national intelligence related to counterterrorism that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

(b) DIRECTORS OF NATIONAL INTELLIGENCE CENTERS.—Each Director of a national intelligence center established under section 144 shall provide to the President, Congress, and

the National Intelligence Director intelligence information that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

(c) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—The Director of the Central Intelligence Agency shall ensure that intelligence produced by the Central Intelligence Agency is objective and independent of political considerations, and has not been shaped to serve policy goals.

(d) NATIONAL INTELLIGENCE COUNCIL.—The National Intelligence Council shall produce national intelligence estimates for the United States Government that are timely, objective, and independent of political considerations, and have not been shaped to serve policy goals.

**SEC. 223. INDEPENDENCE OF NATIONAL COUNTERTERRORISM CENTER.**

No officer, department, agency, or element of the executive branch shall have any authority to require the Director of the National Counterterrorism Center—

(1) to receive permission to testify before Congress; or

(2) to submit testimony, legislative recommendations, or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to Congress if such recommendations, testimony, or comments include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the Administration.

**SEC. 224. ACCESS OF CONGRESSIONAL COMMITTEES TO NATIONAL INTELLIGENCE.**

(a) DOCUMENTS REQUIRED TO BE PROVIDED TO CONGRESSIONAL COMMITTEES.—The National Intelligence Director, the Director of the National Counterterrorism Center, and the Director of a national intelligence center shall provide to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and any other committee of Congress with jurisdiction over the subject matter to which the information relates, all intelligence assessments, intelligence estimates, sense of intelligence community memoranda, and daily senior executive intelligence briefs, other than the Presidential Daily Brief and those reports prepared exclusively for the President.

(b) RESPONSE TO REQUESTS FROM CONGRESS REQUIRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), in addition to providing material under subsection (a), the National Intelligence Director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center shall, not later than 15 days after receiving a request for any intelligence assessment, report, or estimate or other intelligence information from the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, or any other committee of Congress with jurisdiction over the subject matter to which the information relates, make available to such committee such intelligence assessment, report, or estimate or other intelligence information.

(2) CERTAIN MEMBERS.—In addition to requests described in paragraph (1), the National Intelligence Director shall respond to requests from the Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate and the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives. Upon making a request covered by this paragraph, the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request.

(3) ASSERTIONS OF PRIVILEGE.—In response to requests described under paragraph (1) or (2), the National Intelligence Director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center shall provide information, unless the President certifies that such information is not being provided because the President is asserting a privilege pursuant to the United States Constitution.

**SEC. 225. COMMUNICATIONS WITH CONGRESS.**

(a) DISCLOSURE OF CERTAIN INFORMATION AUTHORIZED.—

(1) IN GENERAL.—Employees of covered agencies and employees of contractors carrying out activities under classified contracts with covered agencies may disclose information described in paragraph (2) to the individuals referred to in paragraph (3) without first reporting such information to the appropriate Inspector General.

(2) COVERED INFORMATION.—Paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of a false or inaccurate statement to Congress contained in, or withheld from Congress, any intelligence information material to, any intelligence assessment, report, or estimate, but does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

(3) COVERED INDIVIDUALS.—

(A) IN GENERAL.—The individuals to whom information in paragraph (2) may be disclosed are—

(i) a Member of a committee of Congress having primary responsibility for oversight of a department, agency, or element of the United States Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

(ii) any other Member of Congress who is authorized to receive information of the type disclosed; and

(iii) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.

(B) PRESUMPTION OF NEED FOR INFORMATION.—An individual described in subparagraph (A) to whom information is disclosed under paragraph (2) shall be presumed to have a need to know such information.

(b) CONSTRUCTION WITH OTHER REPORTING REQUIREMENTS.—Nothing in this section may be construed to modify, alter, or otherwise affect—

(1) any reporting requirement relating to intelligence activities that arises under this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), or any other provision of law; or

(2) the right of any employee of the United States Government to disclose to Congress in accordance with applicable law information not described in this section.

(c) COVERED AGENCIES DEFINED.—In this section, the term ''covered agencies'' means the following:

(1) The National Intelligence Authority, including the National Counterterrorism Center.

(2) The Central Intelligence Agency.

(3) The Defense Intelligence Agency.

(4) The National Geospatial-Intelligence Agency.

(5) The National Security Agency.

(6) The Federal Bureau of Investigation.

(7) Any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

## TITLE III—MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE COMMUNITY MANAGEMENT

### Subtitle A—Conforming and Other Amendments

**SEC. 301. RESTATEMENT AND MODIFICATION OF BASIC AUTHORITY ON THE CENTRAL INTELLIGENCE AGENCY.**

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

''CENTRAL INTELLIGENCE AGENCY

''SEC. 102. (a) CENTRAL INTELLIGENCE AGENCY.—There is a Central Intelligence Agency.

''(b) FUNCTION.—The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 103(d).

''DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

''SEC. 103. (a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

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

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

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

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

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

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

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

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

''(4) perform such other functions and duties pertaining to intelligence relating to the national security as the President or the National Intelligence Director may direct.

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

''(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any

other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

''(f) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Intelligence Director and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director of the Central Intelligence Agency shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.''.

(b) TRANSFORMATION OF CENTRAL INTELLIGENCE AGENCY.—The Director of the Central Intelligence Agency shall, in accordance with standards developed by the Director in consultation with the National Intelligence Director—

(1) enhance the analytic, human intelligence, and other capabilities of the Central Intelligence Agency;

(2) develop and maintain an effective language program within the Agency;

(3) emphasize the hiring of personnel of diverse backgrounds for purposes of improving the capabilities of the Agency;

(4) establish and maintain effective relationships between human intelligence and signals intelligence within the Agency at the operational level; and

(5) achieve a more effective balance within the Agency with respect to unilateral operations and liaison operations.

(c) REPORTS.—(1) Not later than 180 days after the effective date of this section, and annually thereafter, the Director of the Central Intelligence Agency shall submit to the National Intelligence Director and the congressional intelligence committees a report setting forth the following:

(A) A strategy for improving the conduct of analysis (including strategic analysis) by the Central Intelligence Agency, and the progress of the Agency in implementing the strategy.

(B) A strategy for improving the human intelligence and other capabilities of the Agency, and the progress of the Agency in implementing the strategy, including—

(i) the recruitment, training, equipping, and deployment of personnel required to address the current and projected threats to the national security of the United States during each of the 2-year, 5-year, and 10-year periods beginning on the date of such report, including personnel with the backgrounds, education, and experience necessary for ensuring a human intelligence capability adequate for such projected threats;

(ii) the achievement of a proper balance between unilateral operations and liaison operations;

(iii) the development of language capabilities (including the achievement of high standards in such capabilities by the use of financial incentives and other mechanisms);

(iv) the sound financial management of the Directorate of Operations; and

(v) the identification of other capabilities required to address the current and projected threats to the national security of the United States during each of the 2-year, 5-year, and 10-year periods beginning on the date of such report.

(C) In conjunction with the Director of the National Security Agency, a strategy for achieving integration between signals and human intelligence capabilities, and the progress in implementing the strategy.

(D) Metrics and milestones for measuring progress in the implementation of each such strategy.

(2)(A) The information in each report under paragraph (1) on the element of the strategy referred to in paragraph (1)(B)(i) shall identify the number and types of personnel required to implement the strategy during each period addressed in such report, include a plan for the recruitment, training, equipping, and deployment of such personal, and set forth an estimate of the costs of such activities.

(B) If as of the date of a report under paragraph (1), a proper balance does not exist between unilateral operations and liaison operations, such report shall set forth the steps to be taken to achieve such balance.

(C) The information in each report under paragraph (1) on the element of the strategy referred to in paragraph (1)(B)(v) shall identify the other capabilities required to implement the strategy during each period addressed in such report, include a plan for developing such capabilities, and set forth an estimate of the costs of such activities.

**SEC. 302. CONFORMING AMENDMENTS RELATING TO ROLES OF NATIONAL INTELLIGENCE DIRECTOR AND DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.**

(a) NATIONAL SECURITY ACT OF 1947.—(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(A) Section 3(5)(B) (50 U.S.C. 401a(5)(B)).

(B) Section 101(h)(2)(A) (50 U.S.C. 402(h)(2)(A)).

(C) Section 101(h)(5) (50 U.S.C. 402(h)(5)).

(D) Section 101(i)(2)(A) (50 U.S.C. 402(i)(2)(A)).

(E) Section 101(j) (50 U.S.C. 402(j)).

(F) Section 105(a) (50 U.S.C. 403–5(a)).

(G) Section 105(b)(6)(A) (50 U.S.C. 403–5(b)(6)(A)).

(H) Section 105B(a)(1) (50 U.S.C. 403–5b(a)(1)).

(I) Section 105B(b) (50 U.S.C. 403–5b(b)).

(J) Section 110(b) (50 U.S.C. 404e(b)).

(K) Section 110(c) (50 U.S.C. 404e(c)).

(L) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).

(M) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).

(N) Section 113(b)(2)(A) (50 U.S.C. 404h(b)(2)(A)).

(O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).

(P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).

(R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).

(S) Section 115(b) (50 U.S.C. 404j(b)).

(T) Section 115(c)(1)(B) (50 U.S.C. 404j(c)(1)(B)).

(U) Section 116(a) (50 U.S.C. 404k(a)).

(V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).

(W) Section 303(a) (50 U.S.C. 405(a)), both places it appears.

(X) Section 501(d) (50 U.S.C. 413(d)).

(Y) Section 502(a) (50 U.S.C. 413a(a)).

(Z) Section 502(c) (50 U.S.C. 413a(c)).

(AA) Section 503(b) (50 U.S.C. 413b(b)).

(BB) Section 504(a)(2) (50 U.S.C. 414(a)(2)).

(CC) Section 504(a)(3)(C) (50 U.S.C. 414(a)(3)(C)).

(DD) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

(EE) Section 506A(a)(1) (50 U.S.C. 415a–1(a)(1)).

(FF) Section 603(a) (50 U.S.C. 423(a)).

(GG) Section 702(a)(1) (50 U.S.C. 432(a)(1)).

(HH) Section 702(a)(6)(B)(viii) (50 U.S.C. 432(a)(6)(B)(viii)).

(II) Section 702(b)(1) (50 U.S.C. 432(b)(1)), both places it appears.

(JJ) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).

(KK) Section 703(a)(6)(B)(viii) (50 U.S.C. 432a(a)(6)(B)(viii)).

(LL) Section 703(b)(1) (50 U.S.C. 432a(b)(1)), both places it appears.

(MM) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).

(NN) Section 704(f)(2)(H) (50 U.S.C. 432b(f)(2)(H)).

(OO) Section 704(g)(1)) (50 U.S.C. 432b(g)(1)), both places it appears.

(PP) Section 1001(a) (50 U.S.C. 441g(a)).

(QQ) Section 1102(a)(1) (50 U.S.C. 442a(a)(1)).

(RR) Section 1102(b)(1) (50 U.S.C. 442a(b)(1)).

(SS) Section 1102(c)(1) (50 U.S.C. 442a(c)(1)).

(TT) Section 1102(d) (50 U.S.C. 442a(d)).

(2) That Act is further amended by striking ''of Central Intelligence'' each place it appears in the following provisions:

(A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).

(B) Section 105B(a)(2) (50 U.S.C. 403–5b(a)(2)).

(C) Section 105B(b) (50 U.S.C. 403–5b(b)), the second place it appears.

(3) That Act is further amended by striking ''Director'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(A) Section 114(c) (50 U.S.C. 404i(c)).

(B) Section 116(b) (50 U.S.C. 404k(b)).

(C) Section 1001(b) (50 U.S.C. 441g(b)).

(C) Section 1001(c) (50 U.S.C. 441g(c)), the first place it appears.

(D) Section 1001(d)(1)(B) (50 U.S.C. 441g(d)(1)(B)).

(E) Section 1001(e) (50 U.S.C. 441g(e)), the first place it appears.

(4) Section 114A of that Act (50 U.S.C. 404i–1) is amended by striking ''Director of Central Intelligence'' and inserting ''National Intelligence Director, the Director of the Central Intelligence Agency''

(5) Section 701 of that Act (50 U.S.C. 431) is amended—

(A) in subsection (a), by striking ''Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence'' and inserting ''The Director of the Central Intelligence Agency, with the coordination of the National Intelligence Director, may exempt operational files of the Central Intelligence Agency''; and

(B) in subsection (g)(1), by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency and the National Intelligence Director''.

(6) The heading for section 114 of that Act (50 U.S.C. 404i) is amended to read as follows:

''ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL INTELLIGENCE DIRECTOR''.

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) Section 1 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) is amended—

(A) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively; and

(B) by striking paragraph (2), as so redesignated, and inserting the following new paragraph (2):

''(2) 'Director' means the Director of the Central Intelligence Agency; and''.

(2) That Act (50 U.S.C. 403a et seq.) is further amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(A) Section 6 (50 U.S.C. 403g).

(B) Section 17(f) (50 U.S.C. 403q(f)), both places it appears.

(3) That Act is further amended by striking ''of Central Intelligence'' in each of the following provisions:

(A) Section 2 (50 U.S.C. 403b).

(B) Section 16(c)(1)(B) (50 U.S.C. 403p(c)(1)(B)).

(C) Section 17(d)(1) (50 U.S.C. 403q(d)(1)).

(D) Section 20(c) (50 U.S.C. 403t(c)).

(4) That Act is further amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''Director of the Central Intelligence Agency'':

(A) Section 14(b) (50 U.S.C. 403n(b)).

(B) Section 16(b)(2) (50 U.S.C. 403p(b)(2)).

(C) Section 16(b)(3) (50 U.S.C. 403p(b)(3)), both places it appears.

(D) Section 21(g)(1) (50 U.S.C. 403u(g)(1)).

(E) Section 21(g)(2) (50 U.S.C. 403u(g)(2)).

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 101 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2001) is amended by striking paragraph (2) and inserting the following new paragraph (2):

''(2) DIRECTOR.—The term 'Director' means the Director of the Central Intelligence Agency.''.

(d) CIA VOLUNTARY SEPARATION PAY ACT.—Subsection (a)(1) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 2001 note) is amended to read as follows:

''(1) the term 'Director' means the Director of the Central Intelligence Agency;''.

(e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking ''Director of Central Intelligence'' each place it appears and inserting ''National Intelligence Director''.

(f) CLASSIFIED INFORMATION PROCEDURES ACT.—Section 9(a) of the Classified Information Procedures Act (5 U.S.C. App.) is amended by striking ''Director of Central Intelligence'' and inserting ''National Intelligence Director''.

(g) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 103–359.—Section 811(c)(6)(C) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359) is amended by striking ''Director of Central Intelligence'' and inserting ''National Intelligence Director''.

(2) PUBLIC LAW 107–306.—(A) The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306) is amended by striking ''Director of Central Intelligence, acting as the head of the intelligence community,'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(i) Section 313(a) (50 U.S.C. 404n(a)).

(ii) Section 343(a)(1) (50 U.S.C. 404n–2(a)(1))

(B) Section 341 of that Act (50 U.S.C. 404n–1) is amended by striking ''Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency'' and inserting ''National Intelligence Director shall establish within the Central Intelligence Agency''.

(C) Section 352(b) of that Act (50 U.S.C. 404–3 note) is amended by striking ''Director'' and inserting ''National Intelligence Director''.

(3) PUBLIC LAW 108–177.—(A) The Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177) is amended by striking ''Director of Central Intelligence'' each place it appears in the following provisions and inserting ''National Intelligence Director'':

(i) Section 317(a) (50 U.S.C. 403–3 note).

(ii) Section 317(h)(1).

(iii) Section 318(a) (50 U.S.C. 441g note).

(iv) Section 319(b) (50 U.S.C. 403 note).

(v) Section 341(b) (28 U.S.C. 519 note).

(vi) Section 357(a) (50 U.S.C. 403 note).

(vii) Section 504(a) (117 Stat. 2634), both places it appears.

(B) Section 319(f)(2) of that Act (50 U.S.C. 403 note) is amended by striking ''Director'' the first place it appears and inserting ''National Intelligence Director''.

(C) Section 404 of that Act (18 U.S.C. 4124 note) is amended by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

**SEC. 303. OTHER CONFORMING AMENDMENTS**

(a) NATIONAL SECURITY ACT OF 1947.—(1) Section 101(j) of the National Security Act of 1947 (50 U.S.C. 402(j)) is amended by striking ''Deputy Director of Central Intelligence'' and inserting ''Principal Deputy National Intelligence Director''.

(2) Section 112(d)(1) of that Act (50 U.S.C. 404g(d)(1)) is amended by striking ''section 103(c)(6) of this Act'' and inserting ''section 112(a)(11) of the National Intelligence Reform Act of 2004''.

(3) Section 116(b) of that Act (50 U.S.C. 404k(b)) is amended by striking ''to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency, the Director may delegate such authority to the Deputy Director for Operations'' and inserting ''to the Principal Deputy National Intelligence Director, or, with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency''.

(4) Section 504(a)(2) of that Act (50 U.S.C. 414(a)(2)) is amended by striking ''Reserve for Contingencies of the Central Intelligence Agency'' and inserting ''Reserve for Contingencies of the National Intelligence Director''.

(5) Section 506A(b)(1) of that Act (50 U.S.C. 415a–1(b)(1)) is amended by striking ''Office of the Deputy Director of Central Intelligence'' and inserting ''Office of the National Intelligence Director''.

(6) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking ''or the Office of the Director of Central Intelligence'' and inserting ''the Office of the Director of the Central Intelligence Agency, or the Office of the National Intelligence Director''.

(7) Section 1001(b) of that Act (50 U.S.C. 441g(b)) is amended by striking ''Assistant Director of Central Intelligence for Administration'' and inserting ''Office of the National Intelligence Director''.

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking ''section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))'' and inserting ''section 112(a)(11) of the National Intelligence Reform Act of 2004''.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking ''paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Central Intelligence'' and inserting ''section 112(a)(11) of the National Intelligence Reform Act of 2004 that the National Intelligence Director''.

(d) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 107–306.—Section 343(c) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is amended by striking ''section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3((c)(6))'' and inserting ''section 112(a)(11) of the National Intelligence Reform Act of 2004''.

(2) PUBLIC LAW 108–177.—Section 317 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403–3 note) is amended—

(A) in subsection (g), by striking ''Assistant Director of Central Intelligence for Analysis and Production'' and inserting ''Principal Deputy National Intelligence Director''; and

(B) in subsection (h)(2)(C), by striking ''Assistant Director'' and inserting ''Principal Deputy National Intelligence Director''.

**SEC. 304. MODIFICATIONS OF FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.**

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) in paragraph (2), by striking ''or foreign persons, or international terrorist activities'' and inserting ''foreign persons, or international terrorists''; and

(2) in paragraph (3), by striking ''or foreign persons, or international terrorist activities'' and inserting ''foreign persons, or international terrorists''.

**SEC. 305. ELEMENTS OF INTELLIGENCE COMMUNITY UNDER NATIONAL SECURITY ACT OF 1947.**

Paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

''(4) The term 'intelligence community' includes the following:

''(A) The National Intelligence Authority.

''(B) The Central Intelligence Agency.

''(C) The National Security Agency.

''(D) The Defense Intelligence Agency.

''(E) The National Geospatial-Intelligence Agency.

''(F) The National Reconnaissance Office.

''(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

''(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

''(I) The Bureau of Intelligence and Research of the Department of State.

''(J) The Office of Intelligence and Analysis of the Department of the Treasury.

''(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

''(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.''.

**SEC. 306. REDESIGNATION OF NATIONAL FOREIGN INTELLIGENCE PROGRAM AS NATIONAL INTELLIGENCE PROGRAM.**

(a) REDESIGNATION.—Section 3 of the National Security Act of 1947 (50 U.S.C. 401a), as amended by this Act, is further amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraph (7) as paragraph (6).

(b) CONFORMING AMENDMENTS.—(1) The National Security Act of 1947, as amended by this Act, is further amended by striking ''National Foreign Intelligence Program'' each place it appears in the following provisions and inserting ''National Intelligence Program'':

(A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).

(B) Section 105(a)(3) (50 U.S.C. 403–5(a)(3)).

(C) Section 506(a) (50 U.S.C. 415a(a)).

(2) Section 17(f) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(f)) is amended by striking ''National Foreign Intelligence Program'' and inserting ''National Intelligence Program''.

(c) HEADING AMENDMENTS.—(1) The heading of section 105 of that Act is amended to read as follows:

''RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL INTELLIGENCE PROGRAM''.

(2) The heading of section 506 of that Act is amended to read as follows:

''SPECIFICITY OF NATIONAL INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE''.

**SEC. 307. CONFORMING AMENDMENT ON COORDINATION OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY WITHIN THE DEPARTMENT OF DEFENSE.**

Section 105(a)(1) of the National Security Act of 1947 (50 U.S.C. 403–5(a)(1)) is amended by striking ''ensure'' and inserting ''assist the Director in ensuring''.

**SEC. 308. REPEAL OF SUPERSEDED AUTHORITIES.**

(a) APPOINTMENT OF CERTAIN INTELLIGENCE OFFICIALS.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is repealed.

(b) COLLECTION TASKING AUTHORITY.—Section 111 of the National Security Act of 1947 (50 U.S.C. 404f) is repealed.

**SEC. 309. CLERICAL AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.**

The table of contents for the National Security Act of 1947 is amended—

(1) by inserting after the item relating to section 101 the following new item:

''Sec. 101A. Joint Intelligence Community Council.'';

(2) by striking the items relating to sections 102 through 104 and inserting the following new items:

''Sec. 102. Central Intelligence Agency.

''Sec. 103. Director of the Central Intelligence Agency.'';

(3) by striking the item relating to section 105 and inserting the following new item:

''Sec 105. Responsibilities of the Secretary of Defense pertaining to the National Intelligence Program.'';

(4) by striking the item relating to section 114 and inserting the following new item:

''Sec. 114. Additional annual reports from the National Intelligence Director.'';

and

(5) by striking the item relating to section 506 and inserting the following new item:

''Sec. 506. Specificity of National Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence''.

**SEC. 310. MODIFICATION OF AUTHORITIES RELATING TO NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Subsection (a)(2) of section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 116 Stat. 2432; 50 U.S.C. 402b) is amended by striking ''Director of Central Intelligence'' and inserting ''National Intelligence Director, and Director of the Central Intelligence Agency''.

(b) COMPONENT OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—Such section is further amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) COMPONENT OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—The National Counterintelligence Executive is a component of the Office of the National Intelligence Director under subtitle C of the National Intelligence Reform Act of 2004.''.

(c) DUTIES.—Subsection (d) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following new paragraph:

''(5) To perform such other duties as may be provided under section 131(b) of the National Intelligence Reform Act of 2004.''.

(d) OFFICE OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 904 of the Counterintelligence Enhancement Act of 2002 (116 Stat. 2434; 50 U.S.C. 402c) is amended—

(1) by striking ''Office of the Director of Central Intelligence'' each place it appears in subsections (c) and (l)(1) and inserting ''Office of the National Intelligence Director'';

(2) by striking ''Director of Central Intelligence'' each place it appears in subsections (e)(4), (e)(5), (h)(1), and (h)(2) and inserting ''National Intelligence Director''; and

(3) in subsection (m), by striking ''Director of Central Intelligence'' and inserting ''National Intelligence Director, the Director of the Central Intelligence Agency''.

**SEC. 311. CONFORMING AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.**

Section 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new subparagraph:

''(D) An employee of the National Intelligence Authority, an employee of an entity other than the Authority who is assigned or detailed to the Authority, or of a contractor of the Authority, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the National Intelligence Authority in accordance with section 141(h)(5) of the National Intelligence Reform Act of 2004.''.

**SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.**

Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

''(Q) The National Intelligence Authority.''.

**Subtitle B—Transfers and Terminations**

**SEC. 321. TRANSFER OF OFFICE OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.**

(a) TRANSFER.—There shall be transferred to the Office of the National Intelligence Director the staff of the Office of the Deputy Director of Central Intelligence for Community Management as of the date of the enactment of this Act, including all functions and activities discharged by the Office of the Deputy Director of Central Intelligence for Community Management as of that date.

(b) ADMINISTRATION.—The National Intelligence Director shall administer the staff of the Office of the Deputy Director of Central Intelligence for Community Management after the date of the enactment of this Act as a component of the Office of the National Intelligence Director under section 121(d).

**SEC. 322. TRANSFER OF NATIONAL COUNTERTERRORISM EXECUTIVE.**

(a) TRANSFER.—There shall be transferred to the Office of the National Intelligence Director the National Counterintelligence Executive and the Office of the National Counterintelligence Executive under the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, including all functions and activities discharged by the National Counterintelligence Executive and the Office of the National Counterintelligence Executive as of the date of the enactment of this Act.

(b) ADMINISTRATION.—The National Intelligence Director shall treat the National Counterintelligence Executive, and administer the Office of the National Counterintelligence Executive, after the date of the enactment of this Act as components of the Office of the National Intelligence Director under section 121(c).

**SEC. 323. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.**

(a) TRANSFER.—There shall be transferred to the National Counterterrorism Center the Terrorist Threat Integration Center (TTIC), including all functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act.

(b) ADMINISTRATION.—The Director of the National Counterterrorism Center shall administer the Terrorist Threat Integration Center after the date of the enactment of this Act as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 143(g)(2).

**SEC. 324. TERMINATION OF CERTAIN POSITIONS WITHIN THE CENTRAL INTELLIGENCE AGENCY.**

(a) TERMINATION.—The positions within the Central Intelligence Agency referred to in subsection (b) are hereby abolished.

(b) COVERED POSITIONS.—The positions within the Central Intelligence Agency referred to in this subsection are as follows:

(1) The Deputy Director of Central Intelligence for Community Management.

(2) The Assistant Director of Central Intelligence for Collection.

(3) The Assistant Director of Central Intelligence for Analysis and Production.

(4) The Assistant Director of Central Intelligence for Administration.

**Subtitle C—Other Transition Matters**

**SEC. 331. EXECUTIVE SCHEDULE MATTERS.**

(a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding the end the following new item:

''National Intelligence Director.''.

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended—

(1) by striking the item relating to the Director of Central Intelligence; and

(2) by adding at the end the following new items:

''Deputy National Intelligence Directors (5).

''Director of the National Counterterrorism Center.''.

(c) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence and inserting the following new item:

''Director of the Central Intelligence Agency.''.

(d) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the Assistant Directors of Central Intelligence.

**SEC. 332. PRESERVATION OF INTELLIGENCE CAPABILITIES.**

The National Intelligence Director, the Director of the Central Intelligence Agency, and the Secretary of Defense shall jointly take such actions as are appropriate to preserve the intelligence capabilities of the United States during the establishment of the National Intelligence Authority under this Act.

**SEC. 333. REORGANIZATION.**

(a) REORGANIZATION.—The National Intelligence Director may, with the approval of the President and after consultation with the department, agency, or element concerned, allocate or reallocate functions among the officers of the National Intelligence Program, and may establish, consolidate, alter, or discontinue organizational units within the Program, but only after providing notice of such action to Congress, which shall include an explanation of the rationale for the action.

(b) LIMITATION.—The authority under subsection (a) does not extend to any action inconsistent with law.

(c) CONGRESSIONAL REVIEW.—An action may be taken under the authority under subsection (a) only with the approval of the following:

(1) Each of the congressional intelligence committees.

(2) Each of the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

**SEC. 334. NATIONAL INTELLIGENCE DIRECTOR REPORT ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.**

Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the progress made in the implementation of this Act, including the amendments made by this Act. The report shall include a comprehensive description of the progress made, and may include such recommendations for additional legislative or administrative action as the Director considers appropriate.

**SEC. 335. COMPTROLLER GENERAL REPORTS ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.**

(a) REPORTS.—(1) Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a comprehensive report on the implementation of this Act and the amendments made by this Act.

(2) The Comptroller General may submit to Congress at any time during the two-year period beginning on the date of the enactment of this Act, such reports on the progress made in the implementation of this Act and the amendments made by this Act as the Comptroller General considers appropriate.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall include the following:

(1) The assessment of the Comptroller General of the progress made in the implementation of this Act (and the amendments made by this Act) as of the date of such report.

(2) A description of any delays or other shortfalls in the implementation of this Act that have been identified by the Comptroller General.

(3) Any recommendations for additional legislative or administrative action that the Comptroller General considers appropriate.

(c) AGENCY COOPERATION.—Each department, agency, and element of the United States Government shall cooperate with the Comptroller General in the assessment of the implementation of this Act, and shall provide the Comptroller General timely and complete access to relevant documents in accordance with section 716 of title 31, United States Code.

**SEC. 336. GENERAL REFERENCES.**

(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF INTELLIGENCE COMMUNITY.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Intelligence Director.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF CIA.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

(c) OFFICE OF THE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.—Any reference to the Office of the Deputy Director of Central Intelligence for Community Management in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of such office within the Office of the National Intelligence Director under section 121.

**Subtitle D—Effective Date**

**SEC. 341. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall take effect 180 days after the date of the enactment of this Act.

(b) EARLIER EFFECTIVE DATE.—In order to ensure the rapid implementation of this Act while simultaneously ensuring a smooth transition that will safeguard the national security of the United States, the President may provide that this Act (including the amendments made by this Act), or one or more particular provisions of this Act (including the amendments made by such provision or provisions), shall take effect on such date that is earlier than the date otherwise provided under subsection (a) as the President shall specify.

(c) NOTIFICATION OF EFFECTIVE DATES.—If the President exercises the authority in subsection (b), the President shall—

(1) notify Congress of the exercise of such authority; and

(2) publish in the Federal Register notice of the earlier effective date or dates involved, including each provision (and amendment) covered by such earlier effective date.

**Subtitle E—Other Matters**

**SEC. 351. SEVERABILITY.**

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which such provision is held invalid, shall not be affected thereby.

**SEC. 352. AUTHORIZATION OF APPROPRIATIONS.**

There are specifically authorized to be appropriated for fiscal year 2005 such sums as may be necessary to carry out this Act and the amendments made by this Act.

**TITLE IV—INFORMATION SHARING**

**SEC. 401. INFORMATION SHARING.**

(a) DEFINITIONS.—In this section:

(1) NETWORK.—The term ''Network'' means the Information Sharing Network described in subsection (c).

(2) TERRORISM INFORMATION.—The term ''terrorism information'' means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities, relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

(C) communications of or by such groups or individuals; or

(D) information relating to groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of ''connecting the dots'', is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. But the United States Government has a weak system for processing and using the information it has.

(3) In the period leading up to September 11, 2001, there were instances of potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels; and information that was requested but could not be shared.

(4) Current security requirements nurture overclassification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated ''need to know'' before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current ''need-to-know'' culture of information protection needs to be replaced with a ''need-to-share'' culture of integration.

(6) A new approach to the sharing of terrorism information is urgently needed. An important conceptual model for a new ''trusted information network'' is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish an information sharing network to promote the sharing of terrorism information, in a manner consistent with national security and the protection of privacy and civil liberties.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information horizontally across agencies, vertically between levels of government, and, as appropriate, with the private sector;

(B) building on existing systems capabilities at relevant agencies;

(C) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(D) employing an information rights management approach that controls access to data rather than to whole networks;

(E) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(F) providing directory services for locating people and information;

(G) incorporating protections for individuals' privacy and civil liberties;

(H) incorporating mechanisms for information security; and

(I) access controls, authentication and authorization, audits, and other strong mechanisms for information security and privacy guideline enforcement across all levels of security, in order to enhance accountability and facilitate oversight.

(d) IMMEDIATE STEPS.—Not later than 90 days after the date of enactment of this Act, the President, through the Director of Management and Budget and in consultation with the National Intelligence Director, the Attorney General, the Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, and such other Federal officials as the President shall designate, shall—

(1) establish electronic directory services to assist in locating in the Federal Government terrorism information and people with relevant knowledge about terrorism information; and

(2) conduct a review of relevant current Federal agency capabilities, including a baseline inventory of current Federal systems that contain terrorism information, the money currently spent to maintain those systems, and identification of other information that should be included in the Network.

(e) GUIDELINES.—As soon as possible, but in no event later than 180 days after the date of enactment of this Act, the President shall—

(1) in consultation with the National Intelligence Director and the Advisory Council on Information Sharing established in subsection (g), issue guidelines for acquiring, accessing, sharing, and using terrorism information, including guidelines to ensure such information is provided in its most shareable form, such as by separating out data from the sources and methods by which they are obtained;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 901, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security;

(3) establish objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network; and

(4) require Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) SYSTEM DESIGN AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of enactment of this Act, the President shall submit to Congress a system design and implementation plan for the Network. The plan shall be prepared by the President through the Director of Management and Budget and in consultation with the National Intelligence Director, the Attorney General, the Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, and such other Federal officials as the President shall designate, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the ways in which these issues will be addressed;

(3)(A) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including—

(i) identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network); and

(ii) identification of any agency that will operate and manage the Network (as distinct from the individual agency components that are to be part of the Network);

(B) a provision that the delineation of roles under subparagraph (A) shall—

(i) be consistent with the authority of the National Intelligence Director, under this Act, to set standards for information sharing and information technology throughout the intelligence community; and

(ii) recognize the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(4) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(5) a plan, including a time line, for the development and phased implementation of the Network;

(6) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of enactment of this Act; and

(7) proposals for any legislation that the President believes necessary to implement the Network.

(g) ADVISORY COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Council on Information Sharing (in this subsection referred to as the ''Council'').

(2) MEMBERSHIP.—No more than 25 individuals may serve as members of the Council, which shall include—

(A) the National Intelligence Director, who shall serve as Chairman of the Council;

(B) the Secretary of Homeland Security;

(C) the Secretary of Defense;

(D) the Attorney General;

(E) the Secretary of State;

(F) the Director of the Central Intelligence Agency;

(G) the Director of the Federal Bureau of Investigation;

(H) the Director of Management and Budget;

(I) such other Federal officials as the President shall designate;

(J) representatives of State, tribal, and local governments, to be appointed by the President;

(K) individuals from outside government with expertise in relevant technology, security and privacy concepts, to be appointed by the President; and

(L) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) RESPONSIBILITIES.—The Council shall—

(A) advise the President and the heads of relevant Federal departments and agencies on the implementation of the Network;

(B) ensure that there is coordination among participants in the Network in the development and implementation of the Network;

(C) review, on an ongoing basis, policy, legal and technology issues related to the implementation of the Network; and

(D) establish a dispute resolution process to resolve disagreements among departments and agencies about whether particular terrorism information should be shared and in what manner.

(4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(5) INFORMING THE PUBLIC.—The Council shall hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(6) COUNCIL REPORTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the National Intelligence Director, in the capacity of Chairman of the Council, shall submit a report to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(h) PRESIDENTIAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and semiannually thereafter, the President shall submit a report to Congress on the state of the Network. The report shall include—

(1) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the governmentwide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;

(2) objective systemwide performance goals for the following year;

(3) an accounting of how much was spent on the Network in the preceding year;

(4) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

(5) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(6) the extent to which unnecessary roadblocks or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(7) the extent to which positive incentives for information sharing have been implemented;

(8) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(9) the extent to which State, tribal, and local officials—

(A) are participating in the Network;

(B) have systems which have become integrated into the Network;

(C) are providing as well as receiving information; and

(D) are using the Network to communicate with each other;

(10) the extent to which—

(A) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(B) the private sector is both providing and receiving information;

(11) where private sector data has been used by the Government or has been incorporated into the Network—

(A) the measures taken to protect sensitive business information; and

(B) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(12) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(13) an assessment of the Network's privacy protections, including actions taken in the preceding year to implement or enforce privacy protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(14) an assessment of the security protections of the Network.

(i) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses terrorism information or that otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget and to Congress—

(1) not later than 1 year after the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department's or agency's information sharing efforts; and

(C) budgetary requirements to integrate the department or agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the reports; and

(2) annually thereafter, reports including—

(A) an assessment of the department's or agency's progress in complying with the Network's requirements, including how well the department or agency has performed on the objective measures developed under paragraph (1);

(B) the department's or agency's expenditures to implement and comply with the Network's requirements in the preceding year;

(C) the department's or agency's plans for further implementation of the Network in the year following the submission of the report.

(j) PERIODIC ASSESSMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and periodically thereafter, the Government Accountability Office shall review and evaluate the implementation of the Network, both generally and, at its discretion, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on its findings.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses terrorism information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network system design and implementation plan required by subsection (f).

## TITLE V—CONGRESSIONAL REFORM

### SEC. 501. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The American people are not served well by current congressional rules and resolutions governing intelligence and homeland security oversight.

(2) A unified Executive Branch effort on fighting terrorism will not be effective unless it is matched by a unified effort in Congress, specifically a strong, stable, and capable congressional committee structure to give the intelligence agencies and Department of Homeland Security sound oversight, support, and leadership.

(3) The intelligence committees of the Senate and the House of Representatives are not organized to provide strong leadership and oversight for intelligence and counterterrorism.

(4) Jurisdiction over the Department of Homeland Security, which is scattered among many committees in each chamber, does not allow for the clear authority and responsibility needed for effective congressional oversight.

(5) Congress should either create a new, joint Senate-House intelligence authorizing committee modeled on the former Joint Committee on Atomic Energy, or establish new intelligence committees in each chamber with combined authorization and appropriations authority.

(6) Congress should establish a single, principal point of oversight and review in each chamber for the Department of Homeland Security and the report of the National Commission on Terrorist Attacks Upon the United States stated that ''Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties.''.

(7) In August 2004, the joint Senate leadership created a bipartisan working group to examine how best to implement the Commission's recommendations with respect to reform of the Senate's oversight of intelligence and homeland security, and directed the working group to begin its work immediately and to present its findings and recommendations to Senate leadership as expeditiously as possible.

### SEC. 502. REORGANIZATION OF CONGRESSIONAL JURISDICTION.

The 108th Congress shall not adjourn until each House of Congress has adopted the necessary changes to its rules such that, effective the start of the 109th Congress—

(1) jurisdiction over proposed legislation, messages, petitions, memorials, and other matters relating to the Department of Homeland Security shall be consolidated in a single committee in each House and such committee shall have a nonpartisan staff; and

(2) jurisdiction over proposed legislation, messages, petitions, memorials, and other matters related to intelligence shall reside in—

(A) either a joint Senate-House authorizing committee modeled on the former Joint Committee on Atomic Energy, or a committee in each chamber with combined authorization and appropriations authority; and

(B) regardless of which committee structure is selected, the intelligence committee or committees shall have—

(i) not more than 9 members in each House, who shall serve without term limits and of which at least 1 each shall also serve on a committee on Armed Services, Judiciary, and Foreign Affairs and at least 1 on a Defense Appropriations subcommittee;

(ii) authority to issue subpoenas;

(iii) majority party representation that does not exceed minority party representation by more than 1 member in each House, and a nonpartisan staff; and

(iv) a subcommittee devoted solely to oversight.

## TITLE VI—PRESIDENTIAL TRANSITION

### SEC. 601. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

''(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

''(f)(1) The President-elect should submit to the agency designated by the President under section 601(d) of the 9/11 Commission Report Implementation Act of 2004 the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

''(2) The Federal Bureau of Investigation, and any other appropriate agency, shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.''.

(b) SENSE OF CONGRESS REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of Congress that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term ''major party'' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President, except a candidate who is the incumbent President, may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) CONSOLIDATION OF RESPONSIBILITY FOR PERSONNEL SECURITY INVESTIGATIONS.—

(1) CONSOLIDATION.—

(A) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the President shall select a single Federal agency to provide and maintain all security clearances for Federal employees and Federal contractor personnel who require access to classified information, including conducting all investigation functions.

(B) CONSIDERATIONS.—In selecting an agency under this paragraph, the President shall fully consider requiring the transfer of investigation functions to the Office of Personnel Management as described under section 906 of the National Defense Authorization Act for Fiscal Year 2004 (5 U.S.C. 1101 note).

(C) COORDINATION AND CONSOLIDATION OF RESPONSIBILITIES.—The Federal agency selected under this paragraph shall—

(i) take all necessary actions to carry out the responsibilities under this subsection, including entering into a memorandum of understanding with any agency carrying out such responsibilities before the date of enactment of this Act; and

(ii) identify any legislative actions necessary to further implement this subsection.

(D) DATABASE.—The agency selected shall, as soon as practicable, establish and maintain a single database for tracking security clearance applications, investigations and eligibility determinations and ensure that security clearance investigations are conducted according to uniform standards, including uniform security questionnaires and financial disclosure requirements.

(E) POLYGRAPHS.—The President shall direct the agency selected under this paragraph to administer any polygraph examinations on behalf of agencies that require them.

(2) ACCESS.—The President, acting through the National Intelligence Director, shall—

(A) establish uniform standards and procedures for the grant of access to classified information to any officer or employee of any agency or department of the United States and to employees of contractors of those agencies and departments;

(B) ensure the consistent implementation of those standards and procedures throughout such agencies and departments; and

(C) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by such elements.

## TITLE VII—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

### SEC. 701. REPORT ON TERRORIST SANCTUARIES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001 and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the twenty-first century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

(c) STRATEGY ON TERRORIST SANCTUARIES.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report that describes a strategy for addressing and, where possible, eliminating terrorist sanctuaries.

(2) CONTENT.—The report required under this section shall include the following:

(A) A description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries.

(B) An outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries.

(C) A description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries.

(D) A description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

### SEC. 702. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a government advocating ''enlightened moderation'' in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to assisting in ensuring a promising, stable, and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and implementing a strategy of ''enlightened moderation'';

(2) the United States aid to Pakistan should be fulsome and, at a minimum, sustained at the fiscal year 2004 levels;

(3) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education; and

(4) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan.

(c) REPORT ON SUPPORT FOR PAKISTAN.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the United States Government to support Pakistan and encourage moderation in that country.

(2) CONTENT.—The report required under this section shall include the following:

(A) An examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan.

(B) Recommendations on the funding necessary to provide various levels of educational support.

(C) An examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate.

(D) An examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

### SEC. 703. AID TO AFGHANISTAN.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) POLICY.—It shall be the policy of the United States to take the following actions with respect to Afghanistan:

(1) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(2) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(3) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) FISCAL YEAR 2005.—There are authorized to be appropriated to the President for fiscal year 2005 for assistance for Afghanistan, in addition to any amounts otherwise available for the following purposes, the following amounts:

(A) For Development Assistance to carry out the provisions of sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d), $400,000,000.

(B) For the Child Survival and Health Program Fund to carry out the provisions of section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b), $100,000,000.

(C) For the Economic Support Fund to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), $550,000,000.

(D) For International Narcotics and Law Enforcement to carry out the provisions of section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291), $360,000,000.

(E) For Nonproliferation, Anti-Terrorism, Demining, and Related Programs, $50,000,000.

(F) For International Military Education and Training to carry out the provisions of section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347), $2,000,000.

(G) For Foreign Military Financing Program grants to carry of the provision of section 23 of the Arms Export Control Act (22 U.S.C. 2763), $880,000,000.

(H) For Peacekeeping Operations to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348), $60,000,000.

(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated to the President for each of fiscal years 2006 through 2009 such sums as may be necessary for financial and other assistance to Afghanistan.

(3) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the ''Securing Afghanistan's Future'' document published by the Government of Afghanistan.

(d) SENSE OF CONGRESS.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(e) STRATEGY AND SUPPORT REGARDING UNITED STATES AID TO AFGHANISTAN.—

(1) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a 5-year strategy for providing aid to Afghanistan.

(2) CONTENT.—The strategy required under paragraph (1) shall describe the resources that will be needed during the next 5 years to achieve specific objectives in Afghanistan, including in the following areas:

(A) Fostering economic development.

(B) Curtailing the cultivation of opium.

(C) Achieving internal security and stability.

(D) Eliminating terrorist sanctuaries.

(E) Increasing governmental capabilities.

(F) Improving essential infrastructure and public services.

(G) Improving public health services.

(H) Establishing a broad-based educational system.

(I) Promoting democracy and the rule of law.

(J) Building national police and military forces.

(3) UPDATES.—Beginning not later than 1 year after the strategy is submitted to Congress under paragraph (1), the President shall submit to Congress an annual report—

(A) updating the progress made toward achieving the goals outlined in the strategy under this subsection; and

(B) identifying shortfalls in meeting those goals and the resources needed to fully achieve them.

**SEC. 704. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamic extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism.

(4) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003.

(5) The Government of Saudi Arabia is now aggressively pursuing al Qaeda and appears to be acting to build a domestic consensus for some internal reforms.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia; and

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a strategy for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States.

(2) SCOPE.—As part of this strategy, the President shall consider the utility of undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the 2 governments and to identify areas and mechanisms for cooperation.

(3) CONTENT.—The strategy under this subsection shall encompass—

(A) intelligence and security cooperation in the fight against Islamist terrorism;

(B) ways to advance the Middle East peace process;

(C) political and economic reform in Saudi Arabia and throughout the Middle East; and

(D) the promotion of greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East.

**SEC. 705. EFFORTS TO COMBAT ISLAMIC TERRORISM BY ENGAGING IN THE STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous and caring to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

(c) REPORT ON THE STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report that contains a cohesive long-term strategy for the United States Government

to help win the struggle of ideas in the Islamic world.

(2) CONTENT.—The report required under this section shall include the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish these goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of these goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intra-regional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

**SEC. 706. UNITED STATES POLICY TOWARD DICTATORSHIPS.**

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with the world's most repressive and brutal governments are too often outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

**SEC. 707. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) REPORT ON OUTREACH STRATEGY.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the strategy of the United States Government for expanding its outreach to foreign Muslim audiences through broadcast media.

(2) CONTENT.—The report shall include the following:

(A) The initiatives of the Broadcasting Board of Governors and the public diplomacy activities of the Department of State with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(d) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, the following amounts:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For International Broadcasting Operations—

(A) $717,160,000 for fiscal year 2005; and

(B) such sums as may be necessary for each of the fiscal years 2006 through 2009.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For Broadcasting Capital Improvements—

(A) $11,040,000 for fiscal year 2005; and

(B) such sums as may be necessary for each of the fiscal years 2006 through 2009.

**SEC. 708. USE OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE COUNTRY.—The term ''eligible country'' means a country or entity in Africa, the Middle East, Central Asia, South Asia, or Southeast Asia that—

(A) has a sizable Muslim population; and

(B) is designated by the Secretary of State as eligible to participate in programs under this section.

(2) SECRETARY.—Except as otherwise specifically provided, the term ''Secretary'' means the Secretary of State.

(3) UNITED STATES ENTITY.—The term ''United States entity'' means an entity that is organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, or any other territory or possession of the United States.

(4) UNITED STATES SPONSORING ORGANIZATION.—The term ''United States sponsoring organization'' means a nongovernmental organization that is—

(A) based in the United States; and

(B) controlled by a citizen of the United States or a United States entity that is designated by the Secretary, pursuant to regulations, to carry out a program authorized by subsection (e).

(d) EXPANSION OF EDUCATIONAL AND CULTURAL EXCHANGES.—

(1) PURPOSE.—The purpose of this subsection is to provide for the expansion of international educational and cultural exchange programs between the United States and eligible countries.

(2) SPECIFIC PROGRAMS.—In carrying out this subsection, the Secretary is authorized to conduct or initiate programs in eligible countries as follows:

(A) FULBRIGHT EXCHANGE PROGRAM.—

(i) INCREASED NUMBER OF AWARDS.—The Secretary is authorized to substantially increase the number of awards under the J. William Fulbright Educational Exchange Program.

(ii) INTERNATIONAL SUPPORT FOR FULBRIGHT PROGRAM.—The Secretary shall work to increase support for the J. William Fulbright Educational Exchange Program in eligible countries in order to enhance academic and scholarly exchanges with those countries.

(B) HUBERT H. HUMPHREY FELLOWSHIPS.—The Secretary is authorized to substantially increase the number of Hubert H. Humphrey Fellowships awarded to candidates from eligible countries.

(C) SISTER INSTITUTIONS PROGRAMS.—The Secretary is authorized to facilitate the establishment of sister institution programs between cities and municipalities and other institutions in the United States and in eligible countries in order to enhance mutual understanding at the community level.

(D) LIBRARY TRAINING EXCHANGES.—The Secretary is authorized to develop a demonstration program, including training in the library sciences, to assist governments in eligible countries to establish or upgrade the public library systems of such countries for the purpose of improving literacy.

(E) INTERNATIONAL VISITORS PROGRAM.—The Secretary is authorized to expand the number of participants from eligible countries in the International Visitors Program.

(F) YOUTH AMBASSADORS.—

(i) IN GENERAL.—The Secretary is authorized to establish a youth ambassadors program for visits by middle and secondary school students from eligible countries to the United States to participate in activities, including cultural and educational activities, that are designed to familiarize participating students with United States society and values.

(ii) VISITS.—The visits of students who are participating in the youth ambassador program under clause (i) shall be scheduled during the school holidays in the home countries of the students and may not exceed 4 weeks.

(iii) CRITERIA.—Students selected to participate in the youth ambassador program shall reflect the economic and geographic diversity of eligible countries.

(G) EDUCATION REFORM.—The Secretary is authorized—

(i) to expand programs that seek to improve the quality of primary and secondary school systems in eligible countries; and

(ii) in order to foster understanding of the United States, to promote civic education through teacher exchanges, teacher training, textbook modernization, and other efforts.

(H) PROMOTION OF RELIGIOUS FREEDOM.—The Secretary is authorized to establish a program to promote dialogue and exchange among leaders and scholars of all faiths from the United States and eligible countries.

(I) BRIDGING THE DIGITAL DIVIDE.—The Secretary is authorized to establish a program to help foster access to information technology among underserved populations and by civil society groups in eligible countries.

(J) PEOPLE-TO-PEOPLE DIPLOMACY.—The Secretary is authorized to expand efforts to promote United States public diplomacy interests in eligible countries through cultural, arts, entertainment, sports and other exchanges.

(K) COLLEGE SCHOLARSHIPS.—

(i) IN GENERAL.—The Secretary is authorized to establish a program to offer scholarships to permit individuals to attend eligible colleges and universities.

(ii) ELIGIBILITY FOR PROGRAM.—To be eligible for the scholarship program, an individual shall be a citizen or resident of an eligible country who has graduated from a secondary school in an eligible country.

(iii) ELIGIBLE COLLEGE OR UNIVERSITY DEFINED.—In this subparagraph, the term ''eligible college or university'' means a college or university that is organized under the laws of the United States, a State, or the District of Columbia, accredited by an accrediting agency recognized by the Secretary of Education, and primarily located in, but not controlled by, an eligible country.

(L) LANGUAGE TRAINING PROGRAM.—The Secretary is authorized to provide travel and subsistence funding for students who are United States citizens to travel to eligible countries to participate in immersion training programs in languages used in such countries and to develop regulations governing the provision of such funding.

(e) SECONDARY SCHOOL EXCHANGE PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to establish an international exchange visitor program, modeled on the Future Leaders Exchange Program established under the FREEDOM Support Act (22 U.S.C. 5801 et seq.), for eligible students to—

(A) attend public secondary school in the United States;

(B) live with a host family in the United States; and

(C) participate in activities designed to promote a greater understanding of United States and Islamic values and culture.

(2) ELIGIBLE STUDENT DEFINED.—In this subsection, the term ''eligible student'' means an individual who—

(A) is a national of an eligible country;

(B) is at least 15 years of age but not more than 18 years and 6 months of age at the time of enrollment in the program;

(C) is enrolled in a secondary school in an eligible country;

(D) has completed not more than 11 years of primary and secondary education, exclusive of kindergarten;

(E) demonstrates maturity, good character, and scholastic aptitude, and has the proficiency in the English language necessary to participate in the program;

(F) has not previously participated in an exchange program in the United States sponsored by the Government of the United States; and

(G) is not prohibited from entering the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other provision of law related to immigration and nationality.

(3) COMPLIANCE WITH VISA REQUIREMENTS.—An eligible student may not participate in the exchange visitor program authorized by paragraph (1) unless the eligible student has the status of nonimmigrant under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)).

(4) BROAD PARTICIPATION.—Whenever appropriate, the Secretary shall make special provisions to ensure the broadest possible participation in the exchange visitor program authorized by paragraph (1), particularly among females and less advantaged citizens of eligible countries.

(5) DESIGNATED EXCHANGE VISITOR PROGRAM.—The exchange visitor program authorized by paragraph (1) shall be a designated exchange visitor program for the purposes of section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(6) REGULAR REPORTING TO THE SECRETARY.—If the Secretary utilizes a United States sponsoring organization to carry out the exchange visitor program authorized by paragraph (1), such United States sponsoring organization shall report regularly to the Secretary on the progress it has made to implement such program.

(f) REPORT ON EXPEDITING VISAS FOR PARTICIPANTS IN EXCHANGE, SCHOLARSHIP, AND VISITORS PROGRAMS.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Secretary of Homeland Security shall submit to Congress a report on expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program authorized in subsection (d) or (e) without compromising the security of the United States.

(2) RECOMMENDATIONS.—The report required by paragraph (1) shall include—

(A) the recommendations of the Secretary and the Secretary of Homeland Security, if any, for methods to expedite the processing of requests for such visas; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs for fiscal year 2005, there is authorized to be appropriated to the Department of State $60,000,000 to carry out programs under this section.

**SEC. 709. INTERNATIONAL YOUTH OPPORTUNITY FUND.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, the effort to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall establish an International Youth Opportunity Fund (hereafter in this section referred to as the ''Fund'').

(B) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(2) PURPOSE.—The purpose of the Fund shall be to provide financial assistance for the improvement of public education in the Middle East, including assistance for the construction and operation of primary and secondary schools in countries that have a sizable Muslim population and that commit to sensibly investing their own financial resources in public education.

(3) ELIGIBILITY FOR ASSISTANCE.—

(A) DETERMINATION.—The Secretary of State, in coordination with the Administrator of the United States Agency for International Development, shall determine which countries are eligible for assistance through the Fund.

(B) CRITERIA.—In determining whether a country is eligible for assistance, the Secretary shall consider whether the government of that country is sensibly investing financial resources in public education and is committed to promoting a system of education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs.

(4) USE OF FUNDS.—Financial assistance provided through the Fund shall be used for expanding literacy programs, providing textbooks, reducing the digital divide, expanding vocational and business education, constructing and operating public schools, establishing local libraries, training teachers in modern education techniques, and promoting public education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Administrator of the United States Agency for International Development shall jointly prepare and submit to Congress a report on the improvement of education in the Middle East.

(2) CONTENT.—Reports submitted under this subsection shall include the following:

(A) A general strategy for working with eligible host governments in the Middle East toward establishing the International Youth Opportunity Fund and related programs.

(B) A listing of countries that are eligible for assistance under such programs.

(C) A description of the specific programs initiated in each eligible country and the amount expended in support of such programs.

(D) A description of activities undertaken to close the digital divide and expand vocational and business skills in eligible countries.

(E) A listing of activities that could be undertaken if additional funding were provided and the amount of funding that would be necessary to carry out such activities.

(F) A strategy for garnering programmatic and financial support from international organizations and other countries in support of the Fund and activities related to the improvement of public education in eligible countries.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, $40,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 through 2009.

**SEC. 710. REPORT ON THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) 1 element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals.

(2) CONTENT.—The report required under this subsection shall describe—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with other governments in the Middle East, can take to promote intra-regional trade and the rule of law in the region.

**SEC. 711. MIDDLE EAST PARTNERSHIP INITIATIVE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 2005 $200,000,000 for the Middle East Partnership Initiative.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

**SEC. 712. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

**SEC. 713. DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that is adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) DEFINITIONS.—In this section:

(1) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—The term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(2) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(3) PRISONER.—The term ''prisoner'' means a foreign individual captured, detained, interned, or otherwise held in the custody of the United States.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(5) TORTURE.—The term ''torture'' has the meaning given that term in section 2340 of title 18, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should engage countries that are participating in the coalition to fight terrorism to develop a common approach toward the detention and humane treatment of captured international terrorists; and

(2) an approach toward the detention and humane treatment of captured international terrorists developed by the countries participating in the coalition to fight terrorism could draw upon Article 3 of the Convention Relative to the Treatment of Prisoners of War, the principles of which are commonly accepted as minimum basic standards for humane treatment of captured individuals.

(d) POLICY.—It is the policy of the United States—

(1) to treat any prisoner humanely and in accordance with standards that the Government of the United States would determine to be consistent with international law if such standards were applied to personnel of the United States captured by an enemy in the war on terrorism;

(2) if there is any doubt as to whether a prisoner is entitled to the protections afforded by the Geneva Conventions, to provide the prisoner such protections until the status of the prisoner is determined under the procedures authorized by paragraph 1–6 of Army Regulation 190–8 (1997); and

(3) to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of such prisoners.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by the members of the Armed Forces of the United States and by any person providing services to the Department of Defense on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORT ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary shall submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by a member of the Armed Forces of the United States or by a person providing services to the Department of Defense on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

**SEC. 714. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda has tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has redoubled its international commitments to supporting the programs for Cooperative Threat Reduction and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the United States Government's commitment and approach to securing the weapons of mass destruction and related highly dangerous materials that are still scattered among Russia and other countries of the former Soviet Union.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related dangerous materials is greatly outweighed by the potentially catastrophic cost to the United States of use of weapons of mass destruction or related dangerous materials by the terrorists who are so eager to acquire them.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction, wherever such proliferation may occur, is warranted; and

(2) the programs of the United States Government to prevent or counter the proliferation of weapons of mass destruction, including the Proliferation Security Initiative, the programs for Cooperative Threat Reduction, and other nonproliferation assistance programs, should be expanded, improved, and better funded to address the global dimensions of the proliferation threat.

(c) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(1) a strategy for expanding and strengthening the Proliferation Security Initiative, the programs for Cooperative Threat Reduction, and other nonproliferation assistance programs; and

(2) an estimate of the funding necessary to execute that strategy.

(d) REPORT ON REFORMING THE COOPERATIVE THREAT REDUCTION PROGRAM AND OTHER NON-PROLIFERATION ASSISTANCE PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating whether the United States could more effectively address the global threat of nuclear proliferation by—

(1) establishing a central coordinator for the programs for Cooperative Threat Reduction;

(2) eliminating the requirement that the President spend no more than $50,000,000 annually on programs for Cooperative Threat Reduction and other non-proliferation assistance programs carried out outside the former Soviet Union; or

(3) repealing the provisions of the Soviet Nuclear Threat Reduction Act of 1991 (22 U.S.C. 2551 note) that place conditions on assistance to the former Soviet Union unrelated to bilateral cooperation on weapons dismantlement.

**SEC. 715. FINANCING OF TERRORISM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the primary weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to track terrorist financing;

(B) ways to improve international governmental cooperation in this effort;

(C) ways to improve performance of financial institutions in this effort;

(D) the adequacy of agency coordination in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

**TITLE VIII—TERRORIST TRAVEL AND EFFECTIVE SCREENING**

**SEC. 801. COUNTERTERRORIST TRAVEL INTELLIGENCE.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in Government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy.

(2) ACCOUNTABILITY.—The strategy submitted under paragraph (1) shall—

(A) describe a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods; and

(B) outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy.

(3) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies, including—

(A) the National Counterterrorism Center;

(B) the Department of Transportation;

(C) the Department of State;

(D) the Department of the Treasury;

(E) the Department of Justice;

(F) the Department of Defense;

(G) the Federal Bureau of Investigation;

(H) the Drug Enforcement Agency; and

(I) the agencies that comprise the intelligence community.

(4) CONTENTS.—The strategy shall address—

(A) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel practices and trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(B) the initial and ongoing training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(C) the new procedures required and actions to be taken to integrate existing counterterrorist travel and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(D) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(E) the additional assistance to be given to the interagency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(F) the additional resources to be given to the Directorate of Information and Analysis and Infrastructure Protection to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(G) the development and implementation of procedures to enable the Human Smuggling and Trafficking Center to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(H) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(I) the development of a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(J) the feasibility of digitally transmitting passport information to a central cadre of specialists until such time as experts described under subparagraph (I) are available at consular, port of entry, and immigration benefits offices; and

(K) granting consular officers the security clearances necessary to access law enforcement sensitive databases.

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

(1) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(2) CONTENTS OF PLAN.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport submitted for identification purposes to a United States consular, border, or immigration official.

(3) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall develop and implement an initial and annual training program for consular, border, and immigration officials to teach such officials how to effectively detect and disrupt terrorist travel. The Secretary may assist State, local, and tribal governments, and private industry, in establishing training programs related to terrorist travel intelligence.

(B) TRAINING TOPICS.—The training developed under this paragraph shall include training in—

(i) methods for identifying fraudulent documents;

(ii) detecting terrorist indicators on travel documents;

(iii) recognizing travel patterns, tactics, and behaviors exhibited by terrorists;

(iv) the use of information contained in available databases and data systems and procedures to maintain the accuracy and integrity of such systems; and

(v) other topics determined necessary by the Secretary of Homeland Security and the Secretary of State.

(C) CERTIFICATION.—Not later than 1 year after the date of enactment of this Act—

(i) the Secretary of Homeland Security shall certify to Congress that all border and immigration officials have received training under this paragraph; and

(ii) the Secretary of State shall certify to Congress that all consular officers have received training under this paragraph.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out the provisions of this subsection.

(d) ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.—

(1) IN GENERAL.—The National Intelligence Director shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

**SEC. 802. INTEGRATED SCREENING SYSTEM.**

(a) IN GENERAL.—The Secretary of Homeland Security shall develop a plan for a comprehensive integrated screening system.

(b) DESIGN.—The system planned under subsection (a) shall be designed to—

(1) encompass an integrated network of screening points that includes the Nation's border security system, transportation system, and critical infrastructure or facilities that the Secretary determines need to be protected against terrorist attack;

(2) build upon existing border enforcement and security activities, and to the extent practicable, private sector security initiatives, in a manner that will enable the utilization of a range of security check points in a continuous and consistent manner throughout the Nation's screening system;

(3) allow access to government databases to detect terrorists; and

(4) utilize biometric identifiers that the Secretary determines to be appropriate and feasible.

(c) STANDARDS FOR SCREENING PROCEDURES.—

(1) AUTHORIZATION.—The Secretary may promulgate standards for screening procedures for—

(A) entering and leaving the United States;

(B) accessing Federal facilities that the Secretary determines need to be protected against terrorist attack;

(C) accessing critical infrastructure that the Secretary determines need to be protected against terrorist attack; and

(D) accessing modes of transportation that the Secretary determines need to be protected against terrorist attack.

(2) SCOPE.—Standards prescribed under this subsection may address a range of factors, including technologies required to be used in screening and requirements for secure identification.

(3) REQUIREMENTS.—In promulgating standards for screening procedures, the Secretary shall—

(A) consider and incorporate appropriate civil liberties and privacy protections;

(B) comply with the Administrative Procedure Act; and

(C) consult with other Federal, State, local, and tribal governments, and other interested parties, as appropriate.

(4) LIMITATION.—This section does not confer to the Secretary new statutory authority, or alter existing authorities, over systems, critical infrastructure, and facilities.

(5) NOTIFICATION.—If the Secretary determines that additional regulatory authority is needed to fully implement the plan for an integrated screening system, the Secretary shall immediately notify Congress.

(d) COMPLIANCE.—The Secretary may issue regulations to ensure compliance with the standards promulgated under this section.

(e) CONSULTATION.—For those systems, critical infrastructure, and facilities that the Secretary determines need to be protected against terrorist attack, the Secretary shall consult with other Federal agencies, State, local, and tribal governments, and the private sector to ensure the development of consistent standards and consistent implementation of the integrated screening system.

(f) BIOMETRIC IDENTIFIERS.—In carrying out this section, the Secretary shall continue to review biometric technologies and existing Federal and State programs using biometric identifiers. Such review shall consider the accuracy rate of available technologies.

(g) IMPLEMENTATION.—

(1) PHASE I.—The Secretary shall—

(A) issue standards for driver's licenses, personal identification cards, and birth certificates, as required under section 806;

(B) develop plans for, and begin implementation of, a single program for registered travelers to expedite travel across the border, as required under section 803(e);

(C) continue the implementation of a biometric exit and entry data system that links to relevant databases and data systems, as required by subsections (b) and (c) of section 803 and other existing authorities;

(D) centralize the ''no-fly'' and ''automatic-selectee'' lists, making use of improved terrorists watch lists, as required by section 903;

(E) develop plans, in consultation with other relevant agencies, for the sharing of terrorist information with trusted governments, as required by section 805;

(F) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(G) report to Congress on the implementation of phase I, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) plans for the development and implementation of phases II and III.

(2) PHASE II.—The Secretary shall—

(A) complete the implementation of a single program for registered travelers to expedite travel across the border, as required by section 803(e);

(B) complete the implementation of a biometric entry and exit data system that links to relevant databases and data systems, as required by subsections (b) and (c) of section 803, and other existing authorities;

(C) in cooperation with other relevant agencies, engage in dialogue with foreign governments to develop plans for the use of common screening standards;

(D) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(E) report to Congress on the implementation of phase II, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the development and implementation of phase III.

(3) PHASE III.—The Secretary shall—

(A) finalize and deploy the integrated screening system required by subsection (a);

(B) in cooperation with other relevant agencies, promote the implementation of common screening standards by foreign governments; and

(C) report to Congress on the implementation of Phase III, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the ongoing operation of the integrated screening system.

(h) REPORT.—After phase III has been implemented, the Secretary shall submit a report to Congress every 3 years that describes the ongoing operation of the integrated screening system, including its effectiveness, efficient use of resources, compliance with statutory provisions, and safeguards for privacy and civil liberties.

(i) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

**SEC. 803. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system required by applicable sections of—

(A) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(B) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(C) the Visa Waiver Permanent Program Act (Public Law 106–396);

(D) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(E) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the automated entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the entry and exit data system; and

(D) a description of plans for improved or added interoperability with any other databases or data systems.

(c) INTEGRATION REQUIREMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall integrate the biometric entry and exit data system with all databases and data systems maintained by the United States Citizenship and Immigration Services that process or contain information on aliens.

(d) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary, in consultation with other appropriate agencies, shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system, and databases and data systems linked to the entry and exit data system, that ensure the accuracy and integrity of the data.

(2) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under paragraph (1) shall—

(A) incorporate a simple and timely method for—

(i) correcting errors; and

(ii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to seek corrections of data contained in the data systems.

(e) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the border can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—The term ''registered traveler program'' means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PLAN.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a plan to expedite the processing of registered travelers who enter and exit the United States through a single registered traveler program.

(B) INTEGRATION.—The registered traveler program developed under this paragraph shall be integrated into the automated biometric entry and exit data system described in this section.

(C) REVIEW AND EVALUATION.—In developing the program under this paragraph, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs; and

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the plan required by this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

**SEC. 804. TRAVEL DOCUMENTS.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification;

(2) the planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities; and

(3) additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) BIOMETRIC PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require biometric passports or other identification deemed by the Secretary to be at least as secure as a biometric passport, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

(1) the Secretary of State and the Attorney General may no longer exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may no longer exercise discretion under section 215(b) of such Act to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States, unless the Secretary of State determines that the alternative documentation that is the basis for the waiver of the documentary requirement is at least as secure as a biometric passport.

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

**SEC. 805. EXCHANGE OF TERRORIST INFORMATION.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) the exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits; and

(2) the further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should exchange terrorist information with trusted allies;

(2) the United States Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable the United States Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the United States Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the United States Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other agencies, should implement the initiatives called for in this subsection.

(c) REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other agencies, shall submit to the appropriate committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) CONTENTS.—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

**SEC. 806. MINIMUM STANDARDS FOR IDENTIFICATION-RELATED DOCUMENTS.**

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following:

**"SEC. 890A. MINIMUM STANDARDS FOR BIRTH CERTIFICATES.**

"(a) DEFINITION.—In this section, the term 'birth certificate' means a certificate of birth—

"(1) for an individual (regardless of where born)—

"(A) who is a citizen or national of the United States at birth; and

"(B) whose birth is registered in the United States; and

"(2) that—

"(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

"(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

"(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

"(1) IN GENERAL.—Beginning 2 years after the promulgation of minimum standards under paragraph (2), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

"(2) MINIMUM STANDARDS.—Within 1 year after the date of enactment of this section, the Secretary shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

"(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

"(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

"(C) may not require a single design to which birth certificates issued by all States must conform; and

"(D) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

"(3) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required by paragraph (2), the Secretary shall consult with State vital statistics offices and appropriate Federal agencies.

"(4) EXTENSION OF EFFECTIVE DATE.—The Secretary may extend the 2-year date under paragraph (1) by up to 2 additional years for birth certificates issued before that 2-year date if the Secretary determines that the States are unable to comply with such date after making reasonable efforts to do so.

"(c) GRANTS TO STATES.—

"(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

"(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary shall make grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

"(B) ALLOCATION OF GRANTS.—The Secretary shall make grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

"(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

"(A) IN GENERAL.—The Secretary, in coordination with other appropriate Federal agencies, shall make grants to States to assist them in—

"(i) computerizing their birth and death records;

"(ii) developing the capability to match birth and death records within each State and among the States; and

"(iii) noting the fact of death on the birth certificates of deceased persons.

"(B) ALLOCATION OF GRANTS.—The Secretary shall make grants to States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

**"SEC. 890B. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS.**

''(a) DEFINITIONS.—In this section:

''(1) DRIVER'S LICENSE.—The term 'driver's license' means a motor vehicle operator's license as defined in section 30301(5) of title 49, United States Code.

''(2) PERSONAL IDENTIFICATION CARD.—The term 'personal identification card' means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

''(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

''(1) IN GENERAL.—

''(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

''(B) DATE FOR CONFORMANCE.—The Secretary shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

''(2) MINIMUM STANDARDS.—Within 1 year after the date of enactment of this section, the Secretary shall by regulation establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

''(A) standards for documentation required as proof of identity of an applicant for a driver's license or identification card;

''(B) standards for third-party verification of the authenticity of documents used to obtain a driver's license or identification card;

''(C) standards for the processing of applications for driver's licenses and identification cards to prevent fraud;

''(D) security standards to ensure that driver's licenses and identification cards are—

''(i) resistant to tampering, alteration, or counterfeiting; and

''(ii) capable of accommodating a digital photograph or other unique identifier; and

''(E) a requirement that a State confiscate a driver's license or identification card if any component or security feature of the license or identification card is compromised.

''(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

''(A) shall facilitate communication between the chief driver licensing official of a State and an appropriate official of a Federal agency to verify the authenticity of documents issued by such Federal agency and presented to prove the identity of an individual;

''(B) may not directly or indirectly infringe on a State's power to set eligibility criteria for obtaining a driver's license or identification card from that State; and

''(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of such eligibility criteria by the State.

''(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required by paragraph (2), the Secretary shall consult with the Department of Transportation, the chief driver licensing official of each State, any other State organization that issues personal identification cards, and any organization, determined appropriate by the Secretary, that represents the interests of the States.

''(c) GRANTS TO STATES.—

''(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary shall make grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

''(2) ALLOCATION OF GRANTS.—The Secretary shall make grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

**"SEC. 890C. SOCIAL SECURITY CARDS.**

''(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

''(1) within 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

''(2) within 1 year after the date of enactment of this section, require independent verification of all records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

''(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

''(b) INTERAGENCY SECURITY TASK FORCE.—The Secretary and the Commissioner of Social Security shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Within 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

''(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

''(2) requirements for verifying documents submitted for the issuance of replacement cards; and

''(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

(2) Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 890 the following:

''Sec. 890A. Minimum standards for birth certificates.
''Sec. 890B. Driver's licenses and personal identification cards.
''Sec. 890C. Social security cards.''.

## TITLE IX—TRANSPORTATION SECURITY

**SEC. 901. DEFINITIONS.**

In this title, the terms ''air carrier'', ''air transportation'', ''aircraft'', ''airport'', ''cargo'', ''foreign air carrier'', and ''intrastate air transportation'' have the meanings given such terms in section 40102 of title 49, United States Code.

**SEC. 902. NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.**

(a) REQUIREMENT FOR STRATEGY.—

(1) RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall—

(A) develop and implement a National Strategy for Transportation Security; and

(B) revise such strategy whenever necessary to improve or to maintain the currency of the strategy or whenever the Secretary otherwise considers it appropriate to do so.

(2) CONSULTATION WITH SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall consult with the Secretary of Transportation in developing and revising the National Strategy for Transportation Security under this section.

(b) CONTENT.—The National Strategy for Transportation Security shall include the following matters:

(1) An identification and evaluation of the transportation assets within the United States that, in the interests of national security, must be protected from attack or disruption by terrorist or other hostile forces, including aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, urban mass transit, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(2) The development of the risk-based priorities, and realistic deadlines, for addressing security needs associated with those assets.

(3) The most practical and cost-effective means of defending those assets against threats to their security.

(4) A forward-looking strategic plan that assigns transportation security roles and missions to departments and agencies of the Federal Government (including the Armed Forces), State governments (including the Army National Guard and Air National Guard), local governments, and public utilities, and establishes mechanisms for encouraging private sector cooperation and participation in the implementation of such plan.

(5) A comprehensive delineation of response and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States.

(6) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital assets.

(7) A budget and recommendations for appropriate levels and sources of funding to meet the objectives set forth in the strategy.

(c) SUBMISSIONS TO CONGRESS.—

(1) THE NATIONAL STRATEGY.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security developed under this section to Congress not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including any revisions, to Congress not less frequently than April 1 of each even-numbered year.

(2) PERIODIC PROGRESS REPORT.—

(A) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to Congress an assessment of the progress made on implementing the National Strategy for Transportation Security.

(B) CONTENT.—Each progress report under this paragraph shall include, at a minimum, the following matters:

(i) An assessment of the adequacy of the resources committed to meeting the objectives of the National Strategy for Transportation Security.

(ii) Any recommendations for improving and implementing that strategy that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.

(3) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

(d) PRIORITY STATUS.—

(1) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(2) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(A) the current National Maritime Transportation Security Plan under section 70103 of title 46, United States Code;

(B) the report of the Secretary of Transportation under section 44938 of title 49, United States Code; and

(C) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

**SEC. 903. USE OF WATCHLISTS FOR PASSENGER AIR TRANSPORTATION SCREENING.**

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Transportation Security Administration, as soon as practicable after the date of the enactment of this Act but in no event later than 90 days after that date, shall—

(1) implement a procedure under which the Transportation Security Administration compares information about passengers who are to be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation for flights and flight segments originating in the United States with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such flights or flight segments or to subject them to specific additional security scrutiny, through the use of ''no fly'' and ''automatic selectee'' lists or other means.

(b) AIR CARRIER COOPERATION.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall by order require air carriers to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE ''NO FLY'' AND ''AUTOMATIC SELECTEE'' LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the database.

(2) ACCURACY OF ENTRIES.—In developing the ''no fly'' and ''automatic selectee'' lists under subsection (a)(2), the Secretary of Homeland Security shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide individuals whose names are confused with, or similar to, names in the database with a means of demonstrating that they are not a person named in the database.

**SEC. 904. ENHANCED PASSENGER AND CARGO SCREENING.**

(a) AIRCRAFT PASSENGER SCREENING AT CHECKPOINTS.—

(1) DETECTION OF EXPLOSIVES.—

(A) IMPROVEMENT OF CAPABILITIES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Homeland Security shall take such action as is necessary to improve the capabilities at passenger screening checkpoints, especially at commercial airports, to detect explosives carried aboard aircraft by passengers or placed aboard aircraft by passengers.

(B) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Secretary shall take immediate measures to require Transportation Security Administration or other screeners to screen for explosives any individual identified for additional screening before that individual may board an aircraft.

(2) IMPLEMENTATION REPORT.—

(A) REQUIREMENT FOR REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transmit to the Senate and the House of Representatives a report on how the Secretary intends to achieve the objectives of the actions required under paragraph (1). The report shall include an implementation schedule.

(B) CLASSIFIED INFORMATION.—The Secretary may submit separately in classified form any information in the report under subparagraph (A) that involves information that is properly classified under criteria established by Executive order.

(b) ACCELERATION OF RESEARCH AND DEVELOPMENT ON, AND DEPLOYMENT OF, DETECTION OF EXPLOSIVES.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall take such action as may be necessary to accelerate research and development and deployment of technology for screening aircraft passengers for explosives during or before the aircraft boarding process.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for each of fiscal years 2005 through 2009.

(c) IMPROVEMENT OF SCREENER JOB PERFORMANCE.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security shall take such action as may be necessary to improve the job performance of airport screening personnel.

(2) HUMAN FACTORS STUDY.—In carrying out this subsection, the Secretary shall, not later than 180 days after the date of the enactment of this Act, conduct a human factors study in order better to understand problems in screener performance and to set attainable objectives for individual screeners and screening checkpoints.

(d) CHECKED BAGGAGE AND CARGO.—

(1) IN-LINE BAGGAGE SCREENING.—The Secretary of Homeland Security shall take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

(2) CARGO SECURITY.—The Secretary shall take such action as may be necessary to ensure that the Transportation Security Administration increases and improves its efforts to screen potentially dangerous cargo.

(3) HARDENED CONTAINERS.—The Secretary, in consultation with the Secretary of Transportation, shall require air carriers to deploy at least 1 hardened container for containing baggage or cargo items in each passenger aircraft that also carries cargo.

(e) COST-SHARING.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the Senate and the House of Representatives—

(1) a proposed formula for cost-sharing, for the advanced in-line baggage screening equipment required by this title, between and among the Federal Government, State and local governments, and the private sector that reflects proportionate national security benefits and private sector benefits for such enhancement; and

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the advanced in-line baggage screening equipment required by this title, which may be based on the formula proposed under paragraph (1).

## TITLE X—NATIONAL PREPAREDNESS

**SEC. 1001. HOMELAND SECURITY ASSISTANCE.**

(a) DEFINITIONS.—In this section:

(1) COMMUNITY.—The term ''community'' means a State, local government, or region.

(2) HOMELAND SECURITY ASSISTANCE.—The term ''homeland security assistance'' means grants or other financial assistance provided by the Department of Homeland Security under the State Homeland Security Grants Program, the Urban Areas Security Initiative, or the Law Enforcement Terrorism Prevention Program.

(3) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given that term in section 2(10) of the Homeland Security Act of 2002 (6 U.S.C. 101(10)).

(4) REGION.—The term ''region'' means any intrastate or interstate consortium of local governments.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(6) STATE.—The term ''State'' has the meaning given that term in section 2(14) of the Homeland Security Act of 2002 (6 U.S.C. 101(14)).

(7) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(b) IN GENERAL.—The Secretary shall allocate homeland security assistance to communities based on—

(1) the level of threat faced by a community, as determined by the Secretary through the Under Secretary, in consultation with the National Intelligence Director;

(2) the critical infrastructure in the community, and the risks to and vulnerability of that infrastructure, as identified and assessed by the Secretary through the Under Secretary;

(3) the community's population and population density;

(4) such other indicia of a community's risk and vulnerability as the Secretary determines is appropriate;

(5) the benchmarks developed under subsection (d)(4)(A); and

(6) the goal of achieving and enhancing essential emergency preparedness and response capabilities throughout the Nation.

(c) REALLOCATION OF ASSISTANCE.—A State receiving homeland security assistance may reallocate such assistance, in whole or in part, among local governments or other entities, only if such reallocation is made on the

basis of an assessment of threats, risks, and vulnerabilities of the local governments or other entities that is consistent with the criteria set forth in subsection (b).

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall establish an advisory panel to assist the Secretary in determining how to allocate homeland security assistance funds most effectively among communities, consistent with the criteria set out in subsection (b).

(2) SELECTION OF MEMBERS.—The Secretary shall appoint no fewer than 10 individuals to serve on the advisory panel. The individuals shall—

(A) be chosen on the basis of their knowledge, achievements, and experience;

(B) be from diverse geographic and professional backgrounds; and

(C) have demonstrated expertise in homeland security or emergency preparedness and response.

(3) TERM.—Each member of the advisory panel appointed by the Secretary shall serve a term the length of which is to be determined by the Secretary, but which shall not exceed 5 years.

(4) RESPONSIBILITIES.—The advisory panel shall—

(A) develop benchmarks by which the needs and capabilities of diverse communities throughout the Nation with respect to potential terrorist attacks may be assessed, and review and revise those benchmarks as appropriate; and

(B) advise the Secretary on means of establishing appropriate priorities for the allocation of funding among applicants for homeland security assistance.

(5) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the advisory panel shall provide the Secretary and Congress with a report on the benchmarks it has developed under paragraph (4)(A), including any revisions or modifications to such benchmarks.

(6) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory panel.

(7) ADMINISTRATIVE SUPPORT SERVICES.—The Secretary shall provide administrative support services to the advisory panel.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 1014(c) of the USA PATRIOT ACT of 2001 (42 U.S.C. 3714(c)) is amended by striking paragraph (3).

**SEC. 1002. THE INCIDENT COMMAND SYSTEM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The attacks on September 11, 2001, demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough.

(2) Teamwork, collaboration, and cooperation at an incident site are critical to a successful response to a terrorist attack.

(3) Key decision makers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety.

(4) Regular joint training at all levels is essential to ensuring close coordination during an actual incident.

(5) Beginning with fiscal year 2005, the Department of Homeland Security is requiring that entities adopt the Incident Command System and other concepts of the National Incident Management System in order to qualify for funds distributed by the Office of State and Local Government Coordination and Preparedness.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) emergency response agencies nationwide should adopt the Incident Command System;

(2) when multiple agencies or multiple jurisdictions are involved, they should follow a unified command system; and

(3) the Secretary of Homeland Security should require, as a further condition of receiving homeland security preparedness funds from the Office of State and Local Government Coordination and Preparedness, that grant applicants document measures taken to fully and aggressively implement the Incident Command System and unified command procedures.

**SEC. 1003. NATIONAL CAPITAL REGION MUTUAL AID.**

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.—The term ''authorized representative of the Federal Government'' means any individual or individuals designated by the President with respect to the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a Mutual Aid Agreement for an emergency or public service event.

(2) CHIEF OPERATING OFFICER.—The term ''chief operating officer'' means the official designated by law to declare an emergency in and for the locality of that chief operating officer.

(3) EMERGENCY.—The term ''emergency'' means a major disaster or emergency declared by the President, or a state of emergency declared by the Mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a Mutual Aid Agreement.

(4) EMPLOYEE.—The term ''employee'' means the employees of the party, including its agents or authorized volunteers, who are committed in a Mutual Aid Agreement to prepare for or who respond to an emergency or public service event.

(5) LOCALITY.—The term ''locality'' means a county, city, or town within the State of Maryland or the Commonwealth of Virginia and within the National Capital Region.

(6) MUTUAL AID AGREEMENT.—The term ''Mutual Aid Agreement'' means an agreement, authorized under subsection (b) for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or preplanned training event.

(7) NATIONAL CAPITAL REGION OR REGION.—The term ''National Capital Region'' or ''Region'' means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

(8) PARTY.—The term ''party'' means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

(9) PUBLIC SERVICE EVENT.—The term ''public service event''—

(A) means any undeclared emergency, incident or situation in preparation for or response to which the Mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

(10) STATE.—The term ''State'' means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(11) TRAINING.—The term ''training'' means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public service event periods.

(b) MUTUAL AID AUTHORIZED.—

(1) IN GENERAL.—The Mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, subject to State law, enter into, request or provide assistance under Mutual Aid Agreements with localities, the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority for—

(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

(C) training for any of the activities described under subparagraphs (A) and (B).

(2) FACILITATING LOCALITIES.—The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate Mutual Aid Agreements in the National Capital Region under this section.

(3) APPLICATION AND EFFECT.—This section—

(A) does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;

(B) does not diminish any authorities, express or implied, of Federal agencies to enter into Mutual Aid Agreements in furtherance of their Federal missions; and

(C) does not—

(i) preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or

(ii) affect any other agreement in effect before the date of enactment of this Act among the States and localities, including the Emergency Management Assistance Compact.

(4) RIGHTS DESCRIBED.—Other than as described in this section, the rights and responsibilities of the parties to a Mutual Aid Agreement entered into under this section shall be as described in the Mutual Aid Agreement.

(c) DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a Mutual Aid Agreement authorized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

(d) LIABILITY AND ACTIONS AT LAW.—

(1) IN GENERAL.—Any responding party or its officers or employees rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement authorized under this section, and any party or its officers or employees engaged in training activities with another party under such a Mutual Aid Agreement, shall be liable on account of any act or omission of its officers or employees while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.

(2) ACTIONS.—Any action brought against a party or its officers or employees on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

(3) GOOD FAITH EXCEPTION.—

(A) DEFINITION.—In this paragraph, the term ''good faith'' shall not include willful misconduct, gross negligence, or recklessness.

(B) EXCEPTION.—No State or locality, or its officers or employees, rendering aid to another party, or engaging in training, under a Mutual Aid Agreement shall be liable under Federal law on account of any act or omission performed in good faith while so engaged, or on account of the maintenance or use of any related equipment, facilities, or supplies performed in good faith.

(4) IMMUNITIES.—This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.

(d) WORKERS COMPENSATION.—

(1) COMPENSATION.—Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement, or engaged in training activities under a Mutual Aid Agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

(2) OTHER STATE LAW.—No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement or engaged in training activities under a Mutual Aid Agreement.

(e) LICENSES AND PERMITS.—If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events.

**SEC. 1004. ASSIGNMENT OF SPECTRUM FOR PUBLIC SAFETY.**

Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended by adding at the end the following:

''(E) EXTENSIONS NOT PERMITTED FOR CHANNELS (63, 64, 68 AND 69) REASSIGNED FOR PUBLIC SAFETY SERVICES.—Notwithstanding subparagraph (B), the Commission shall not grant any extension under such subparagraph from the limitation of subparagraph (A) with respect to the frequencies assigned, under section 337(a)(1), for public safety services. The Commission shall take all actions necessary to complete assignment of the electromagnetic spectrum between 764 and 776 megahertz, inclusive, and between 794 and 806 megahertz, inclusive, for public safety services and to permit operations by public safety services on those frequencies commencing not later than January 1, 2007.''.

**SEC. 1005. URBAN AREA COMMUNICATIONS CAPABILITIES.**

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

**''SEC. 510. HIGH RISK URBAN AREA COMMUNICATIONS CAPABILITIES.**

''The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local government officials, shall encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in urban areas determined by the Secretary to be at consistently high levels of risk from terrorist attack. Such communications capabilities shall ensure the ability of all levels of government agencies, including military authorities, and of first responders, hospitals, and other organizations with emergency response capabilities to communicate with each other in the event of an emergency. Additionally, the Secretary, in conjunction with the Secretary of Defense, shall develop plans to provide back-up and additional communications support in the event of an emergency.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by inserting after the item relating to section 509 the following:

''Sec. 510. High risk urban area communications capabilities.''.

**SEC. 1006. PRIVATE SECTOR PREPAREDNESS.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Private sector organizations own 85 percent of the Nation's critical infrastructure and employ the vast majority of the Nation's workers.

(2) Unless a terrorist attack targets a military or other secure government facility, the first people called upon to respond will likely be civilians.

(3) Despite the exemplary efforts of some private entities, the private sector remains largely unprepared for a terrorist attack, due in part to the lack of a widely accepted standard for private sector preparedness.

(4) Preparedness in the private sector and public sector for rescue, restart and recovery of operations should include—

(A) a plan for evacuation;

(B) adequate communications capabilities; and

(C) a plan for continuity of operations.

(5) The American National Standards Institute recommends a voluntary national preparedness standard for the private sector based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), with appropriate modifications. This standard would establish a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs.

(6) The mandate of the Department of Homeland Security extends to working with the private sector, as well as government entities.

(b) PRIVATE SECTOR PREPAREDNESS PROGRAM.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 1005, is amended by adding at the end the following:

**''SEC. 511. PRIVATE SECTOR PREPAREDNESS PROGRAM.**

''The Secretary shall establish a program to promote private sector preparedness for terrorism and other emergencies, including promoting the adoption of a voluntary national preparedness standard such as the private sector preparedness standard developed by the American National Standards Institute and based on the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of that Act, as amended by section 1005, is amended by inserting after the item relating to section 510 the following:

''Sec. 511. Private sector preparedness program.''.

(c) SENSE OF CONGRESS.—It is the sense of Congress that insurance and credit-rating industries should consider compliance with the voluntary national preparedness standard, the adoption of which is promoted by the Secretary of Homeland Security under section 511 of the Homeland Security Act of 2002, as added by subsection (b), in assessing insurability and credit worthiness.

**SEC. 1007. CRITICAL INFRASTRUCTURE AND READINESS ASSESSMENTS.**

(a) FINDINGS.—Congress finds the following:

(1) Under section 201 of the Homeland Security Act of 2002 (6 U.S.C 121), the Department of Homeland Security, through the Under Secretary for Information Analysis and Infrastructure Protection, has the responsibility—

(A) to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;

(B) to identify priorities for protective and supportive measures; and

(C) to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(2) Under Homeland Security Presidential Directive 7, issued on December 17, 2003, the Secretary of Homeland Security was given 1 year to develop a comprehensive plan to identify, prioritize, and coordinate the protection of critical infrastructure and key resources.

(3) Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, the Secretary of Homeland Security should—

(A) identify those elements of the United States' transportation, energy, communications, financial, and other institutions that need to be protected;

(B) develop plans to protect that infrastructure; and

(C) exercise mechanisms to enhance preparedness.

(b) REPORTS ON RISK ASSESSMENT AND READINESS.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary of Homeland Security shall submit a report to Congress on—

(1) the Department of Homeland Security's progress in completing vulnerability and risk assessments of the Nation's critical infrastructure;

(2) the adequacy of the Government's plans to protect such infrastructure; and

(3) the readiness of the Government to respond to threats against the United States.

**SEC. 1008. REPORT ON NORTHERN COMMAND AND DEFENSE OF THE UNITED STATES HOMELAND.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The primary responsibility for national defense is with the Department of Defense and the secondary responsibility for national defense is with the Department of Homeland Security, and the 2 departments must have clear delineations of responsibility.

(2) Before September 11, 2001, the North American Aerospace Defense Command (hereafter in this section referred to as ''NORAD''), which had responsibility for defending United States airspace on September 11, 2001—

(A) focused on threats coming from outside the borders of the United States; and

(B) had not increased its focus on terrorism within the United States, even though the intelligence community had gathered intelligence on the possibility that terrorists might turn to hijacking and even the use of airplanes as missiles within the United States.

(3) The United States Northern Command has been established to assume responsibility for defense within the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Defense should regularly assess the adequacy of United States Northern Command's plans and strategies with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States; and

(2) the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives should periodically review and assess the adequacy of such plans and strategies.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the United States Northern Command's plans and strategies to defend the United States against military and paramilitary threats within the United States.

## TITLE XI—PROTECTION OF CIVIL LIBERTIES

**SEC. 1011. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.**

(a) IN GENERAL.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this title as the ''Board'').

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the Executive Branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 401(e);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 401(e);

(C) advise the President and Federal executive departments and agencies to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the executive department or agency has explained—

(i) that the power actually materially enhances security; and

(ii) that there is adequate supervision of the executive's use of the power to ensure protection of civil liberties.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures and the implementation of the regulations, policies, procedures, and related laws of Federal executive departments and agencies to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of Federal executive departments and agencies to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines promulgated under section 401(e) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the Executive Branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall review and assess the activities of privacy and civil liberties officers described in section 1012 and, where appropriate, shall coordinate their activities.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy and civil liberties officers described in section 1012; and

(B) periodically submit, not less than semiannually, reports to Congress and the President.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the relevant period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) INFORMING THE PUBLIC.—The Board shall hold public hearings, release public reports, and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board may—

(A) secure directly from any Federal executive department or agency, or any Federal officer or employee, all relevant records, reports, audits, reviews, documents, papers, or recommendations, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any Federal executive department or agency or any Federal officer or employee;

(C) request information or assistance from any State, tribal, or local government; and

(D) require, by subpoena, persons other than Federal executive departments and agencies to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, and relevant experience, and without regard to political affiliation.

(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, an officer, or an employee of the Federal Government, other than in the capacity as a member of the Board.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which the chairman is engaged in the actual performance of the duties of the Board.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at

rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) SECURITY CLEARANCES.—The appropriate Federal executive departments and agencies shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 1012. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

(a) DESIGNATION AND FUNCTIONS.—The Attorney General, Secretary of Defense, Secretary of Homeland Security, Secretary of State, Secretary of the Treasury, Secretary of Health and Human Services, National Intelligence Director, Director of the Central Intelligence Agency, and the head of any other executive department or agency designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage under this section shall designate not less than 1 senior officer to—

(1) assist the department or agency head and other department or agency officials in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

(2) periodically investigate and review department or agency actions, policies, procedures, guidelines, and related laws and their implementation to ensure that the department or agency is adequately considering privacy and civil liberties in its actions;

(3) ensure that the department or agency has adequate procedures to receive, investigate, and respond to complaints from individuals who allege the department or agency has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether the department or agency has explained—

(i) that the power actually materially enhances security; and

(ii) that there is adequate supervision of the department's or agency's use of the power to ensure protection of civil liberties.

(b) EXCEPTION TO DESIGNATION AUTHORITY.—

(1) PRIVACY OFFICERS.—In any department or agency referenced in subsection (a) or designated by the Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) CIVIL LIBERTIES OFFICERS.—In any department or agency referenced in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) SUPERVISION AND COORDINATION.—Each privacy or civil liberties officer described in subsection (a) or (b) shall—

(1) report directly to the department or agency head; and

(2) coordinate their activities with the Inspector General of the agency to avoid duplication of effort.

(d) AGENCY COOPERATION.—Each department or agency head shall ensure that each privacy and civil liberties officer—

(1) has the information and material necessary to fulfill the officer's functions;

(2) is advised of proposed policy changes;

(3) is consulted by decision makers; and

(4) is given access to material and personnel the officer determines to be necessary to carry out the officer's functions.

(e) PERIODIC REPORTS.—

(1) IN GENERAL.—The privacy and civil liberties officers of each department or agency referenced or designated under subsection (a) shall periodically, but not less than quarterly, submit a report on the officers' activities to Congress, the department or agency head, and the Privacy and Civil Liberties Oversight Board.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the officer's functions, including—

(A) information on the number and types of reviews undertaken;

(B) the type of advice provided and the response given to such advice;

(C) the number and nature of the complaints received by the agency for alleged violations; and

(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the officer's activities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from New Jersey (Mr. MENENDEZ) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I yield myself 5½ minutes.

Mr. Chairman, in my district on September 11, 122 of our friends and neighbors never returned home from work, never returned to their families. The smoking ruins of the Twin Towers were visible for all of my community to see and, to this day, their absence is still felt every time we look across the Hudson River and see the void where the Towers once stood. So the events of that day are very personal to us. We are reminded of them always.

This debate is the most important debate that will be held during the entire 108th Congress: how do we respond to the unanimous, bipartisan recommendations of the 9/11 Commission in protecting this Nation and helping prevent future terrorist attacks from occurring?

Over 3 years after that fateful September 11 day, my amendment is based upon the work of the 9/11 Commission and an inquiry that spanned 20 months, 19 days of hearings, 160 witnesses, the review of 2.5 million documents, and interviews of more than 1,200 individuals in 10 countries. The new structure proposed in this amendment is based upon a rock-solid foundation of inquiry and information.

Under Governor Kean and Congressman Hamilton, the bipartisan Commission unanimously made 41 recommendations to strengthen our country against terrorists. Those recommendations were for sweeping changes to our government, our intelligence community, and to how oversight is provided by Congress. The two they have called the most urgent; that is, the most time-sensitive to act on: a strong National Intelligence Director, and a National Counterterrorism Center, form the centerpiece of the Menendez substitute we consider here today. That is why the 9/11 Commissioners and organizations that represent the 9/11 families such as the family steering committee for the 9/11 Commission all support the McCain-Lieberman-Collins combination legislation that this substitute embodies.

The gentleman from Connecticut (Mr. SHAYS) and other Republicans wrote asking that the Shays-Maloney amendment be made in order. The Committee on Rules, I would argue, did so by making the Menendez substitute in order. And, after a 96-to-2 vote yesterday in the Senate on legislation very substantively as this substitute, the principles and provisions of this amendment are also supported by both Senate Republicans and Senate and House Democrats.

Unfortunately, the House Republican bill, H.R. 10, leaves out many of the bipartisan recommendations of the 9/11 Commission. In fact, out of the 41 recommendations, it appears that only 11 are implemented, 15 are not implemented at all, and 15 others are done so incompletely.

H.R. 10 also includes provisions that are unrelated to the bill's stated purpose: reorganizing the intelligence community and strengthening the Nation against terrorist attacks. In doing so, over 50 extraneous provisions were included that go well beyond the Commission's recommendations.

Like the 9/11 Commission's recommendations, the Menendez substitute creates a strong national intelligence director with real budgetary

and personnel authority. Unfortunately, the House Republican bill creates a weak NID with no budget authority and limited personnel authority.

Like the 9/11 Commission's recommendations, the Menendez substitute creates a strong National Counterterrorism Center headed by a strong director appointed by the President, confirmed by the Senate. Unfortunately, the House Republican bill creates a weak NCTC without a presidentially-appointed director.

Like the 9/11 Commission's recommendations, the Menendez substitute strengthens the nonproliferation programs that keep nuclear material out of the hands of terrorists. Unfortunately, the Republican bill only calls for a study into the matter.

Like the 9/11 Commission's recommendations, the Menendez substitute requires vulnerability assessments and security plans for our critical infrastructure, including our ports, chemical plants, and public transportation systems. Unfortunately, the House Republican bill makes no effort to address these issues.

Like the 9/11 Commission recommendations, the Menendez substitute authorizes new money to protect the United States by taking real action to secure the peace in Afghanistan, the home of the Taliban, al Qaeda, and Osama bin Laden. Unfortunately, the House Republican bill only asks for new reports.

My constituents and all Americans expect us to do everything we can to defeat terrorism, not to do a third of what is necessary or half of what is necessary or even three-quarters of what is necessary. We need to use, we have a responsibility to use every tool we have.

The facts are clear. Our proposal implements the Commission's recommendations. The Republican bill implements only 11 of the recommendations in full, partially implementing another 15. That is just not good enough. America needs a complete and total strategy to fight this enemy, not a partial one like the Republican bill gives us. America requires and deserves better than that, and that is why I ask my colleagues to support the Menendez substitute and the 9/11 Commission's report.

Mr. Chairman, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Chairman, I rise in strong opposition to the Menendez substitute.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. HOEKSTRA) is recognized to control 30 minutes.

Mr. HOEKSTRA. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, while there may be some provisions in the Menendez substitute that are worthy of discussion during conference, I still rise in opposition to his amendment.

Our review of the Commission's report was performed with a seriousness and a deliberation that is worthy of the subject and the task. The preparatory effort included full committee hearings, scores of briefings by the administration and others on the range of issues, the input of many experts, and days and weeks of effort devoted to gathering the requisite information. From this, we developed what we believe are measures necessary to give form and meaning to the often diaphanous wording of each of the Commission's recommendations that fell within our committee's jurisdiction.

The Menendez substitute offers little more than a mere restatement of the Commission's recommendations, and the unspoken premise that difficult problems can be easily solved by the simple expedient of throwing money at them. We have no shortage of examples of government programs where this approach not only failed, but actually rendered our problems worse. Here, the greatest danger stems from the complacency that will result from our merely having increased spending while congratulating ourselves for having taken swift action.

Instead, as authors of H.R. 10, we crafted practical solutions to fulfill the recommendations. We took abstract report recommendations such as, ''offer an example of moral leadership, commit to treat people humanely, abide by the rule of law,'' and we made them concrete.

Taken in its totality, H.R. 10 is a far superior product because it reflects the concerted and consolidated efforts of several committees and lays out direct, specific policy guidance on how to confront these evils.

The Senate may have voted to pass a similar measure to the Menendez substitute, but this is our chance to vote for something better, more concrete.

I urge a no vote on the Menendez substitute amendment.

Mr. MENENDEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished Democratic leader of the House of Representatives.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from New Jersey for yielding me this time, and for his extraordinary leadership in bringing this substitute to the floor.

Mr. Chairman, the credentials of the gentleman from New Jersey (Mr. MENENDEZ) are unsurpassed in this body. In the previous Congress, following the 9/11 attack, and even before that, he served as the Chair of the Homeland Security Task Force for the House Democrats. He serves on the Committee on Transportation and Infrastructure, and he serves on the Committee on International Relations, in senior positions on both committees. So when we speak about protecting our homeland, our waterways, our ports, our rivers, our whatever, he knows of what he speaks. And when he talks about taking the fight against terrorism into Afghanistan and other diplomatic initiatives, sitting on the Committee on International Relations, he knows of what he speaks.

But perhaps the saddest, let us say the saddest learning experience he has had in this regard was the loss of over 100 of his constituents on September 11, 2001. So it is with great pride, I say to the gentleman, that I rise to support the gentleman's substitute. It is an informed substitute, it is based on bipartisanship, the bipartisanship of the Commission and the bipartisanship of the Senate, as it is a reflection of two of the bills that were put together in the Senate.

Following 9/11, Mr. Chairman, the Congress called for a joint inquiry of what happened then.

□ 2200

As a ranking member on the Permanent Select Committee on Intelligence, at the time I served as a co-chair of that, and before we started our proceedings, our inquiry, which was conducted in a bipartisan manner, for most of the time, but before we began, we said that we must have a moment of silence before we began. It was both a deeply felt approach to it because we all wanted to pray for the families who had been harmed, who had lost their loved ones in 9/11; but also it represented the inadequacy of any words that we could ever have to express sympathy or condolence to those families. No words could possibly be adequate.

We resolved as we proceeded that we were on hallowed grounds. Anything to do with 9/11 was hallowed grounds. There was no place there for partisan politics. There was only room there for the U.S. to honor the memory of those who lost their lives; to pledge to the families that we would find the terrorists and bring them to justice who were responsible for this heinous crime; to make sure that we protected the American people so that acts of terrorism would not occur in this country; and to give comfort to those families that we were doing everything possible to achieve those goals.

The work that we did on that committee was largely ignored, and many of us thought that there should be an independent commission to bring fresh eyes to the challenges that we faced with a broader mandate; hence, the 9/11 commission was born. And the members of that commission understood that there was no place for partisanship on that hallowed ground that they now occupied, and they knew the responsibility that they undertook. The commission was reviewing the failures associated with 9/11 and suggesting ways to correct them.

Under the leadership of Chairman Kean and Vice Chairman Hamilton, the commission acted in a very bipartisan and thoughtful way to accomplish its assignment. By persistence, dedication, and an unshakable belief in the importance of its task, the commission overcame every obstacle, and on July 22

provided us with a unanimous bipartisan blue print for action. Our entire Nation is in their debt.

The 9/11 families and the commission then looked to Congress to enact their recommendations into law. The 9/11 families had reason to be proud that their advocacy was effective, when last night the Senate adopted by 96 to 2 a bipartisan bill that meets the challenge for reform laid down by the commission and needed by our country.

We have an opportunity to do the same thing by adopting the substitute advanced by the gentleman from New Jersey (Mr. MENENDEZ) whose district like so many others across our country bore such pain and sorrow on September 11. The Menendez substitute is a merger of the legislation introduced on September 7 by Senator MCCAIN and Senator LIEBERMAN and the bill authored by Senator COLLINS and Senator LIEBERMAN that was reported by the Senate Government Affairs Committee.

These bills were endorsed by the 9/11 Commission and by the 9/11 families groups as being faithful to the commission's recommendation, and they were bipartisan from day one.

The Republican leadership bill, H.R. 10, on the other hand, implements fully only 25 percent of the commission's recommendations as opposed to the Menendez bill which is a reflection of the commission's recommendations. Having waited for more than 3 years to take action, why would the House want to adopt a bill which falls so short of the reforms identified as urgently necessary and adopted unanimously by the bipartisan commission and by the Senate?

Our country has tremendous unmet needs in the area of homeland security. Securing nuclear materials overseas before they fall into the hands of the terrorists and could do us harm; improving security on our airports, our ports, and our rail lines; ensuring that our first responders can communicate effectively in real time; and protecting our critical infrastructure have not been given the priorities they deserve in H.R. 10. We are not as safe as we could be.

Our first responsibility as elected officials is to protect the American people. Making the right choices on legislation to implement the 9/11 Commission recommendations is one of the ways that we can meet that responsibility. The right choice today is the Menendez substitute that will bring us closest to the bill adopted 96 to 2 in the Senate, facilitate a rapid conference, and enable legislation to be signed by the President quickly.

Mr. Chairman, on September 11, 2001, the United States was the victim, as we all know, of some of the most horrific attacks in our history. Today is 1,121 days later. This House is finally being given the opportunity to consider a comprehensive legislative response to those attacks. It took over 3 years.

When the 9/11 Commission issued its report on July 22, it did so with a sense of urgency. Having delayed so long in taking action, it is critical that we get it right and that we get it right now. A vote for the Menendez substitute will honor the work of the commission, will respect the wishes of the families, and will make the American people safer.

I urge my colleagues to support the Menendez substitute.

Mr. HOEKSTRA. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), the distinguished majority whip.

Mr. BLUNT. Mr. Chairman, I thank the chairman for his hard work.

Having participated as our committees worked hard through August and September to produce the bipartisan composites and component of H.R. 10, I rise today in strong opposition to the Menendez amendment. We have considered the ideas contained in the gentleman's amendment, the gentleman's substitute, and rejected them. The amendment goes too far in some areas and not far enough in others.

The Menendez amendment seeks to declassify the U.S. intelligence budget. This action will have a very specific impact on our national security. It will guarantee that Americans will be more vulnerable. It simply is not logical to think that providing the terrorists with information about our intelligence priorities will make anyone safer. In fact, the impact would be just the opposite.

Today our adversaries spend a great deal of resources and time and devote vast amounts of their efforts trying to estimate just how much Americans spend on intelligence activities. Why should we want to hand our Nation's classifieds information, its most important security blue print, to the very people that we fight to keep it from?

This substitute ignores the 9/11 Commission's call to secure our borders. Does anyone believe America will be safer if the government does not require secure documents for people crossing our borders? Are we safer with a bill that does not provide any additional resources for our overtaxed border patrol? Are we safer with a bill that allows foreign terrorists, murderers, rapists, and kidnappers to abuse the antiquated laws and be released into our community?

Under this bill, if people come to this country we know they have committed crimes in other countries but they have not committed them here. We do not want to send them back to those other countries because we are prohibited from doing that; we have to simply let them wander around in the United States. That cannot be the best results for a secure America.

Those provisions, the security of our borders, protects all who live within our borders, those who are born here, those who sought America out searching for a better life for themselves and their families. If we want real security and real reform, we need to oppose this substitute and move this bill forward to get this job done.

Mr. MENENDEZ. Mr. Chairman, I yield myself 30 seconds.

Our substitute does exactly what the 9/11 commission said was necessary to secure the borders of the United States, and all of this fear-mongering to suggest that the substitute would permit foreign terrorists to be allowed to stay does a disservice both to the commission and to those who have worked so hard to bring this type of legislation to the floor. Secondly, the question about throwing money around is not an issue. When you have no money for nonproliferation, when you have no money for homeland security, when you do not deal with any of the commission's report language as it relates to money, you are failing the American people.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), the distinguished ranking Democrat on the Permanent Select Committee on Intelligence who has done so much work even prior to the commission's report.

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, a number of speakers have commented on the courage and sacrifice of intelligence community personnel who work in the shadows in austere lands. As we debate this bill, their lives are at risk and we owe them and their families our heartfelt thanks and total support.

We also owe them better tools, including an organization that equips them to meet 21st-century threats. We are using a 1947 business model designed to defeat an enemy that no longer exists.

It is time, Mr. Chairman, way past time for change. And this debate needs to focus on what change will truly help our intelligence community transition to the capabilities necessary to meet 21st-century threats.

When you think about that, and you compare H.R. 10 to the Menendez substitute, a substitute which is battle-tested, which passed the other body 96 to 2 just last night with every single Republican voting for it, there is absolutely no contest. The Menendez substitute is much stronger, much better, and much more bipartisan than H.R. 10.

The accusations made against the Menendez substitute can all be rebutted, and we will do that tonight. It does a better job of controlling our borders. It does a better job of protecting the civil liberties of Americans. It does a better job of targeting terrorists while protecting the rights of innocent immigrants.

I urge strong support for the Menendez substitute and would hope that H.R. 10 will be viewed as the partisan offering that it sadly is.

Mr. HOEKSTRA. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HUNTER), a strong partner in developing H.R. 10, an individual who fully understands that this bill needs to protect our war fighters and be able to provide the strategic information to our policymakers.

Mr. HUNTER. Mr. Chairman, if you have friends or relatives or just people you care about who wear the uniform of the United States who are in war fighting in Iraq and Afghanistan, and they are going out on a mission tonight or tomorrow and there are communications that affect that mission, directions from headquarters, plans, operations, those will probably go through your communications.

Now, these assurances of those secure communications reside in a little shop that is in what is known as the National Signals Agency. That is one of the agencies that Mr. MENENDEZ's amendment would pull away from the Department of Defense. Now, that agency right now is responsible to the Secretary of Defense, to the uniformed personnel who run those military operations, whose people have their lives on the line and depend on those communications.

Can you imagine a military operation where the people that are running the operation, that is the U.S. military, do not have the resourcing and the control over their own communications line?

I remember one of the arguments that is going on right now is who shot down Yamamoto, and we still have an argument over which American pilot shot him down after we had broken their code and sent out a squad of aircraft to shoot down the leader of the Japanese Navy. That is because we broke their communications.

The security of communications is important as having a weapon that works. And inadvertently, Mr. MENENDEZ's amendment pulls away and they probably do not even know this, so you cannot blame the gentleman from New Jersey (Mr. MENENDEZ) because he copied probably what somebody else in the other body put down, and they did not realize what they were doing. They have pulled away by definition from the Department of Defense and the uniformed people who serve this country the control over their own communication and the resourcing of their own communications. They pull that away in their bill.

Now, interestingly, the 9/11 reports says do not do that. It only has one small paragraph on that. I am turning to page 412. It says, ''The Department of Defense military intelligence programs, the joint military intelligence programs and the tactical intelligence programs will remain parts of the Department of Defense's responsibilities.''

□ 2215

That is one tiny paragraph, and yet because they missed that and they pulled this particular function away from the people that wear the uniform, they have committed a deadly mistake.

This amendment is full of deadly mistakes, deadly mistakes that the author does not even know about because he simply copied what somebody else put down.

Let me finally say, Mr. Chairman, that what we have serves this great partnership of the people that wear the uniform and the CIA. Let us maintain that partnership. Let us pass this bill without the amendment.

Mr. MENENDEZ. Mr. Chairman, I yield myself 15 seconds.

A deadly mistake is the number of recommendations the 9/11 Commission put forth that are not included in H.R. 10, and as it relates to declassifying the top line budget, that vote was 55 to 37 in the Senate, with people like JOHN MCCAIN, CHUCK HAGEL and TRENT LOTT voting for it. I do not think they want to risk the danger of American troops. So I think that makes imminent sense that people like that support that amendment.

Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. WAXMAN), the distinguished ranking Democrat on the Committee on Government Reform.

Mr. WAXMAN. Mr. Chairman, I rise in strong support of the substitute amendment offered by the gentleman from New Jersey (Mr. MENENDEZ).

The Republican bill is fundamentally flawed. There are 41 recommendations made by the 9/11 Commission, but the Republican bill implements only 11. Instead of implementing the 9/11 Commission recommendations, the Republican bill includes 50 extraneous provisions, many of them poison pills.

There is a better way and it is this substitute. The substitute is bipartisan. It implements all of the recommendations made by the 9/11 Commission, not just 11 of the 41 recommendations, and it includes no poison pills.

I want to point out to my colleagues, the substitute has the support of the 9/11 Commission and the family steering committee of the victims from 9/11. It has the support of Senate Republicans, Senate Democrats, House Democrats and President Bush.

As we consider this legislation, let us remember the loss of the families of the 9/11 victims. These family members have found strength through their terrible losses. We have a moral obligation to pass legislation that honors the sacrifices that they have made. That is why we need to pass the substitute.

But Members who are watching and the public who are paying attention to this issue may want to take note of the fact that when Congress voted to set up the September 11 Commission, so far all of the Republicans that have talked against the Menendez substitute, not a single one of them voted for the Commission in the first place. A number of them, the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from California (Mr. HUNTER), the gentleman from Illinois (Mr. HYDE) voted against setting up the Commission.

Well, Congress voted to set up that Commission. They worked hard, and they unanimously recommended we adopt what is the Menendez substitute.

Mr. HOEKSTRA. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I just wanted to go through a few more of the deadly mistakes that the Menendez substitute does in contravention of what the Commission said.

They take away from the military, military communications. They take away intelligence information on an adversary's communication. They take away defense cryptology. They take away warnings of impending military action against U.S. interests. They take away joint operational planning and execution. All because they ignored those particular teams that are hosted by the National Signals Agency. That was crayon legislation.

Mr. HOEKSTRA. Mr. Chairman, I yield 4 minutes to the gentleman Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, it is a great opportunity to engage in this very important discussion. Because I intended to be part of this debate this evening, I looked through the Constitution again this afternoon, as I do from time to time, and I learned once again that the Constitution says that the Congress shall raise the armies and the navies and provide for the Nation's security.

The Members of this Congress that have put together H.R. 10 have spent their careers in Congress working on issues of importance to our Nation's security and in the creation of the most effective military and security operation in the entire world. We have the best military in the entire world, and the very people who are responsible for making that happen also are the creators of H.R. 10. I am proud to have been a part of that work, and they worked hard, many days and many nights.

While I am speaking of the Constitution, the Menendez amendment, in my opinion, yields the constitutional requirement of the Congress, yields it, to the 9/11 Commission. The 9/11 Commission, they worked hard, but I checked the Constitution. I did not find anything in the Constitution about the 9/11 Commission.

One of the issues that concerns me seriously in the Menendez amendment is the decision to have the authorizers also be the appropriators. The chairman of the House Permanent Select Committee on Intelligence said he does not want that, and there is a good reason for that. This has been tried before where authorizers would actually be the appropriators.

The reason we have the two different organizations is simply this. The authorizers set the policy. They determine what will be the policy of the United States of America and whatever the issue is. The appropriators deal with the budgetary aspects of that work. We know that the budgetary, the appropriations business must be completed or the agencies shut down. The policy workers can go on and on for months, even years beyond their allotted time and still not have an adverse affect on the operation of this great Nation.

What concerns me is that if we give the authorizing committees also appropriating responsibilities they will, of necessity, spend most of their time dealing with the appropriations, the budgetary aspects, and leaving the policy-making to wan.

This is not a good idea to pass this Menendez amendment, and I realize he worked hard and I realize that he is promoting basically what the 9/11 Commission has recommended. But we were elected to function under the Constitution, to provide for the security of this Nation. I would say to my colleagues, as much respect as I have for the members of the 9/11 Commission and as hard as they worked to come up with some ideas that were actually pretty good, they are not the depository of all wisdom when it comes to providing for the security of our Nation.

As I said, those who were involved in the creation of H.R. 10 have spent a career in this Congress creating and providing for the most effective, the best military operation in the entire world, the best that the world has ever seen.

So I ask for a ''no'' vote on the Menendez amendment and a strong ''yes'' vote for H.R. 10.

Mr. MENENDEZ. Mr. Chairman, I would like to ask the Chair how much time remains on both sides.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The gentleman from New Jersey (Mr. MENENDEZ) has 19 minutes remaining. The gentleman from Michigan (Mr. HOEKSTRA) has 17 minutes remaining.

Mr. MENENDEZ. Mr. Chairman, I yield 25 seconds to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Chairman, in response to two of the claims just made, number one, the defense communications budget and the defense information security budget are not part of the National Foreign Intelligence program. Only the NFIB will be managed by the NID, as it is today by the DCI. So those budgets will not be covered.

Secondly, the Menendez substitute does not address the reorganization of Congress. It does not collapse the appropriations authority into the authorizing committee. That does not happen under this substitute.

Mr. MENENDEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER), the distinguished ranking Democrat on the Select Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

The 9/11 Commission said very clearly that to win the war on terror, we had to pursue three strategies simultaneously. We had to go after the terrorists more aggressively; we have to protect the homeland; and thirdly, we have to prevent the rise of future terrorists. Any legislation that purports to deal with the 9/11 Commission recommendations must have meaningful provisions in all three of these areas.

The 9/11 Commission had 41 recommendations. If we look at H.R. 10, 15 of the recommendations of the Commission are not implemented at all. Fifteen of the recommendations of the Commission in H.R. 10 are dealt with only partially. Eleven of the recommendations are implemented in H.R. 10.

The truth of the matter is some of the most critical elements for our security are not dealt with in H.R. 10. We did more to dismantle and to put into control loose nuke material in the 2 years prior to 9/11 than we have in the 2 years since 9/11. Our bill, the Menendez substitute, deals meaningfully with trying to control loose nuclear material.

H.R. 10 simply says we are going to study it. We have studied it to death. If the greatest threat to our security is a nuclear weapon in the hands of terrorists, one would think that H.R. 10 would deal meaningfully with that threat.

H.R. 10 does not deal with the critical issue of information sharing. We need to be able to know that a border patrol inspector or a law enforcement officer, when they have a suspected terrorist in front of them, they have access in real-time to all the government databases that share intelligence and have intelligence relating to terrorists.

We know we need to involve the private sector. Eighty-five percent of all infrastructure is in private hands, and yet H.R. 10 does not deal with a private sector preparedness program. That is dealt with in the Menendez substitute.

The truth of the matter, Mr. Chairman, is that we have got to do better. We have got to be stronger than we are in H.R. 10, and I urge the adoption of the Menendez substitute.

Mr. HOEKSTRA. Mr. Chairman, I yield myself such time as I may consume.

When a bill is cobbled together at the last minute, sometimes even the authors do not know what is in it. I advise my colleagues to take a look at section 502 that talks of reorganization of congressional jurisdiction. It is part of the bill, page 145.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. TOM DAVIS), an expert on government reorganization, the chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I want to join my colleagues in strong opposition to the Menendez amendment. Quite simply, the substitute provides fewer safeguards against another 9/11. Rather than participating in the legislative process by offering constructive amendments during the House debate, the minority has unfortunately chosen to simply cobble together various provisions from H.R. 10 and various incarnations of Senate legislation and repackage them as the Democratic position on homeland security. The resulting package is a scattered jumble of proposals that do not fit into cohesive strategy for protecting the homeland.

On the issue of driver's license security, for example. Two conflicting deadlines for compliance by the States are established: the first deadline being 2 years from the promulgation of minimum standards; the second deadline is to be established by the Secretary of Homeland Security.

In contrast, the language of H.R. 10 is strong and clear, exactly what this landmark legislation needs.

Additionally, the Menendez amendment is replete with the kind of layered bureaucracy we took great pains to avoid in H.R. 10. Our aim was a nimble, flexible, flat structure that could improve intelligence gathering and analysis. The substitute amendment, by contrast, is loaded with a chief information officer, a chief human capital officer, a chief financial officer, an out-of-control Inspector General, a comptroller, an ombudsman, multiple privacy officers, and a civil liberties board with unlimited subpoena power. Our bill is about better government. The substitute is about bigger government.

Equally troubling to our committee in particular is the fact that such basic necessities as personnel and acquisition authorities have been scattered throughout the amendment with different and conflicting authorities being haphazardly assigned to different officials within the NID. Our committee specializes in agency organizational matters. That is what we do day in and day out. The substitute's organizational structure is no way to set up a new entity, and I urge opposition to the Menendez amendment.

□ 2230

Mr. MENENDEZ. Mr. Chairman, I yield myself 10 seconds.

Fewer safeguards to protect America than the unanimous bipartisan recommendations of the 9/11 Commission? That is outrageous. Are we saying the bipartisan 9/11 Commission, with a unanimous vote of 51 Republican Senators and 96 Senators actually voted to reduce the safeguards to America? I do not think so.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON), someone who fought for his country, someone who has enormous experience in the national security and defense of the United States, and who is the ranking Democrat on the Committee on Armed Services.

Mr. SKELTON. Mr. Chairman, I thank the gentleman for yielding me this time. Let us put some common sense into this piece of legislation, if we may.

You are about to see an attempt to mix oil and water legislatively. We see that the Senate passed 96 to 2 the recommendations of the Commission, the 9/11 Commission. The White House recommended and urged such a passage. The family victims organization of 9/11 has recommended that. And we see in this H.R. 10 a diversion from the only hearing that we had, which was by the chairman and vice chairman of the 9/11 Commission, and I thought they explained their situation well.

I would like to read from a statement of administration policy from the Executive Office of the President. Three pages of concerns regarding the base bill that we have, H.R. 10. And in those three pages of concern it says ''The administration is concerned that H.R. 10 does not provide the National Intelligence Director sufficient authorities to manage the intelligence community effectively.''

I thought we had a sense of urgency about this. As a result of the 9/11 Commission and recommendations, a sense of urgency had come over our Congress, I thought; over our country, I thought. And yet we see this bill, should it pass, H.R. 10, should it pass, you will see it mixed in conference with the Senate like oil and water. And I predict this will very well end up in the legislative graveyard, sadly.

Mr. HOEKSTRA. Mr. Chairman, I yield myself such time as I may consume.

It was stated earlier that the President supports the Menendez amendment. That is inaccurate. The administration supports House passage of H.R. 10.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LEWIS), another individual who gets his facts right.

Mr. LEWIS of California. Mr. Chairman, regretfully, I rise in very strong opposition to the Menendez amendment, for this substitute does not reflect the real word that we must deal with when we are trying to make certain that our intelligence activities positively affect our men and women who have their lives threatened overseas.

The Menendez amendment is similar to H.R. 10, but includes a number of provisions that are unacceptable or at least should be to this House. Probably one of the most troubling aspects of the amendment before us is the provision that would call for the disclosure of the aggregate level of funding provided to the intelligence community.

Mr. Chairman, I would ask my colleague, the gentleman from New Jersey (Mr. MENENDEZ), to please tell us what the logic is behind disclosing to our enemies the top line of our intelligence budget? I am not worried about what the Senate may say or suggest, I am not sure they thought through what this might mean. But what is the logic behind our disclosing to our enemies the top line of our intelligence work? Who can it serve in terms of America's interests to disclose those top lines?

The September 28, 20004, statement of administrative policy states clearly that ''legislation should not compel disclosure, including the Nation's enemies in war, of the amounts requested by the President and provided by the Congress for the conduct of the Nation's intelligence activities.''

H.R. 10 retains a classified intelligence budget. It is absolutely in the American interest, our public interest, our military interest to make certain that those top lines are not disclosed. If the gentleman would not depend upon the Senate, I would like to hear the gentleman's logic behind disclosure of those top lines. Indeed, it is fundamental to the future security of our troops to make certain our intelligence programs are kept within the interest of those troops who are defending us overseas.

If the gentleman would like to respond specifically to that, perhaps I could understand better why he would take these steps.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. First, in 1997 and 1998, we disclosed the top line and we did not risk the national security of the United States.

Mr. LEWIS of California. Who did?

Mr. MENENDEZ. The American people have the right to know how much that collective amount is. It does not tell us where we divide that money, covert, overt, and for what other purposes.

And I would say that the other body overwhelmingly voted for the disclosure.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I asked the gentleman who disclosed the amount?

Mr. MENENDEZ. In 1997 and 1998.

Mr. LEWIS of California. But who disclosed the amount?

Mr. MENENDEZ. The other body just voted that.

Mr. LEWIS of California. Reclaiming my time once again, Mr. Chairman, I am not certain the gentleman has been in the intelligence rooms. If he has disclosed that, then he is in violation of the rules.

Mr. MENENDEZ. Mr. Chairman, I yield myself 1 minute.

As a trial attorney, I know what to do when you do not have the facts and the law on your side. You bang on the table and try to create confusion. That is what the other side is trying to do here because they have left us less secure in H.R. 10.

We heard a lot about flip-flopping lately. Well, the administration put out a statement of policy saying the administration supports the Collins-Lieberman bill, and went on specifically to say that they would oppose weakening the NID, exactly what H.R. 10 does.

My colleagues are going against what the President wants. Now the President comes out, after he supports the Senate version, and says, well, I support H.R. 10, but then he has three pages of exceptions to H.R. 10 that he does not like in your bill and thinks that you make America less secure by virtue of what is in the bill.

So you cannot have it every which way. Either the President is for the 9/11 Commission or he is not. Either he is for McCain-Collins-Lieberman or he is not.

Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY), who has worked tirelessly on the task force on Homeland Security for House Democrats and worked with the gentleman from Connecticut (Mr. SHAYS) on what, in essence, is the Menendez proposal.

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the bipartisan substitute. This substitute is identical to the substitute that the gentleman from Connecticut (Mr. SHAYS) and I offered but was not made in order. This substitute is almost identical to the bill that passed the Senate yesterday with a strong vote of 96 to 2. All 51 Republicans voted yes to bringing overdue reform to our intelligence network.

Right after 9/11, this body came together and we worked together as Americans, not as partisans. We need to come together again tonight and pass the bipartisan 9/11 Commission substitute, a bill we could have on the President's desk tomorrow.

Unlike the underlying bill, this substitute adopts all of the recommendations and nothing else, and that is why the bipartisan substitute has the support of the 9/11 Commission, the 9/11 Family Steering Committee members, and editorial boards across this Nation. They have written in favor of the Collins-Lieberman bill, upon which the substitute is based, and against the House leadership's controversial bill, which is strikingly different from the 9/11 Commission report on many key points.

Mr. Chairman, the President of the United States agrees. Just tonight the White House released a statement on this bill, and they said, and I quote, ''the National Intelligence Director should have full budget authority.'' The substitute does give full budget authority. H.R. 10 does not.

The administration also strongly opposes the, and I quote ''overbroad expansion of expedited removal authorities.'' The administration has concerns with the overbroad alien identification standards proposed by the bill, and I quote, ''that are unrelated to security concerns.'' The administration strongly opposes section 3032, the so-called outsourcing of torture provision. And it goes on and on. They are opposed to Title V, inconsistent with President's constitutional authority.

In fact, H.R. 10 is so problematic that the White House ran out of room talking about provisions they did not like. They ended their letter by saying, and I quote, ''Finally, the administration has concerns with a number of other provisions in this bill.''

So, my colleagues, the choice is clear. Pass a bill that even makes the White House queasy, or pass the substitute that enacts the recommendations of the 9/11 Commission.

Mr. Chairman, the 9/11 families wrote, ''We believe the 9/11 substitute is the best choice for certain and quick legislation to make our country safe. We respectfully ask you to put politics aside and act in the best interest of America. Vote for the 9/11 substitute.''

And on a personal note, my city was attacked, and I urge my colleagues to support the bipartisan substitute. It will make our country safer.

Mr. Chairman, I would like to end with the full letter of the 9/11 victims' families, which I will submit for the RECORD, along with editorials in support of the bipartisan bill.

Newspapers across the country have editorialized in favor of the Senate's bipartisan legislation—and against the House Republican leadership's divisive approach, including the New York Times, the Washington Post, the Baltimore Sun, the Miami Herald, the Albuquerque Journal, Milwaukee Journal Sentinel, Orlando Sentinel, and the Rocky Mountain News.

Here are some selected quotes:

"House Republicans are already trying to turnt this week's debate into a pre-election brawl aimed more at scoring phony patriotic points than at passing meaningful laws. . . . Congress cannot escape its duty to finally repair the institutional failures that left the country so vulnerable before 9/11 and so wrong before the invasion of Iraq."—NY Times, Sep. 27

"The House of Representatives' version of intelligence reform might be dismissed as an election-year stunt were it not so dangerous. . . .

"Playing politics with intelligence reform should not be worth the potential damage."—Washington Post, Oct. 5

"House Speaker Dennis Hastert and Majority Leader Tom DeLay have been in no rush, yielding, it appears, to the status quo forces in Washington that stand to lose power and influence if sweeping changes are adopted."—Baltimore Sun, Oct. 5

"Instead of focusing on the nuts and bolts of intelligence reform, legislators are debating wholly extraneous issues that will contribute little or nothing to making our country safer."—Miami Herald, Oct. 4

"House Republicans should avoid hanging apple-related riders on legislation addressing oranges when it comes to implementing 9/11 Commission recommendations."—Albuquerque Journal, Oct. 2

"Legislative sabotage such as this is hardly unusual in political Washington, and most of the time the damage is not intolerable. This time, however, it is."—Milwaukee Journal Sentinel, Sep. 30

"The House proposal is a weak, partisan plan that perpetuates too much of the discredited status quo in intelligence—Orlando Sentinel

VOTE FOR THE 9/11 SUBSTITUTE

DEAR MEMBER OF CONGRESS, As 9/11 family members we ask our Congress to vote in a bipartisan way on the 9/11 substitute, which most closely follows the core recommendations of the 9/11 Commission. This substitute is based on the bipartisan legislation offered in the Senate by Senators COLLINS, LIEBERMAN and MCCAIN. It is endorsed by the 9/11 Commission and the President.

You have a choice today. You can vote for H.R. 10 or the 9/11 Substitute. We believe the 9/11 substitute is the superior vehicle for effective change without delay. A vote for the substitute will quickly send a bill to the President's desk for signature. The path of H.R. 10 is far less certain.

The 9/11 Families demand a clean, bipartisan bill that is true to the core recommendations of the 9/11 Commission. We believe the 9/11 substitute is the best choice for certain and quick legislation to make our country safe. We respectively ask you to put politics aside and act in the best interest of America. Vote for the 9/11 substitute!

THE 9/11 FAMILIES.

Mr. HOEKSTRA. Mr. Chairman, I yield myself such time as I may consume to note that CRS has identified provisions of H.R. 10 that are relevant or respond to 39 of the 41 recommendations of the 9/11 Commission.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD), the distinguished member of the Permanent Select Committee on Intelligence who spent an enormous amount of time working on these kind of issues, understanding the issues that face both our troops and our policymakers in this area.

(Mr. LAHOOD asked and was given permission to revise and extend his remarks.)

Mr. LAHOOD. Mr. Chairman, I rise in strong opposition to the Menendez amendment.

Mr. Chairman, I have been on the floor almost all day speaking on the rule, and speaking during consideration of the bill during general debate. This amendment seeks to create an information technology network of immense proportions but without significant resources and no logical or direct correlation to what actually would be needed to share information properly.

The amendment overregulates the design of the network, it creates excessive reporting requirements and truly unrealistic implementation deadlines. The amendment would also create several layers of new bureaucracy, which is something that I have been speaking out about all day.

No more bureaucracy. No more red tape. No more stovepipes. And that is what this creates. It would create a new bureaucratic advisory and executive board, which will prevent the rapid creation of a true information-sharing environment.

The information-sharing provisions of the Menendez amendment will not achieve the intent of the 9/11 Commission. In fact, they will serve to confuse and prevent the needed changes. We do not need any more bureaucracy. We do not need any more stovepipes.

In fairness to the people who work 24–7, in dark places in the world, this amendment had no consultation with the community, with those that are charged with the responsibility of collecting and analyzing information. This amendment is terribly flawed and would create the kind of stovepipe and bureaucracy the 9/11 Commission railed against. It would do no good in terms of our ability to really create the kind of opportunity that is needed to win the war on terror.

□ 2245

Mr. MENENDEZ. Mr. Chairman, I yield myself 15 seconds to simply say if the gentleman is concerned about bureaucracy, then he needs to read the statement of administration policy that says, "The administration remains concerned about a series of provisions in H.R. 10 that create new bureaucratic structures and layers in the office of the NID and elsewhere that would hinder, not help, the effort to strengthen U.S. intelligence capabilities."

Mr. Chairman, I yield 20 seconds to the gentlewoman from California (Ms. HARMAN) to deal with some of the questions that have been raised here.

Ms. HARMAN. I thank the gentleman for yielding me this time.

Mr. Chairman, the gentleman from California (Mr. LEWIS) has raised concerns about providing information to the enemy by declassifying the top line of the budget. In the 9/11 Commission report it says, "When even aggregate categorical numbers remain hidden, it is hard to judge priorities and foster accountability. The top line figure by itself provides little insight into U.S. intelligence sources and methods." It was passed in the other body 55 to 37, overwhelmingly supported by Republican Senators.

Mr. MENENDEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. ENGEL), a senior member of the Committee on International Relations.

Mr. ENGEL. I thank the gentleman for yielding me this time.

Mr. Chairman, on 9/11, 2001, my city was attacked. And then a remarkable thing happened. The 9/11 Commission was formed with five Democrats and five Republicans, and they unanimously made a series of recommendations. That showed true bipartisanship. The other body also showed true bipartisanship when it came up with a bill that was passed again almost unanimously.

But here, unfortunately, we have not seen bipartisanship. Democrats have essentially been shut out of the process once again, something that we have seen too frequently; and this bill before us does not implement most of the 9/11 Commission recommendations. The Menendez substitute before us does implement most of the recommendations of the 9/11 Commission. Intelligence should not be a Democratic issue or a Republican issue, but an American issue.

In the underlying bill, there are some good things in the bill. There are some troubling things in the bill. But on the whole, the Menendez substitute is by far the better bill. It is bipartisan, implementing the 9/11 Commission.

Vote for the Menendez substitute.

Mr. HOEKSTRA. Mr. Chairman, I yield myself such time as I may consume.

In the rules process, our colleagues on the other side of the aisle were not shut out. They did not show up. They only offered one amendment. No other amendments. All their amendments were accepted and made in order.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON).

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Chairman, let me just respond to a couple of things that have been said. One of the previous speakers mentioned that we have a 1947 business model when it comes to our intelligence community. That may be true for the CIA, it may be true for certain civilian intelligence-gathering agencies, but it is not true for the military, the defense intelligence agencies. We had a certain type of information-gathering system prior to 1990. The Soviet Union went away and our military intelligence changed because it had to change. The collection system changed to keep up with the changing threat. The changing threat today is terrorism and other kinds of threats. Back then it was a conventional threat carried out by the Soviet Union. Our military intelligence has changed. It is a modern-day intelligence collecting system that we are trying our best tonight here to protect.

Secondly, the notion that the top line was disclosed in the past is completely false. It was never disclosed in the past. We have always kept secret the amount of money, the resources that we spend on intelligence collecting. The Menendez amendment discloses this information which we believe is a tremendous mistake. Further, this is not the 9/11 Commission report that they are putting forth. The 9/11 Commission report was amended 81 times by the Senate. Eighty-one times. They criticize us for offering our views after they amended it 81 times.

Mr. Chairman, this is a good bill. It should stand the way it is.

Mr. MENENDEZ. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS) who has offered and is embodied in our substitute, in essence the 9/11 Commission's report.

Mr. SHAYS. I thank the gentleman for yielding me this time.

Mr. Chairman, I have been in public life 30 years, and I was sitting in my office thinking, I am not sure I want to participate in this debate because I am seeing people on both sides of the aisle for whom I have such tremendous respect wrestling with this issue; but it is not a good feeling on the House floor, and I cannot describe why.

I was hoping that when we were going to debate the recommendations of the 9/11 Commission that we would have an effort from day one to include both sides of the aisle. I felt from that process we would have a bill that we would be proud of. It did not seem to work out that way. For me, I have chaired the National Security subcommittee now for 6 years. When I took it over in 1998, we began in 1999, we rewrote the rules so that we would look at terrorism at home and abroad. What we did is we had 19 hearings before September 11, and we had three commissions that came before us and all three commissions, the Bremer Commission, the Hart-Rudman Commission, the Gilmore Commission, they all said the same thing: we have a serious terrorist threat; we need to have an assessment of that threat; we need to have a strategy to deal with it and we need to reorganize our government so that we can implement the strategy. And we did not really pay attention to it. We had committees of cognizance that should have been.

Then we had this horrible tragedy and we responded. I think we responded in the right way. We did not establish the 9/11 Commission right away. What we did is we just said, Republicans and Democrats, what do we do about it? While there has been criticism of the PATRIOT Act, I think it was vital. We reorganized our government and we did it, I think, ultimately in a bipartisan way. I think we have made our country safer.

And then, and it made so much sense, what we did is we said, let's find out what the heck happened. It was very clear. We let down the American people. I have many constituents who lost loved ones, and I think every day how sorry I am for our failure in this Chamber. I have constituents who spoke with their loved ones for an hour trying to help them get out of a building. We all know those tragedies. But in the end we had this commission, and this commission was partisan at first and then when they started to write what happened and they looked and they described what happened on that day, five Republicans and five Democrats became one. That is what I was hoping would happen on the floor tonight, and it is not happening. But I think it will.

I am going to vote for the Menendez amendment because I think it is truer to the commission's objectives. If it fails, I am going to be voting to pass out H.R. 10 because I believe that eventually Republicans and Democrats in this Chamber are going to find common ground like the Senate found, and I believe the President is going to have a bill to sign, and I think we are ultimately going to be proud of the product.

But I support the gentleman's amendment. I appreciate that he has brought it out. I appreciate that it was made in order because it is truly more reflective of what the commission suggested. If there are problems with one aspect of it, like releasing the top line, those are things that we clearly can deal with in conference. But the way we set this debate, a major substitute, just an hour, yes, it is going to be hard to come to a conclusion that any of us are satisfied with.

The commission did their work so well. I am so proud of them. I think their work was sacred, and I think that we deserve and they deserve to have this legislation moved forward.

Mr. HOEKSTRA. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, the Menendez amendment claims to be comprehensive in its approach toward border security. Let me read directly from the commission report:

"It is perhaps obvious to state that terrorists cannot plan and carry out attacks in the United States if they are unable to enter the country. Yet prior to September 11, while there were efforts to enhance border security, no agency of the U.S. Government thought of border security as a tool in the counterterrorism arsenal. Indeed, even after 19 hijackers demonstrated the relative ease of obtaining a U.S. visa and gaining admission into the United States, border security is still not considered a cornerstone of national security policy. We believe that it must be made one."

Yet the Menendez amendment is eerily silent on this issue. How can we possibly suggest that there is any way that we can think of their amendment as comprehensive in terms of border security and security of this Nation when it does not address this fundamental idea that was placed in the 9/11 Commission report?

The only way you can think about this is that it is pandering for votes in light of the fact that we should actually be thinking about national security, not thinking about votes.

Mr. HOEKSTRA. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the gentleman for his excellent work on this legislation. I would like to speak as the chairman of the Select Committee on Homeland Security about portions of this legislation, H.R. 10, with which our committee has been very, very closely concerned and portions of this substitute which lack those same elements.

First, the 9/11 Commission in their report recommended that Congress "should pass legislation to remedy the longstanding indemnification and liability impediments to the provision of public safety and mutual aid in the national capital region and, where applicable, throughout the Nation." H.R. 10, the 9/11 Recommendations Implementation Act, includes these very provisions just as the 9/11 Commission recommended.

We ease the liability problems for first responders crossing jurisdictional boundaries so they do not need to worry they will be subject to some other liability regime when they help out in time of need. The Menendez bill ironically limits this liability relief to the capital here, but it does not do anything for the rest of the Nation as the 9/11 Commission recommended. It does not even do anything for the author's home State of New Jersey. If New Jersey first responders were to go into New York City and help out, they would not have the liability relief that the 9/11 Commission recommended that they have. First responders from across the country have endorsed the first responder provisions in H.R. 10.

The commission, the 9/11 Commission, recommended that moneys be allocated to State and local governments on the basis of threat and on the basis of risk. That is exactly what H.R. 10 does. But the Menendez substitute does not require the Secretary of Homeland Security to prioritize applications on the basis of risk. It does not require States to prioritize the allocation of their grant awards to localities on the basis of risk.

The Menendez substitute does not guarantee first responders a voice in establishing terrorism preparedness benchmarks that will guide spending. H.R. 10, on the other hand, has a task force comprised of first responders themselves.

The Menendez substitute does not identify either permitted or prohibited use for first responder grant awards, and it does not provide any penalties for failing to get money to first responders on time. H.R. 10 has strict penalties for failing to get funds to their intended destination, the men and women on the front lines, within 45 days. For that reason, all of the major first responder groups, including the International Association of Firefighters, the International Association of Fire Chiefs, the National Volunteer Fire Council, the Fraternal Order of Police, the Major Cities Chiefs Association, and the National Sheriffs Association have endorsed the Faster and Smarter Funding For First Responders Act included in this legislation. The Menendez bill is not supported by any first responder group.

Let us reject the Menendez substitute and enact H.R. 10.

□ 2300

Mr. MENENDEZ. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from California (Chairman COX) just made a statement, but his committee reported out a bill that contained a historic $3.4 billion commitment to first responders. Was that provision included in H.R. 10? The answer is no. Let us look at some of what the 9/11 commissioners have said: ''The Senate bill is a giant step forward'' and ''the right vehicle for our recommendations.'' That incredible vote on a bipartisan basis in the Senate is the basis of the Menendez substitute. Lee Hamilton said, ''The House bill contains a number of proposals that go beyond the commission's recommendations'' and could very well, in essence, affect the nature of getting a bill done in the 108th Congress.

The statement of the Family Steering Committee, in support of Shays-Maloney, as we have heard, which is, in essence, the Menendez substitute, said, ''If House Members present H.R. 10 for vote rather than a choice that includes H.R. 5150 legislation, enacting the 9/11 Commission reforms may be doomed.''

Let me try to take away all the obfuscation, and, by the way, about not submitting amendments, it was our statement that we sought on the greatest issue to face this country, the national security of the United States and how one responds to the September 11 Commission report, we asked for an open rule. An open rule would have let any Member of the House work its way and have the House's will work its way in front of the American people about what were the best ideas with the 9/11 Commission's report as a foundation to best secure America. But that open rule was not presented. So we would have had all the amendments that may have perfected.

There has been a lot of obfuscation here about what the Menendez substitute does and does not do. Let us make it clear once again. It is the 9/11 Commission report. It is the Collins-Lieberman-McCain legislation. It is what passed in the Senate 96 to 2 with over 51 Republican Senators and such a bipartisan support. It is, in essence, the real reform.

There are a lot of reasons why people do not want to seek reform. There are a lot of turf issues. People do not want to give up their abilities. But the only turf we should be fighting for is our collective turf as a country, and that is what this institution should be doing.

Let me just go through some of the critical issues. Like the 9/11 Commission recommendations, the Menendez substitute creates a strong National Intelligence Director. They do not.

Like the 9/11 Commission recommendations, our substitute creates a strong National counterterrorism Center. They do not.

Like the 9/11 Commission recommendations, the Menendez substitute mandates strengthening the Nunn-Lugar programs against nuclear nonproliferation. They do not.

Like the 9/11 Commission recommendations, our substitute mandates the creation of long-term strategies to win the struggle for ideas in the Muslim world. Theirs do not.

Like the 9/11 Commission recommendations, the Menendez substitute provides for much more extensive U.S. efforts in Afghanistan, including authorizing an additional $2.8 billion to win the war in what is the central part of terror. Theirs does not.

Like the 9/11 Commission recommendations, our substitute requires the Transportation Security Administration to improve explosive detection capabilities. Theirs does not.

Like the 9/11 Commission recommendations, our substitute replaces the current patchwork of border screening systems with an integrated screening system with one set of standards far beyond what they do. Like the 9/11 Commission recommendations, our substitute creates a government-wide Civil Liberties Oversight Board to review the use of intelligence powers and act as a watchdog. Theirs does not.

I urge the 25 colleagues on the other side of the aisle who voted for the 9/11 Commission to now have the same vision and courage and vote for this substitute and let us move forward to real reform and a greater, secure America. Vote for the Menendez substitute.

Mr. HOEKSTRA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Lee Hamilton, the distinguished vice chairman, a former Member of this body, the vice chairman of the 9/11 Commission, stated what should be obvious to all of us: that as the Senate and the House conduct the normal legislative process, he fully expected each body would refine and put their imprint on the commission's recommendations. He said at a September 28 press conference and on other occasions that the commission's recommendations are not set in stone. In that sense I applaud the Senate for putting its imprint on the commission's recommendations while crafting its bill.

I am proud of H.R. 10 and the work that our committees have done on this bill. H.R. 10 is the House's imprint, its product in responding to the commission's recommendations.

Let us be clear about what the substitute is and is not. It is the hastily drafted combination of the text of at least two bills introduced in the other body. It is a version that has never been reviewed by any committee in the other body or been voted on in the other body. The Menendez amendment asks the House to simply accept titles II through XI of the McCain-Lieberman bill as introduced. These provisions of McCain-Lieberman have not been reviewed by any committee in the other body. We are also being asked to ignore the modifications made to these provisions during floor consideration in the other body.

Similarly, the Menendez amendment asks the House to simply ignore the deliberations on the floor of the other body. Over 6 days with regards to the Collins-Lieberman bill, title I of the Menendez substitute, the Collins-Lieberman bill is frequently described as being ''battle-tested,'' but now we are being requested to ignore the results of the biggest test, the amendment process of the other body.

If this is the biggest debate in the House, that is a poor excuse for a legislative proposal to cobble together pieces from the other body that have never been deliberated, that have never been voted on, and that did not pass the other body.

The House can do better, and we have done better than what the other body has done and what has been proposed in this amendment.

H.R. 10 is a comprehensive bill. H.R. 10 effectively implements the framework of recommendations contained in the report of the 9/11 Commission, especially its core recommendations regarding the restructuring of the intelligence community.

Mr. Chairman, for these reasons I urge my colleagues to join me in opposing the Menendez amendment in the nature of a substitute and later on vote overwhelmingly to support H.R. 10.

Mr. SIMMONS. Mr. Chairman, I rise today to support my colleague from New Jersey, Mr.

MENENDEZ's amendment to H.R. 10, the 9/11 Recommendations Implementation Act.

Every American remembers where they were on September 11, 2001. On that morning the American people began a journey together. No one can predict how long we will be on this journey. Luckily, we were given the beginnings of a guidebook for this journey, provided by the bipartisan men and women of the 9/11 Commission.

The American people watched over the last many months as the 9/11 Commission met to examine facts and question witnesses. Together they pieced together the failures and shortcomings that led to the terrible attacks of September 11. The Commission then produced a series of recommendations for the American people that came out in July and literally flew off bookstore shelves around the country.

Like my fellow citizens I took the time to read the 9/11 Commission's final report and contemplate the more-than 40 recommendations. I like many of the recommendations made by the Commission. There are others that I do not like. But I respect the fact that this is an important start, and a blueprint that many of the American people have read, and understand.

On July 28, 2004, I joined my colleague from Connecticut, CHRISTOPHER SHAYS, to announce my participation in a bipartisan 9/11 Commission Caucus whose purpose was to promote their recommendations in a bicameral and bipartisan fashion. Subsequently, we introduced a bill in the House that mirrored the 9/11 Commission recommendations.

Senator SUSAN COLLINS of Maine and my Senator, JOE LIEBERMAN of Connecticut, also had the wisdom to introduce legislation in the other body that mirrors the recommendations of the 9/11 Commission. The administration has endorsed the Collins-Lieberman legislation; the 9/11 Commission Families have endorsed this legislation and last night the Senate overwhelmingly passed the legislation.

Today we have the opportunity to do the same by voting in favor of the Menendez amendment. I will be supporting this amendment to show my constituents and the American people that indeed we are on this journey together, that we will not taint the 9/11 Commission's recommendations, that we will start reforming our intelligence community and that we invite Americans to join us as we build from these recommendations.

Mr. MEEKS of New York. Mr. Chairman, I rise today in strong support of the Menendez substitute to H.R. 10, the only version supported by the House's 9/11 Commission Caucus, the 9/11 families and the legislation most similar to the bill adopted by the Senate yesterday by a 96–2 vote.

This bipartisan substitute fully implements the forty-one 9/11 Commission recommendations and adds no extraneous provisions. It implements critical recommendations not fully addressed by H.R. 10, including the creation of a strong National Intelligence Director and giving that director full budgetary and personal authority, as the 9/11 Commission recommends.

The 9/11 Commission came together because America and the victims' families demanded answers and solutions. The bipartisan group of Commissioners—five Democrats and five Republicans—worked tirelessly to fulfill their commitment to make America safe. We should honor their efforts and fulfill our commitment to America by producing a bill that responds directly to the Commissions' recommendations—with no added controversial or unrelated provisions. The Menendez substitute helps us do just that by ensuring that we have a clean bill on the President's desk before we adjourn.

Let's not play politics with a bill as important to the American people as this one. Pass the Menendez substitute.

Mr. KIND. Mr. Chairman, I rise today in support of the Menendez substitute to H.R. 10, legislation to reform our country's intelligence agencies. I support this substitute so that as a country we can move forward quickly to a short conference and then give the President a completed bill to sign. The security of the people of western Wisconsin is of an utmost priority, and I am supporting measures that will make changes necessary to protect our homeland.

On September 11, 2001, our Nation was brutally attacked and several thousand of our citizens were killed. Our country was shocked and dismayed, but we were far from defeated. The resolve of our Nation is strong, and we stood up to the challenge and struck back.

After the attacks on that fateful day in September, many questions about our homeland security were raised. I supported and worked for a comprehensive Homeland Security bill that created the Homeland Security Department and cabinet level secretary. The creation of the Homeland Security Department was an important first step for our country to ensure the security of its citizens. But there remained many unanswered questions about our Nation's intelligence failures before September 11, which is why I supported the creation of the independent bipartisan 9/11 Commission.

On July 22, 2004, the 9/11 Commission provided a full and complete report to Congress and the American public. I praise the Commission for its excellent work, leadership, patriotism, and service to our country. We owe it to the families of the victims of 9/11 and to the citizens of our country to use this report to make certain this type of attack never happens again; I fully support the unanimous and bipartisan recommendations of the 9/11 Commission.

That is why I am a cosponsor of H.R. 5150, the Shays/Maloney bill to implement the Commission's recommendations. This legislation is the bipartisan companion bill to the Collins/Lieberman bill which just passed in the Senate on October 6, 2004, by a vote of 96–2. I am disappointed that House leadership has refused us the opportunity to debate this bill. Rather, today on the House floor we are debating a different 9/11 bill, which was drafted solely by the Republican leadership, which is not bipartisan, not supported by the 9/11 Commission members, or most of the families of the victims of September 11.

Regrettably, it is rare these days for Republicans and Democrats to come together and work toward the greater good of the country. But that is exactly what happened this summer when five Democrats and five Republicans on the 9/11 Commission voted unanimously on 41 key recommendations to make our country more secure. And, this October, it happened again when the Senate worked together to pass the Collins/Lieberman bill endorsed by the 9/11 Commission.

Unfortunately, in the House, intelligence reform has taken a turn in the opposite direction and we are being forced to debate and vote on a bill that is not endorsed by the 9/11 Commission.

H.R. 10 would strip power from the National Intelligence Director and the National Counterterrorism Center; it does not create an office to oversee civil liberties; and, H.R. 10 does not increase congressional oversight of our intelligence agencies. Further, this bill includes several provisions not recommended by the 9/11 Commission, including increased removal of immigrants without a hearing or review, and easing rules of the U.N. Convention Against Torture. Essentially, H.R. 10 strips away the 9/11 Commission's recommendations and adds language not endorsed by the Commission.

When the security of our country is at hand, politics should not play a part. But, again, here we are debating a bill without support from both sides of the aisle, and the will of the few is being forced upon the many. This is not the right way to make important changes for a nation's security. The partisanship of H.R. 10 will only delay making our country safer. We need to pass H.R. 5150, so it can be brought to the President's desk immediately, instead of further delaying the process by passing H.R 10.

But if the substitute fails, I have decided that for the purpose of moving this process forward to conference quickly I am going to support H.R. 10. When the safety of our country is at hand we need to be able to cross the aisle and work with our colleagues to protect our country. After passage of H.R. 10, I plan to work closely with the members of the conference committee on the 9/11 Commission Recommendation Implementation Act to more closely align the conference report with the 9/11 Commission's 41 recommendations and the recently passed Senate bill.

Mr. Chairman, the 9/11 Commissioners' recommendations are thorough and complete, and I stand behind them. Let us make our country safer now, not later. I urge my colleagues to support the substitute and the underlying bill.

Mr. HYDE. Mr. Chairman, while there may be some provisions in the Menendez substitute worthy of discussion during conference on this measure, I rise in opposition to the amendment.

Our review of the Commission's report was performed with a seriousness and deliberation worthy of the subject and the task. The preparatory effort included full committee hearings, scores of briefings by the administration and others on the range of issues, the input of many experts, and days and weeks of effort devoted to gathering the requisite information. From this, we developed what we believe are measures necessary to give form and meaning to the often diaphanous wording of each of the Commission's recommendations that fall within my committee's jurisdiction.

The Menendez substitute offers little more than a mere restatement of the Commission's recommendations and the unspoken premise that difficult problems can be easily solved by the simple act of throwing money at them. We have no shortage of examples of government programs where this approach has not only failed, but actually rendered our problems worse. Here, the greatest danger stems from the complacency that will result from our merely having increased spending while congratulating ourselves for having taken swift action.

Instead, as the authors of H.R. 10, we crafted practical solutions to fulfill the recommendations. We took abstract report recommendations such as "offer an example of moral leadership, commit to treat people humanely, abide by the rule of law" and made them concrete.

Taken in its totality, H.R. 10 is a far superior product because it reflects the concerted and consolidated efforts of several committees and lays out direct, specific policy guidance on how to confront these evils. The Senate may have voted to pass a similar measure to the Menendez substitute, but this is our chance to vote for something better, more concrete. I urge a "no" vote on the Menendez substitute amendment.

Mr. MENENDEZ. Mr. Chairman, I yield back the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. NETHERCUTT). Members are reminded to refrain from improper references to the Senate.

The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. MENENDEZ).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MENENDEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. MENENDEZ) will be postponed.

It is now in order to consider amendment No. 2 printed in House report 108–751.

AMENDMENT NO. 2 OFFERED BY MR. SIMMONS

Mr. SIMMONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SIMMONS:

Page 101, after line 3 add the following new section:

**SEC. 1065. SENSE OF CONGRESS AND REPORT REGARDING OPEN SOURCE INTELLIGENCE.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the National Intelligence Director should establish an intelligence center for the purpose of coordinating the collection, analysis, production, and dissemination of open source intelligence to elements of the intelligence community;

(2) open source intelligence is a valuable source that must be integrated into the intelligence cycle to ensure that United States policymakers are fully and completely informed; and

(3) the intelligence center should ensure that each element of the intelligence community uses open source intelligence consistent with the mission of such element.

(b) REPORT.—Not later than June 30, 2005, the National Intelligence Director shall submit to the congressional intelligence committees a report containing the decision of the National Intelligence Director as to whether an open source intelligence center will be established. If the National Intelligence Director decides not to establish an open source intelligence center, such report shall also contain a description of how the intelligence community will use open source intelligence and effectively integrate open source intelligence into the national intelligence cycle.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Connecticut (Mr. SIMMONS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I yield myself such time as I may consume.

I rise today to urge my colleagues to support my Open Source Intelligence amendment to H.R. 10, the 9/11 Recommendations Implementation Act. And I thank the Committee on Rules, the chairman of the Permanent Select Committee on Intelligence, the chairman of the Committee on the Judiciary, and, of course, the chairman of the Committee on Armed Services for their efforts to help me perfect this amendment, and I also thank them for their support of the amendment.

Essentially what this amendment does is it expresses a sense of Congress that the new National Intelligence Director should establish an intelligence center for the production of open source intelligence, and it instructs the National Intelligence Director to consider establishing this new center and to report to Congress by June 30, 2005.

Many people ask me what is open source intelligence. And it is really very simple. Open source intelligence, or OSINT, is an intelligence discipline based on information collected from open sources, which could be newspapers, the Internet, books, phonebooks, scientific journals, radio, and television. And once this information is collected from these open sources, it is processed, analyzed, used to produce intelligence, which is then disseminated to intelligence consumers.

Open source is not new. The Foreign Broadcast Information Service has been around for many years, and their daily reports contained translated broadcasts, news agency transmissions, newspapers, and other statements from nations around the world. The daily reports represent a unique resource for the study of foreign affairs. But we can do better than just these daily reports.

The 9/11 Commission report supported the creation of a new Open Source Agency and staff statement No. 11 from that report said, Open sources have always been the bedrock source of information for intelligence.

One of the great advantages of open source intelligence is it is relatively inexpensive, and we can share it with others including our allies, soldiers from foreign governments; and best of all, we can share open source intelligence with the American people.

For example, for those interested in Iran's nuclear proliferation activities, I have an aerial photograph in front of me dated 2002 showing the construction of buildings for uranium enrichment, and then 2 years later it shows that those facilities have been buried underground. If the Iranians claim there is nothing sensitive taking place on that site, we look at a larger photograph and here we see the construction, but here when these facilities have been buried underground, we see a new guard fence with guard posts around.

The best part of these aerial photographs is they are unclassified, and we can describe what is going on in Iran and share it not only with Members of this Chamber but with our allies and with the American people.

Even though the 9/11 Commission report supports creation of an Open Source Agency, my amendment simply asks the National Intelligence Director to report to Congress next June with his or her recommendation.

Mr. Chairman, at a time when the performance of the U.S. intelligence community is being questioned and when every scrap of information is needed to put together the puzzle presented by terrorist operations, there could be no better time to incorporate the value of open source intelligence to the overall product than right now.

Mr. Chairman. I urge my colleagues to support my open source intelligence amendment to H.R. 10, the 9/11 Recommendations Implementation Act.

I thank the Rules Committee for allowing for consideration of this amendment and I thank Intelligence Chairman PETE HOEKSTRA, Judiciary Committee Chairman JIM SENSENBRENNER, and Armed Services, Chairman DUNCAN HUNTER for working with me to perfect this amendment. I also thank them for their endorsements of the amendment.

This amendment expresses a sense of Congress that the new National Intelligence Director should establish an intelligence center for the production of open source intelligence. It instructs the National Intelligence Director to consider establishing this new center and to report to Congress by June 30, 2005 with a decision on whether or not to create such an OSINT Center.

Many people ask me to explain what exactly is open source intelligence or OSINT. It is really very simple.

OSINT is an intelligence discipline based on information collected from open sources. These sources include newspapers, the Internet, books, phone books, scientific journals, radio and television broadcasts. Once this information is collected from publicly available sources, it is processed and analyzed to produce intelligence, which is subsequently disseminated to intelligence consumers.

The discipline of OSINT is nothing new and our intelligence community has been using it for a long time. For example, the Foreign Broadcast Information Service works with open sources. Their Daily Reports consist of translated broadcasts, news agency transmissions, newspapers, periodicals and government statements from nations around the globe. These media sources are monitored in their original language, translated into English, and issued daily to U.S. Government officials. The Daily Reports represent a unique resource for the study of foreign affairs, business, law, sociology, political science and more, covering all regions of the world.

It is important to know that the 9/11 Commission Report recommends creation of a new Open Source Agency. Staff Statement No. 11 of the 9/11 Commission Report states the following:

Finally, open sources—the systematic collection of foreign media—have always been a bedrock source of information for intelligence. Open sources remain important, including among terrorist groups that use the media and the Internet to communicate leadership guidance. The Foreign Broadcast Information Service performed this mission. During the early 1990s that service had been ''shredded,'' as one official put it to us, by budget cuts.

In the mid-1990s, it was my honor to command the 434th Military Intelligence Detachment (MID), a U.S. Army Reserve unit affiliated with Yale University and located in New Haven, Connecticut. With the active participation of CWO–4 Alan D. Tompkins and SGT Eliot A. Jardines, our unit wrote the first handbook for Open Source Intelligence (OSINT) for the U.S. Army. The Military Intelligence Corps accepted it as doctrine.

One of the great advantages of Open Source Intelligence is that it is relatively inexpensive. Another advantage is that we can share it with others without fear of compromising sensitive sources and methods. We can share it with our soldiers, share it with our international allies, and most importantly—we can share it with the American people.

I have with me overhead photos that illustrate the utility of Open Source Intelligence. They describe Iran's activities to construct and then bury a uranium enrichment facility. You can clearly see that over two years the facility was completed, buried and secured with a fence and guard towers. The best part is that these aerial photos are not classified and can be shared with our allies and the American people when discussing Iran's nuclear proliferation activities.

Why is OSINT important today? The ''information explosion'' has dramatically increased both the quality and quantity of the information available in the public domain. Because this information is unclassified, it can be shared quickly and freely, and acted upon.

Unfortunately, our country's intelligence service has not adequately coordinated our OSINT efforts. The time has come to revisit the importance of Open Source Intelligence and to consider the creation of an OSINT center.

Although the 9/11 Commission Report supports creation of an Open Source Agency, my amendment simply asks the new National Intelligence Director to report to Congress his or her recommendation on this matter.

Earlier this year when the House considered the Intelligence Authorization Act my colleagues accepted a similar amendment that directed the Director of Central Intelligence (DCI) to focus on the importance of OSINT and report to Congress in six months on the progress being made in utilizing OSINT.

At a time in our history where the performance of the U.S. Intelligence Community is being questioned, and where every scrap of information is needed to piece together the puzzle presented by terrorist operations, there could be no better time to incorporate the value of OSINT to the overall intelligence product available to our policy makers and military forces.

I urge you to join me in support of my amendment on Open Source Intelligence.

Mr. Chairman, I reserve the balance of my time.

Ms. HARMAN. Mr. Chairman, I rise to control the time on the amendment.

The CHAIRMAN pro tempore. Is the gentlewoman opposed to the amendment?

Ms. HARMAN. I am not, Mr. Chairman.

The CHAIRMAN pro tempore. Without objection, the gentlewoman is recognized to control 5 minutes.

There was no objection.

Ms. HARMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment's sponsor knows a lot about intelligence, having served as staff director for the Intelligence Committee in the other body under the late great Senator Goldwater, author of Goldwater-Nichols, the law that prescribes jointness in the military just like the approach some of us want to take to the intelligence community.

□ 2315

The gentleman is rightly a supporter of greater use of open sources, and I would agree with him that our entire intelligence community could benefit by greater use of open sources. I would just point out that some of the photos he showed us were very interesting, and to my mind, reveal a lot more information than the top line of the intelligence budget. But be that as it may, his amendment, I think, is a sensible idea, if only to draw more attention to the importance that open sources can provide.

This is a sense of the Congress, so for those who think that centers should only be mission oriented, it is only a sense of the Congress that we should pay more attention to open sources.

Mr. Chairman, I am pleased to support the gentleman's amendment.

Mr. Chairman, I would comment further only this, that I regret the tone of the debate on the last amendment. It troubles me a lot. I think everyone sitting here really cares that we get it right about intelligence reorganization.

Many of us have studied it for years. I wish the House had taken the lead on the subject months and months ago, because we had very good information on the problems and very good legislation drafted. But we stalled out, and the other body filled the vacuum and we are where we are.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT), a member of our committee,

Mr. HOLT. Mr. Chairman, I thank the ranking member for yielding me time.

Mr. Chairman, we have discussed this matter quite a bit in the Permanent Select Committee on Intelligence and we agree that there should be more use of open sources. In fact, it should be routine, an integral part of every analyst's and every agency's work. It may not be necessary to have a center, as the gentleman suggests in his amendment, but I think as a sense of Congress this amendment is useful to emphasize the importance that open sources of information bring.

Excessive reliance on information obtained from secret sources is not necessarily a good thing, and time and again, in example after example, we have discovered that openly published and openly discussed information is indeed superior, more correct than some of the secret information that analysts have been relying on excessively. So we think this is heading in the right direction.

Mr. SIMMONS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. HOEKSTRA), the distinguished chairman of the Permanent Select Committee on Intelligence.

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding me time.

By creating an Open Source Intelligence Center under the National Intelligence Director to collect, analyze, produce and disseminate open source materials to the intelligence communities, the information becomes a building block for further collection, rather than a forgotten tool.

I rise in support of the Simmons amendment. It creates a valuable tool under the authority of the National Intelligence Director to make open source intelligence more acceptable and available to the agencies of the intelligence community.

Ms. HARMAN. Mr. Chairman, I yield to the gentleman from North Carolina (Mr. WATT) for the purpose of making unanimous consent request.

(Mr. WATT of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Chairman, I rise in support of the Menendez substitute amendment.

Mr. Chairman, I rise in support of the Menendez Substitute, and in particular, its creation of a Privacy and Civil Liberties Board within the Executive branch as unanimously recommended by the 9/11 Commission. After months and months of study, and months and months of hearing testimony and reviewing volumes of documents, the 9/11 Commission unanimously recommended that there be a board ''within the government whose job it is to look across the government at the actions we are taking to protect ourselves to ensure that liberty concerns are appropriately considered.''

Because I take the protection of our constitutional rights and liberties very seriously, I offered an amendment during the Judiciary Committee markup of this bill to establish an independent, bipartisan board to oversee compliance with civil liberties and the Judiciary Committee bill included a version of the oversight board. The Menendez substitute establishes such a board. Now there are those who might suggest that an advisory board created by the President by executive order satisfies the mandate of the 9/11 Commission. It does not. That board consists of Administration insiders with advisory functions.

In the words of the Vice Chairman of the 9/11 Commission, we must establish a board

that is "robust," one that has the authority to secure our freedoms against abuse. We all agree that our Nation must adjust to confront the terrorist threat, but in doing so we cannot undermine the principles for which Americans stand.

One need not look far to imagine the types of abuses that a Privacy and Civil Liberties Board could expose and prevent. Should innocent Americans be held merely on suspicion, without the opportunity to consult with counsel and without the ability to speak with their family? After two years of detention without access to family or counsel, a U.S. citizen was recently released from Guantanamo because he was no longer of "intelligence value." Should Americans be willing to miss graduations, baptisms, weddings, and funerals, because their names are erroneously on a no-fly list? If Senator KENNEDY, Congressman JOHN LEWIS and Congressman YOUNG find themselves detained as suspected terrorists, who will be next? Just last week, a federal district court ruled that the FBI's use of "national security letters" to compel the production of customer records from internet service providers was unconstitutional.

In short, just as we need to make adjustments as we fight terrorism, we also need this independent board to make sure that fighting terrorism is done in a manner that does not change the fundamental nature of our society. In closing, let me quote directly from the 9/11 Commission's findings in connection with its recommendation that there be a board to protect civil liberties:

> We must find ways of reconciling security with liberty, since the success of one helps protect the other. The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.

The substitute implements the recommendation of the 9/11 Commission and should be supported. I urge my colleagues to vote "yes."

Mr. SIMMONS. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Chairman, I will not take that much time, but just to say like the gentleman that offered this amendment, this amendment is practical, it is a smart thing to do, and we support it very strongly.

Ms. HARMAN. Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE) for the purpose of making a unanimous consent request.

(Ms. JACKSON-LEE of Florida asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the Menendez substitute in recognition of fixing the human intelligence problem we have in the intelligence system and recognizing the 9/11 Commission's work.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it pleases me that the Committee on Rules had the prudence to make the amendment offered by the Gentleman from New Jersey, Mr. MENENDEZ, in order. This important amendment has been endorsed by the 9/11 Commission and embodies the provisions found in the Collins/Lieberman proposal, S. 2845 and the McCain/Lieberman proposal, S. 2774.

In our work on H.R. 10, we have a duty to take in to account the families that will be affected. We in this august body have a duty to take into account that these families—in fact, all American families, will be waiting and watching to see if this body will act responsibly, appropriately, and adequately.

The base bill includes over 50 extraneous provisions that were not recommended by the 9/11 Commission. Within these extraneous provisions are legislative "poison pills" that will ultimately frustrate our overall purpose—to make America safe. These poison pills include:

Giving the President "fast track" authority to reorganize the intelligence agencies, undermining the reforms recommended by the 9/11 Commission;

Giving the President authority to bypass Senate confirmation of the Director of the CIA and other key intelligence and defense officials, weakening congressional oversight;

Giving federal law enforcement officials new authority to deport foreign nationals, revoke visas, and deny asylum without judicial review;

Creation of new national databases of drivers licenses, birth certificates, and criminal histories, raising civil liberties and privacy concerns; and

Expansion of the authority of the Justice Department by relaxing grand jury secrecy requirements and increasing its ability to conduct secret surveillance.

I serve on the House Select Committee on Homeland Security, and it troubles me that while that body received a referral for markup, the leadership has chose not to schedule such a hearing. The very committee that would presumably hold the most jurisdiction over this matter deferred its opportunity to make this legislation better. That does not sit well with my colleagues on this side of the aisle and it does not sit well with the families of the victims of 9/11—it does not sit well with the American people.

Furthermore, while the September 11 Commission has set forth its bi-partisan suggestion for rebuilding and improvement, we cannot even move legislation that authorizes homeland security spending through a markup by the main committee of jurisdiction. These issues are indicative of a body that has its priorities misplaced.

H.R. 10 will have to serve as the blueprint for this nation's ability to fight terrorism. Therefore, it is our duty to comprehensively and earnestly debate the merits of this legislation without partisan politics and pre-election motives. Since this proposal was crafted without giving Democrats an adequate opportunity to provide input, it is clear that, while the September 11 Commission's (9/11 Commission) report recommendations are a bi-partisan product, H.R. 10 is not. Hence, this bill is the symbol of leadership that is guided by partisanship when it should be guided by the needs of the American people. This bill is the symbol of misplaced priorities.

BORDER SECURITY

The state of security at our nation's land border is extremely troubling. we are only safe if we have secured our borders. Most of the people who come into our country come across our land borders.

Yet the Republican House of Representatives doesn't want to make necessary investments at our nation's ports of entry and between the ports of entry to keep terrorists out. Apparently, in light of what they have proposed in the 9/11 bill, Republicans are focused exclusively on finding new ways to kick the bad guys out.

I've got news for you all—something the American people know—Once terrorists are in the US, it's too late. The goal should be to keep them out in the first place, but in a manner that respects their civil liberties.

What we must do is make it harder for terrorists to get into this country.

To do this we need to invest in law enforcement resources at the border—at and between our Nation's ports of entry.

Security means investment in personnel, technology and infrastructure that will keep Americans safe.

Security means having a comprehensive unified border security strategy.

The Administration has failed to invest in the expansion and improvement of infrastructure and staffing at our nation's ports of entry.

We only have 1000 more border patrol agents than we did on 9/11—that is a three percent increase per year.

The Administration has failed to invest in technology to monitor the land borders. Much of the technology at the southern border is more than a quarter century old.

Today, millions of people who cross our borders are not checked against any database and the intelligence databases available to front line officers are antiquated and not fully integrated or interoperable.

The Administration has failed to secure federal parks, wildlife sanctuaries, forests and Indian reservations—some of these areas have experienced the largest increases in narcotics and human smuggling.

The Administration has failed to budget for adequate detention space. Tens of thousands of illegal immigrants have been released into U.S. communities. Of those released 80–90 percent fail to appear for deportation proceedings.

Perhaps most glaring is the failure of the Administration to develop a comprehensive long term interagency border strategy.

Unless the Administration acts in these areas, American will not be safe.

CONVENTION AGAINST TORTURE

Originally, I planned to offer an amendment that would remove section 3032 from the 9/11 Recommendations Implementation Act. Section 3032 would retroactively authorize the deportation of aliens to countries where they are likely to be tortured. Sending people to countries where they would face torture is morally wrong, and it would violate the United Nations Convention Against Torture (CAT). Section 3032 also would make it harder to establish eligibility for CAT relief, and it would prohibit federal court challenges to a decision removing CAT protection under the new law except as part of the review of a final order of removal.

Article 3 of the Convention forbids a State Party from forcibly returning a person to a country when there are substantial grounds for believing that he would be in danger of being subjected to torture. In ratifying the treaty, the U.S. Senate did not express any reservation, understanding, or proviso that might exclude a person from Article 3 prohibition.

I support this absolute prohibition on moral as well as legal grounds. Torture is so horrendous and so contrary to our ethical, spiritual, and democratic beliefs that it must absolutely be condemned and prohibited.

I want to emphasize that the prohibition in the Convention is country specific. It just prohibits deportation to a country where the alien will face torture. Also, the grant of CAT protection is temporary. It can be removed when a change in conditions eliminates the risk of torture.

I also object to the change in the burden of proof that would require the applicant to prove his case by ''clear and convincing evidence'' instead of the present ''more likely than not'' standard. Raising the standard to this level of certainty would result in sending people to countries where they will be tortured.

Finally, I object to making such changes retroactively and to prohibiting federal court review of CAT decisions unless it is part of the review of a final order of removal. Petitions for review of a removal order must be filed within 30 days. Consequently, section 3032 would prevent many aliens from having federal court review of adverse decisions. This cannot be justified where the consequence of a mistake could be subjecting a person to torture.

In closing, I will quote some sections from a letter that White House counsel Alberto R. Gonzalez sent to the editors of the Washington Post on October 1, 2004, about the torture provision in the House intelligence reform bill:

> The President did not propose and does not support this provision. He has made clear that the United States stands against and will not tolerate torture, and that the United States remains committed to complying with its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Consistent with that treaty, the United States does not expel, return, or extradite individuals to other countries where the United States believes it is likely they will be tortured.
>
> As the President has said, torture is wrong no matter where it occurs, and the United States will continue to lead the fight to eliminate it everywhere.

STATE ISSUANCE OF DRIVER'S LICENSES

An amendment that would remove subsection 3052(c)(2) from the 9/11 Recommendations Implementation Act. Subsection 3052(c)(2) would prohibit the states from issuing driver's licenses to aliens who do not have lawful status.

Recent estimates indicate that we have between 8 and 14 million undocumented aliens in the United States. Subsection 3052(c)(2) would prevent many of them from getting driver's licenses. While I understand the argument that undocumented aliens are here unlawfully and should not be accorded the privilege of having driver's license, the analysis of the problem should not stop with that observation. The reality is that the undocumented aliens will drive even if they cannot get driver's licenses. For most people, it is virtually impossible to survive in our society without a car, and it is unrealistic to expect the undocumented aliens to give up and leave the country when they find out they cannot get driver's licenses.

A driver's license is not just a privilege for the driver's benefit. It also serves state purposes. By licensing drivers, the state can ensure that the drivers who receive licenses have acceptable driving skills, know traffic laws, and have liability insurance. In addition, registering and photographing all drivers helps the state to monitor driving records.

Traffic accidents are the leading cause of death for persons aged six to 33, with more than 40 thousand traffic fatalities each year. According to a study conducted by the AAA Foundation for Traffic Safety, unlicensed drivers are five times more likely to be in fatal crashes than drivers with valid licenses.

TSA AND PASSENGER PRE-SCREENING

This proposal would make the ''Next Generation Airline Passenger Prescreening'' provision (Section 2173) more effective while taking active measures to protect individual rights and liberties.

The existing language in Subsection (i) of Section 2173(a)(C) assigns the task of testing the next generation passenger prescreening system against automatic selectee and no-fly lists and records in the consolidated and integrated terrorist watchlist maintained by the Federal Government to the ''Assistant Secretary or designee.'' This a very loose assignment of a very important task. Moreover, the duties of the Assistant Secretary would hardly allow for the time and effort that is necessary to perform the functions of this provision to address the needs of the American public.

The Jackson-Lee Amendment would assign this task rather to the ''Civil Liberties Protection Officer'' of designee thereof—in consultation with the Assistant Secretary. Therefore, this amendment adds teeth to the existing provision in the area of personnel assignment.

The Civil Liberties Protection Officer is the most appropriate personnel to perform this function. Its duties are enumerated in Section 1022(b) of this legislation:

> (b) DUTIES.—The Civil Liberties Protection Officer shall—
>
> (1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the National Intelligence Director and the elements of the intelligence community within the National Intelligence Program;
>
> (2) oversee compliance by the Office and the National Intelligence Director with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy;
>
> (3) review and assess complaints and other information indicating possible abuses of civil liberties and privacy in the administration of the programs and operations of the Office and the National Intelligence Director and, as appropriate, investigate any such complaint or information;
>
> (4) ensure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;
>
> (5) ensure that personal information contained in a system of records subject to section 552a of title 5, United States Code (popularly referred to as the 'Privacy Act'), is handled in full compliance with fair information practices as set out in that section;
>
> (6) conduct privacy impact assessments when appropriate or as required by law; and
>
> (7) perform such other duties as may be prescribed by the National Intelligence Director or specified by law.

Under the Jackson-Lee Amendment, the Civil Liberties Officer (CLO) would ''assume performance of the passenger prescreening function of comparing passenger name records to the automatic selectee and no-fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.'' Given the functions of the CLO as described in Section 1022, the Next Generation Airline Passenger Prescreening program would be developed in a way that protects individual liberties and privacy while eliminating mistakes that have been made, perhaps, due to a lack of proper skills or experience.

The Jackson-Lee Amendment would also require the CLO to develop guidelines, policies, and operating procedures for the (1) ''collection, removal, and updating'' of the data maintained by the prescreening system, (2) criteria for the addition of names to the database, (3) security measures to protect the system from unauthorized access, (4) a system for correcting erroneous entries, and (5) a process that allows individuals who are victims of error to demonstrate that an error has been made as well as to allow for a challenge as to the inclusion of his/her name in the database. Again, with the expertise in the area of civil liberties and privacy rights, this function would be performed most efficiently with the inclusion of my proposal.

Moreover, the Jackson-Lee Amendment would enable individuals or entities to file civil actions against an agency with respect to the challenge.

According to the Associated Press, Senator EDWARD KENNEDY could not fly out to Boston because his name had been listed in the ''no fly'' database erroneously. After having made several phone calls, he was able to fly to Boston; however, the same thing occurred on his way back to Washington. It required three phone calls to the Secretary of Homeland Security to correct this error.

The normal American citizen, however, cannot simply pick up the phone and call the Secretary of DHS to address the problem of erroneous inclusion in the ''no fly'' database. Therefore, the Jackson-Lee Amendment would provide the protection of the Civil Liberties Officer and the tort reform provision to address his/her grievances.

CRIMINAL BACKGROUND CHECKS—SECTION 2142

Lastly, at the Committee level, I offered an amendment that speaks to protecting the privacy of employees. This amendment would have stricken Section 2142(a) of the base bill before this body, H.R. 10. Section 2142 of the 9/11 Recommendations Implementation Act (H.R. 10) mandates that the Department of Justice establish and maintain a system to provide employers with criminal history information of its employees. In order for the employer to receive this information, it must submit fingerprints or other biometric identifiers of the employee to the Department. Once fingerprints or biometric data are submitted, the FBI would be required to use the Integrated Fingerprint Identification System. (IAFIS) to identify any records of arrest, detention, indictment or other formal charge pertaining to the employee and any disposition of such charge.

This body should oppose this unnecessary and intrusive provision which would provide a false sense of security, impede the ability of employers to hire new workers and impose an undue burden on important federal law enforcement resources.

The measure is unnecessary because employers already have many options to conduct

criminal history background checks on applicants and employees through the public and private sector. The National Crime Prevention and Privacy Compact (Title II of Pub. L. 105–251) already provides a framework—including privacy safeguards—through which nationwide criminal background checks can be conducted by employers on applicants and employees through state criminal history repositories when a state determines that such a check is appropriate. In addition, employers may seek background information from private databases as provided under the Fair Credit Reporting Act.

The FBI database is not sufficiently thorough to provide a truly adequate review of an individual's criminal background and would therefore provide a false sense of security. According to the Department of Justice, ''state systems tend to be more comprehensive and up-to-date than the federal system, because state courts report to the state system, not the federal system. This is particularly true in the case of non-felony arrests and convictions. While federal criminal records for felony arrests are improving daily, there are many important criminal history details that a prospective . . . employer would find important that are not found in federal data bases. These include: misdemeanor crimes of domestic violence; misdemeanor sex offenses; misdemeanor drug possession offenses; and impaired driving offenses.'' (H. Rept. 105–61).

ChoicePoint's National Criminal File, for example, contains over 170 million criminal history records from jurisdictions nationwide. In contrast, the FBI's NCIC houses an estimated 50 million records. Well over 90 percent of ChoicePoint's records are conviction records (not arrests or bookings), whereas only 20 percent of the NCIC records contain disposition information.

Universal employee screening would overwhelm insufficient infrastructure and would impede an employer's ability to hire new workers. While electronic submissions can be processed relatively quickly, paper based submissions currently take five to ten business days to complete according to congressional testimony by the Department of Justice. With expanded submissions, employers can expect the delay to increase thus impairing their ability to make hiring decisions.

Universal federal screening of employees would place an undue burden on the law enforcement, diverting resources away from better uses. While the IAFIS system is already established, the FBI still would need to develop means and capacity for accepting, processing, and responding to requests for background checks from employers. The employers from which the FBI will receive requests likely will vary widely in terms of their knowledge of the background check process and in their technical capabilities to collect and transmit requests (including fingerprints) to the FBI, requiring additional expenditures of resources by the FBI. The Department of Justice has opposed more narrow proposals that did not require that checks first be run through state criminal records systems. Whereas state criminal records systems are more robust than federal records, running background checks through state agencies would conserve federal time and expenses. (H. Rept. 105–61).

The Department also has noted that many state and local law enforcement agencies that typically serve as the starting point are often ''under-staffed and under-equipped,'' which would limit their ability to conduct thorough and timely civil checks and ''could eventually result in the need to institute some type of prioritization of such checks as the existing infrastructure becomes overloaded.'' (Michael Kirkpatrick, FBI, testimony to House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security, 3/30/04).

The federal government's collection of fingerprints or other biometric data from all prospective employees lacks adequate privacy safeguards. The bill does not provide any privacy protections for the applicant/employee that is the subject of the background investigation. Employers conducting background checks directly through the Attorney General would not be subject to the extensive protections afforded by the Fair Credit Reporting Act (15 U.S.C. § 1681 et. seq.) because those protections only attach to information an employer obtains from a consumer reporting agency—not information the employer obtains directly from the government. Thus, under the provision, an employee would lose many privacy safeguards otherwise provided under existing law. The bill would not require employees to be given notice of the background investigation nor would the employee have access to the results of the investigation or a means of appealing incorrect information as is provided.

The measure intrudes on the rights of states to regulate the dissemination of this sensitive information. Existing law provides the states with extensive authority to determine which criminal history record information is disseminated within its borders for employment and other non-criminal justice purposes. The proposed measure effectively would reverse this policy and pre-empt the ability of states to regulate this area. Moreover, the proposal would subject employees to the laws of states other than where he/she works. Under the proposal, an employer may seek a background investigation if authorized by the state where the employee works or by the state where the employer has its principal place of business. Arkansas, for example, could authorize criminal background checks nationwide for employees of Wal-Mart and other Arkansas-based businesses. Similarly, an employee of General Motors working in North Carolina would be subject to Michigan law. Unfortunately, the proposal does not clarify and would exacerbate patchwork of state laws pertaining to pre-employment background investigations. Individual rights can be protected while vigorously protecting the Homeland. It is our duty as legislators to find that balance.

Mr. Chairman, in recognition and tribute to the families of the 9/11 victims, there should never be a price limitation placed on effectively securing the Homeland. Nor should solid legislation be ignored or thwarted in carrying out the will of the American people. For this reason, I fully supported the goals set forth in the Shays-Maloney proposal that was not made in order by this Committee.

Given that the Menendez Amendment has been made in order, I offer my full support to the Gentleman. This Democratic substitute has been endorsed by the 9/11 Commission and embodies the provisions found in the Collins/Lieberman proposal, S. 2845 and the McCain/Lieberman proposal, S. 2774.

The real crime on 9/11 was the failure of the American Government in having a real intelligence integrated system that might have thwarted the horrific tragedy of 9/11. The focus today pursuant to the 9/11 Commission to be to vote on legislation that overhauls our broken intelligence system, give budgetary authority to the new intelligence director and fix the system that did not function on 9/11.

Our 9/11 families deserve a signed bill, as James Joyce said as told to me by Donald and Sally Goodrich, ''It is the now, the here through which all future plunges to the past.'' Let's move forward.

Ms. HARMAN. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. OBEY) for the purpose of making a unanimous consent request.

(Mr. OBEY asked and was given permission to revise and extend his remarks.)

Mr. OBEY. Mr. Chairman, I think both the Menendez bill and the core bill are headed in the wrong direction on final passage. I would vote against both of them.

Ms. HARMAN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as I said and our other speaker said, this is a good amendment. This is a bipartisan issue. I think everybody here cares about better intelligence, and it is interesting to note how little attention open sources have gotten over the years and how much we have lost because we have not paid attention to them. So in that sense I think this amendment is extremely inspired to make a point that we must focus on this.

I would, however, like to make sure that the record of some of the conversation under the Menendez amendment is accurate, and in that connection, I am holding a press release issued by the Central Intelligence Agency dated 15 October, 1997, which says at the bottom the aggregate amount appropriated for intelligence and intelligence-related activities for fiscal year 1997 is $26.6 billion. A press release was also issued for 1998.

I would also like to say I do stand corrected. I have looked at the language of the Collins bill and what it provides is an alternative. That is what the 9/11 Commission also said in terms of organization of Congress. ''One alternative is a joint Senate-House authorizing committee. The other alternative is a committee in each Chamber with combined authorization and appropriations authority.'' The legislation does not make a decision between the two.

Mr. Chairman, I support the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SIMMONS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, at a time of international terrorism, there is no such thing as too much intelligence. Open source intelligence could save lives and inform our policymakers. Support the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). All time has expired.

The question is on the amendment offered by the gentleman from Connecticut (Mr. SIMMONS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 3 printed in House Report 108–751.

AMENDMENT NO. 3 OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SOUDER:

At the end of subtitle C of title V (page 493, after the item after line 21) add the following:

**SEC. ___. INTEGRATING SECURITY SCREENING SYSTEMS AND ENHANCING INFORMATION SHARING BY DEPARTMENT OF HOMELAND SECURITY.**

(a) IMMEDIATE ACTIONS.—The Secretary of Homeland Security shall ensure—

(1)(A) that appropriate personnel of the Department of Homeland Security who are engaged in the security-related screening of individuals and entities interacting with the United States border and transportation systems, have the appropriate security clearances, and need access to the information in the context of their job responsibilities, can promptly access or receive law enforcement and intelligence information contained in all databases utilized by the Department, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Secretary;

(B) any Federal official who receives information pursuant to subparagraph (A) may use that information only as necessary in the conduct of that person's official duties and subject to any limitations on the unauthorized disclosure of such information;

(2) the coordination and, where appropriate, consolidation or elimination of duplicative targeting and screening centers or systems used by the Department for security screening purposes;

(3) the timely sharing of law enforcement and intelligence information between entities of the Directorate of Border and Transportation Security and the Directorate for Information Analysis and Infrastructure Protection, and any other entities of the Federal Government prescribed by the Secretary in consultation with the Director of the Office of Management and Budget; and

(4) that all actions taken under this section are consistent with the Secretary's Department-wide efforts to ensure the compatibility of information systems and databases pursuant to section 102(b)(3) of the Homeland Security Act of 2002 (6 U.S.C. 112(b)(3)).

(b) REPORT.—

(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress that includes the following:

(A) A description of each center, office, task force, or other coordinating organization that the Department of Homeland Security administers, maintains, or participates in, and that is involved in collecting, analyzing, or sharing information or intelligence related to—

(i) individuals or organizations involved in terrorism, drug trafficking, illegal immigration, or any other criminal activity; or

(ii) the screening, investigation, inspection, or examination of persons or goods entering the United States.–

(B) A description of each database or other electronic system that the Department of Homeland Security administers or utilizes for the purpose of tracking or sharing of information or intelligence related to—

(i) individuals or organizations involved in terrorism, drug trafficking, illegal immigration, or any other criminal activity; or

(ii) the screening, investigation, inspection, or examination of persons or goods entering the United States.

(C) For each description provided under subparagraph (A) or (B)—

(i) information on the purpose and scope of operations of the center, office, task force, or other coordinating organization, or database or other electronic system, respectively; and

(ii) an identification of each subdivision of the Department, and each governmental agency (whether Federal, State, or local) that participates in or utilizes such organization or system on a routine basis.

(D) A description of the nature and extent of any overlap between, or duplication of effort by, the centers, offices, task forces, and other coordinating organizations, or databases and electronic systems, described under subparagraph (A) or (B).

(2) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the report that involves information classified under criteria established by an Executive order, or the public disclosure of which, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to the Congress separately from the rest of the report.

(c) REQUIREMENT TO SUBMIT PLAN.—Within 270 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Congress a plan describing the actions taken, and those that will be taken, to implement subsection (a). Such plan shall include an analysis of the feasibility of integrating all security screening centers or systems utilized by the Department of Homeland Security into a single, comprehensive system, and actions that can be taken to further coordinate such system with other Federal and private screening efforts at critical infrastructure and facilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Indiana (Mr. SOUDER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment is pretty simple. It attempts to address this. When the Commission talks about stovepiping, these are the stoves. This is not even what is called the intelligence community. It does not include most of the CIA, the NSA. These are mostly the narcotics and border intelligence agencies.

As we look at this, for example, in El Paso alone, we have a Custom and Border Protection Field Intelligence Center, we have a DEA El Paso Intelligence Center, an OCDETF Center with a Southwest border initiative there also. This is just El Paso.

We have an Office of National Drug Control HIDTA, and we have a JTF–6, and the DHS is proposing a new Border Interdiction Support Center.

So this means in El Paso we have a BORFIC, an EPIC, an OCDETF, a SWBI, a HIDTA, a JTF and BISC that we need to have if we are going to do a better job of coordinating the intelligence on our southwest border and other places.

If we are going to have DHS actually coordinate these things, we need this amendment. This amendment says the Secretary should make sure everyone has access to relevant law enforcement. They need to consolidate databases, they need to improve information sharing. It requires the report to Congress containing an overview of all of the agencies' databases and other capabilities. It directs the Secretary to submit a plan to Congress, to improve information and intelligence sharing within the Department, and it directs the Secretary to ensure that information and intelligence sharing is subject to appropriate limitations and legal safeguards.

Mr. Chairman, I reserve the balance of my time.

Mr. TURNER. Mr. Chairman, I rise to speak on the amendment.

The CHAIRMAN pro tempore. Is the gentleman opposed to the amendment?

Mr. TURNER. I am.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. TURNER) is recognized for 5 minutes.

Mr. TURNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the gentleman from Indiana offering the amendment, which I do intend to support. But the amendment, interestingly enough, requires the Secretary of Homeland Security to do a whole lot of things that we have already required the Secretary to do 2 years ago in the Homeland Security Act. I think the amendment, more than anything else, shows us how far we have to go in getting this Department of Homeland Security to do what we wanted it to do when we created the Department in the first place.

The Homeland Security Act already requires the Department to do everything that is in this amendment. Under sections 201 and 892 of the Homeland Security Act, we called upon the Secretary to improve information sharing, to ensure that all DHS personnel share appropriate information. Two years later, this has not been done, thus, requiring us to say it again, I guess, as the gentleman has in his amendment.

Our frontline forces in the Department of Homeland Security clearly do not have access to the full range of databases that they should have access to to do their job. If a border inspector or law enforcement officer has a suspected terrorist in front of them, they need to have access to the information about that person. They do not have it today.

Likewise, the Department of Homeland Security legislation we passed 2 years ago required the Secretary to ensure appropriate exchanges of information with the private sector, which is also called for in the gentleman's amendment. Unfortunately, the Department still does not provide owners

of critical infrastructure with the intelligence they need. I appreciate the gentleman pointing this out by offering this amendment.

According to the Department's Inspector General, the Department has the lead responsibility to coordinate the terrorist watch list information, but thus far they have failed to provide the leadership to do it.

Here we are, 2 years after the creation of the Department of Homeland Security, we still do not have a unified terrorist watch list available to any agency of our government, as required by the Homeland Security Act, evidenced by the Department of Homeland Security's own Inspector General report.

Mr. Chairman, it is interesting to read in the amendment that the gentleman requires a report to list all of the offices in the Department that have the responsibility for collecting, analyzing and sharing information. Again, 2 years ago, the Homeland Security Act made the Department's Information Analysis Directorate responsible for this mission. Unfortunately, the gentleman is right in suspecting that the Information Analysis Infrastructure Protection Directorate has failed in the responsibilities that we gave them 2 years ago.

My colleague's amendment raises a number of very serious oversight questions for the Department. In fact, the amendment is nothing short of an admission of failure of the Department to carry out the mandates of this Congress which we put into law 2 years ago.

So I thank the gentleman for his amendment. I will join him in supporting it.

Mr. Chairman, I reserve the balance of my time.

Mr. SOUDER. Mr. Chairman, I thank the gentleman for his support.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COX), the distinguished chairman of the Select Committee on Homeland Security.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana (Mr. SOUDER), which is an important amendment. It will ensure that the people responsible for screening border crossings, airline passengers and other transportation systems have access to all the law enforcement and intelligence information they need and it will ensure that they have access to all the law enforcement and intelligence information available to the Secretary of the Department of Homeland Security.

It is well-known that several Federal agencies have long maintained separate watch lists and that work is well underway to completely consolidate these. But the purpose of watch lists is to identify terrorists who are attempting to gain entry into the United States.

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If they are not integrated, in the meanwhile, we do not have seamless electronic access to that information in multiple databases, and they cannot do their job.

The Department of Homeland Security combined no less than 22 separate Federal agencies, and those agencies brought their legacy databases with them and their separate screening processes, which were developed to aid in their own separate missions before the merging.

The 9/11 Commission report recommends that "all points in the border system, from consular offices to immigration services, will need appropriate electronic access to an individual's file." And they note that "scattered units at Homeland Security and the State Department perform screening and data mining: instead," they say, "a government-wide team of border and transportation officials should be working together."

The 9/11 Commission report stresses the need to have border screening systems "integrated into a larger network of screening points that includes our transportation system."

This amendment offered by the gentleman from Indiana (Mr. SOUDER) addresses these concerns by ensuring that the Department of Homeland Security pursues the best way to link these systems together.

As chairman of the Select Committee on Homeland Security, I would like to thank the gentleman from Indiana (Mr. SOUDER) for offering this important amendment.

Mr. TURNER of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE), a distinguished member of the Select Committee on Homeland Security.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for the insight he gave us on the duties and responsibilities of the Department of Homeland Security, but I want to also thank the gentleman from Indiana (Mr. SOUDER) for this addition. I want to correct any suggestions that there were not many amendments; we all brought amendments and testified before the Committee on Rules, but I do want to say that this is an addition that is important.

Having just returned from the border, one of the key elements of providing good security is good intelligence; and particularly on the border and with our Border Patrol agents and our border security resources on the border, information-sharing has been extremely difficult. It is clear that the 9/11 Commission again talked about breaking down stovepipes. This is a good direction for breaking down those stovepipes and suggesting that ensuring safety at the borders keeps the homeland safe.

I am hoping, however, that we can also reflect upon the importance of a National Intelligence Director that has budgetary authority.

Mr. Chairman, I support this amendment for the information-sharing that it creates.

Mr. SOUDER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, first I want to thank the gentleman from California (Chairman COX), the distinguished ranking member, the gentleman from Texas (Mr. TURNER), and the gentlewoman from Texas (Ms. JACKSON-LEE) who has been helpful, and a number of other members. Also, the Committee on Transportation and Infrastructure, as well as the Committee on the Judiciary and the Committee on Government Reform, those four committees came together to make this amendment possible.

We see cooperation in the narcotics area of the subcommittee I chair. We have had increasing drug busts, we have had some progress, but it is not fast enough. If we are not careful here, instead of collecting intelligence, all we are going to be doing is having people going to meetings and talking to each other. We have to have a better ability of our computers to talk, a more organized structure, because we cannot afford to make errors.

We understand, and this House is recognizing, the fact that these agencies that have been put together under Homeland Security have multiple missions. There are narcotics missions, there are search and rescue under the Coast Guard, there are fisheries missions, there are immigration missions within these Departments, and there are going to be some stovepipes; but they all have valuable information, and we need to get this better coordinated so we can be more effective and safer as a Nation.

I hope everyone will support this amendment. I do not see any reason why anybody would not. I appreciate the support on the minority side as well as the majority side.

Mr. Chairman, I yield back the balance of my time.

Mr. TURNER of Texas. Mr. Chairman, I yield myself the remaining time.

Again, I thank the gentleman from Indiana for bringing the amendment forward. As I said, it is something that should have been done under the law we passed 2 years ago when we passed the Homeland Security Act.

To show my colleagues how bad it is, the minority members of our Select Committee on Homeland Security did a 6-month investigation on the southern border and issued this report just last month: "Transforming The Southern Border." One of the many facts that was laid out and discovered as we did this report is that today, a border inspector watching people come across our border has to search eight different databases to find out whether they have a suspected terrorist before them.

So I support the Souder amendment.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). All time has expired.

The question is on the amendment offered by the gentleman from Indiana (Mr. SOUDER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. HOEKSTRA. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. SOUDER) will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment in the nature of a substitute offered by Mr. MENENDEZ of New Jersey; amendment offered by Mr. SOUDER of Indiana.

The Chair will reduce to 5 minutes the time for the second vote.

AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MENENDEZ

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. MENENDEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 213, not voting 17, as follows:

[Roll No. 510]

AYES—203

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Ford
Fossella
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—213

Aderholt
Akin
Alexander
Bachus
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Baker
Boehlert
Filner
Gephardt
Houghton
Lipinski
Majette
Millender-McDonald
Murtha
Norwood
Ortiz
Paul
Ros-Lehtinen
Slaughter
Stark
Tauzin
Towns

□ 0001

Messrs. BURTON of Indiana, DREIER and THOMAS changed their vote from ''aye'' to ''no.''

Mr. KANJORSKI changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. SOUDER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. SOUDER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 410, noes 0, not voting 22, as follows:

[Roll No. 511]

AYES—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks

Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—22

Baker
Ballenger
Boehlert
Collins
Filner
Gephardt
Houghton
Kleczka
Lipinski
Majette
Millender-McDonald
Murtha
Norwood
Ortiz
Paul
Ros-Lehtinen
Schrock
Slaughter
Smith (MI)
Stark
Tauzin
Towns

□ 0010

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. SESSIONS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GERLACH) having assumed the chair, Mr. NETHERCUTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, had come to no resolution thereon.

## REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–764) on the resolution (H. Res. 832) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–765) on the resolution (H. Res. 833) providing for consideration of motions to suspend the rules, which was referred to the Union Calendar and ordered to be printed.

## REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–766) on the resolution (H. Res. 834) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

## RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Government Reform:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, October 6, 2004.*

Speaker DENNIS HASTERT,
*U.S. House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: With this letter, please accept my resignation from the House Committee on Government Reform, effective immediately.

Should you have any questions, please feel free to contact me.

With kind regards, I am

Sincerely,

ERIC CANTOR,
*Member of Congress.*

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

## ELECTION OF MEMBER TO COMMITTEE ON GOVERNMENT REFORM

Mr. SESSIONS. Mr. Speaker, I offer a resolution (H. Res. 835) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

*Resolved,* That the following Member be and is hereby elected to the following standing committee of the House of Representatives.

Committee on Government Reform: Mr. Putnam, to rank after Mr. Cannon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to

A motion to reconsider was laid on the table.

## APPOINTMENT OF CONFEREES ON H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none and, without objection, appoints the following conferees: Messrs. KNOLLENBERG, WALSH, ADERHOLT, Ms. GRANGER, and Messrs. GOODE, VITTER, KINGSTON, CRENSHAW, YOUNG of Florida, EDWARDS, FARR, BOYD, BISHOP of Georgia, DICKS and OBEY.

There was no objection.