AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

October 6, 2004

Ordered to be printed as passed

108TH CONGRESS
2D SESSION

S. 2845

AN ACT

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Intelligence Reform Act of 2004''.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

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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, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means foreign intelligence gathered, and information gathering and other 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, or foreign persons, or international terrorist activities, but does not include personnel, physical, document, or communications security programs.

(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, the Department of Energy, and the Coast Guard.

(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.

(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 de-

partment 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, as determined consistent with any guidelines issued by the President, to the interests of more than one department or agency of the Government; and

(B) do not refer to 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 law.

(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 Directorate of Intellingence 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;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(D) the Majority Leader and the Minority Leader of the Senate.

(8) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community who meets standards and qualifications set by the National Intelligence Director.

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 intelligence, including counterterrorism activities of the United States Government between intelligence activities located abroad and 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 the 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 of 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 appropriations for 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 following receipt of intelligence needs and requirements from the consumers of national intelligence, 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 pur-

suant to the direction of the President, while ensuring that the elements of the intelligence community are able to conduct independent analyses so as to achieve, to the maximum extent practicable, competitive analyses;

(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 pur-

suant 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) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft

throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

(13) protect intelligence sources and methods from unauthorized disclosure;

(14) establish requirements and procedures for the classification of intelligence information and for access to classified intelligence information;

(15) establish requirements and procedures for the dissemination of classified information by elements of the intelligence community;

(16) establish intelligence reporting guidelines that maximize the dissemination of information while protecting intelligence sources and methods;

(17) 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;

(18) establish standards for information technology and communications for the intelligence community;

(19) ensure that the intelligence community makes efficient and effective use of open-source information and analysis;

(20) 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;

(21) eliminate waste and unnecessary duplication within the intelligence community; and

(22) 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 of access

to sensitive compartmented information in accordance with section 115.

(c) CONSISTENCY OF PERSONNEL POLICIES AND PROGRAMS WITH CERTAIN OTHER PERSONNEL POLICIES AND STANDARDS.—

(1) The personnel policies and programs developed and implemented under subsection (a)(8) with respect to members of the uniformed services shall be consistent with any other personnel policies and standards applicable to the members of the uniformed services.

(2) It is the sense of the Senate that the National Intelligence Director shall seek input from the Secretary of Defense, the Secretaries of the military departments, and, as appropriate, the Secretary of Homeland Security in developing and implementing such policies and programs.

(d) 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.

(e) 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 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 pro-

grams, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development of 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;

(5) 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

(6) 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 modify, or 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 as it pertains to those programs, projects, and activities within the National Intelligence Program.

(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 proce-

dures 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 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 sub-

section (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 appro-

priations 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; and

(C) the transfer does not exceed applicable ceilings established in law for such transfers;

(D) the personnel are not uniformed; and

(E) uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the Director to specify or require the head of a department, agency, or element of the United States Government to approve a request for the transfer, assignment, or detail of uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

(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 con-

gressional 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 206, in carrying out section 112(a)(18), 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 206 and the Clinger-Cohen Act (divisions D and E of Public Law 104–106; 110 Stat. 642), 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 or international organizations on all matters involving intelligence related to the national security.

(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 any department, agency, or other element of the United States Government 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. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of this Act, appropriated funds avail-

able to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term ''appropriate congressional committees'' means—

(A)(i) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(ii) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

(B) in the case of a transfer of funds to or from, or a reprogramming within, the Department of Defense—

(i) the committees and select committees referred to in subparagraph (A);

(ii) the Committee on Armed Services of the House of Representatives; and

(iii) the Committee on Armed Services of the Senate; and

(C) in the case of a transfer of funds to or from, or a reprogramming within, the Federal Bureau of Investigation—

(i) the committees and select committees referred to in subparagraph (A);

(ii) the Committee on the Judiciary of the House of Representatives; and

(iii) the Committee on the Judiciary of the Senate.

(3) The term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the ex-

tent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

SEC. 115. 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. 116. 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 informa-

tion 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. 117. 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) PERSONNEL STRENGTH LEVEL.—Congress shall authorize the personnel strength level for the National Intelligence Reserve Corps for each fiscal year.

(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. 118. 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) NID RECOMMENDATION OR CONCURRENCE IN CERTAIN APPOINTMENTS.—With respect to any position as head of an agency, organization, or element within the intelligence community (other than the Director of the Central Intelligence Agency)—

(1) if the appointment to such position is made by the President, any recommendation to the President to nominate or appoint an individual to such position shall be accompanied by the recommendation of the National Intelligence Director with respect to the nomination or appointment of such individual to such position; and

(2) if the appointment to such position is made by the head of the department containing such agency, organization, or element, the Director of the Central Intelligence Agency, or a subordinate official of such department or of the Central Intelligence Agency, no individual may be appointed to such position without the concurrence of the National Intelligence Director.

(c) PRESIDENTIAL AUTHORITY.—This section, and the amendments made by this section, shall apply to the fullest extent consistent with the authority of the President under the Constitution relating to nomination, ap-

pointment, and supervision of the unitary executive branch.

(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.

(e) CONFORMING AMENDMENTS.—(1) Section 201 of title 10, United States Code, is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(C) by striking ''Director of Central Intelligence'' each place it appears and inserting ''National Intelligence Director'';

(D) in subsection (a), as so redesignated—

(i) in paragraph (1)—

(I) by striking ''seek'' and inserting ''obtain''; and

(II) by striking the second sentence; and

(ii) in paragraph (2)—

(I) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(II) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) The Director of the Defense Intelligence Agency.''; and

(E) in paragraph (2) of subsection (b), as so redesignated—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph (B):

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

(2)(A) The heading of such section is amended by striking "**consultation and**".

(B) The table of sections at the beginning of subchapter II of chapter 8 of such title is amended in the item relating to section 201 by striking "consultation and".

SEC. 119. RESERVE FOR CONTINGENCIES.

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Reserve for Contingencies for the National Intelligence Director and the Director of the Central Intelligence Agency.

(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. Any use of funds from the Reserve shall be subject to the direction and approval of the National Intelligence Director and in accordance with procedures issued by the Director.

(d) TRANSFER OF FUNDS OF RESERVE FOR CONTINGENCIES OF CIA.—There shall be transferred to the Reserve for Contingencies 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 Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.

(6) The Privacy Officer of the National Intelligence Authority.

(7) The Chief Information Officer of the National Intelligence Authority.

(8) The Chief Human Capital Officer of the National Intelligence Authority.

(9) The Chief Financial Officer of the National Intelligence Authority.

(10) The Chief Scientist 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), and each other National Intelligence Council product—

(A) states separately, and distinguishes between, the intelligence underlying such estimate or product and the assumptions and judgments of analysts with respect to such intelligence and such estimate or product;

(B) describes the quality and reliability of the intelligence underlying such estimate or product;

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate or product and such estimate or product, as the case may be; and

(D) characterizes the uncertainties, if any, and confidence in such estimate or product.

(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.

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

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. 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 National Intelligence Director.

(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 Con-

stitution, 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. 126. 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. 127. 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 (17) and (18) 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. 128. 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. 129. 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—

(1) 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;

(2) 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;

(3) 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;

(4) provide unfettered access to the Director to financial information under the National Intelligence Program; and

(5) perform such other duties as may be prescribed by the Director or specified by 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. 130. CHIEF SCIENTIST OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF SCIENTIST OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Scientist of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) REQUIREMENT RELATING TO APPOINTMENT.—An individual appointed as Chief Scientist of the National Intelligence Authority shall have a professional background and experience appropriate for the duties of the Chief Scientist.

(c) DUTIES.—The Chief Scientist of the National Intelligence Authority shall—

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

(2) chair the National Intelligence Authority Science and Technology Committee under subsection (d);

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

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

(5) perform other such duties as may be prescribed by Director or by law.

(d) NATIONAL INTELLIGENCE AUTHORITY SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is within the Office of the Chief Scientist of the National Intelligence

Authority a National Intelligence Authority Science and Technology Committee.

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

(3) The Committee shall—

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

(B) perform such other functions as the Chief Scientist of the National Intelligence Authority shall prescribe.

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 310 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) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Inspector General of the National Intelligence Authority. The Inspector General of the National Intelligence Authority and the Office of the Inspector General of the National Intelligence Authority shall be subject to the provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(b) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978 RELATING TO INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8J as section 8K; and

(2) by inserting after section 8I the following new section:

"SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

"SEC. 8J. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority (in this section referred to as the 'Inspector General') shall be under the authority, di-

rection, and control of the National Intelligence Director (in this section referred to as the 'Director') with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to information described in paragraph (1), the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit, or from issuing any subpoena, if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

"(3) If the Director exercises the authority under paragraph (1) or (2), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within 7 days.

"(4) The Director shall advise the Inspector General at the time a report under paragraph (3) 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.

"(5) The Inspector General may submit to the congressional intelligence committees any comments on a re-

port of which the Inspector General has notice under paragraph (4) that the Inspector General considers appropriate.

"(b) In addition to the qualifications for the appointment of the Inspector General under section 3(a), the Inspector General shall be appointed on the basis of prior experience in the field of intelligence or national security.

"(c)(1)(A) In addition to the duties and responsibilities of the Inspector General specified elsewhere in this Act, the Inspector General shall, for the purpose stated in subparagraph (B), provide policy direction for, and conduct, supervise, and coordinate audits and investigations relating to—

"(i) the coordination and collaboration among elements of the intelligence community within the National Intelligence Program; and

"(ii) the coordination and collaboration between elements of the intelligence community within the National Intelligence Program and other elements of the intelligence community.

"(B) The Inspector General shall conduct the activities described in subparagraph (A) to ensure that the coordination and collaboration referred to in that paragraph is conducted efficiently and in accordance with applicable law and regulation.

"(C) Before undertaking any investigation, inspection, or audit under subparagraph (A), the Inspector General shall consult with any other inspector general having responsibilities regarding an element of the intelligence community whose activities are involved in the investigation, inspection, or audit for the purpose of avoiding duplication of effort and ensuring effective coordination and cooperation.

"(2) In addition to the matters of which the Inspector General is required to keep the Director and Congress fully and currently informed under section 4(a), the Inspector General shall—

"(A) keep the Director and Congress fully and currently informed concerning—

"(i) violations of civil liberties and privacy that may occur in the programs and operations of the National Intelligence Authority; and

"(ii) violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in the coordination and collaboration referred to in clauses (i) and (ii) of paragraph (1)(A); and

"(B) report the progress made in implementing corrective action with respect to the matters referred to in subparagraph (A).

"(3) To enable the Inspector General to fully and effectively carry out the duties and responsibilities specified in this Act, the Inspector General and the inspectors general of the other elements of the intelligence community shall coordinate their internal audit, inspection, and investigative activities to avoid duplication and ensure effective coordination and cooperation.

"(4) The Inspector General shall 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.

"(d)(1) Each semiannual report prepared by the Inspector General under section 5(a) shall—

"(A) include an assessment of the effectiveness of all measures in place in the National Intelligence Authority for the protection of civil liberties and privacy of United States persons; and

"(B) be transmitted by the Director to the congressional intelligence committees.

"(2) In addition the duties of the Inspector General and the Director under section 5(d)—

"(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—

"(i) the coordination and collaboration among elements of the intelligence community within the National Intelligence Program; and

"(ii) the coordination and collaboration between elements of the intelligence community within the National Intelligence Program and other elements of the intelligence community; and

"(B) the Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate.

"(3) Any report required to be transmitted by the Director to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified in that section, to the congressional intelligence committees.

"(4) 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 National Intelligence 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.

"(5) 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.

"(e)(1) In addition to the other authorities of the Inspector General under this Act, the Inspector General shall have access to any personnel of the National Intelligence Authority, or any employee of a contractor of the Authority, whose testimony is needed for the performance of the duties of the Inspector General. Whenever such access is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Director without delay.

"(2) 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 termination of an existing contractual relationship.

"(3) Whenever, in the judgment of the Director, an element of the intelligence community that is part of the National Intelligence Program has unreasonably refused or not provided information or assistance requested by the Inspector General under paragraph (1) or (3) of section 6(a), the Director shall so inform the head of the element, who shall promptly provide such information or assistance to the Inspector General.

"(4) The level of classification or compartmentalization of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under section 6(a).

"(f) In addition to the authorities and requirements in section 7 regarding the receipt of complaints by the Inspector General—

"(1) 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; and

"(2) 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.

"(g) In this section, the terms 'congressional intelligence committees', 'intelligence community', and 'National Intelligence Program' have the meanings given such terms in section 2 of the National Intelligence Reform Act of 2004.".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1)(A) Section 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is further amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) An employee of the National Intelligence Authority, 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.''.

(B) 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).

(2) The Inspector General Act of 1978 is further amended—

(A) in section 8K, as redesignated by subsection (b)(1) of this section, by striking ''8F or 8H'' and inserting ''8F, 8H, 8I, or 8J''; and

(B) in section 11—

(i) in paragraph (1), by inserting ''the National Intelligence Director;'' after ''the Attorney General;''; and

(ii) in paragraph (2), by inserting ''the National Intelligence Authority,'' after ''the National Aeronautics and Space Administration,''.

(d) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the National Intelligence Authority.

(e) SENSE OF CONGRESS ON ADOPTION OF STANDARDS OF REVIEW.—It is the sense of Congress that the Inspector General of the National Intelligence Authority, in consultation with other Inspectors General of the intelligence community and the President's Council on Integrity and Efficiency, should adopt standards for review and related precedent that are generally used by the intelligence community for reviewing whistleblower reprisal complaints made under sections 7 and 8J(f) of the Inspector General Act of 1978.

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 regular and detailed 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, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

(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)(A) The results of the evaluations under paragraph (4) shall be provided to the congressional intelligence committees and to appropriate heads of other departments, agencies, and elements of the executive branch.

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Analytic Review Unit may make such recommendations to the National Intelligence Director and to appropriate heads of the elements of the intelligence

1 community for awards, commendations, additional train-
2 ing, or disciplinary or other actions concerning personnel
3 as the Analytic Review Unit considers appropriate in light
4 of such evaluations. Any recommendation of the Analytic
5 Review Unit under this paragraph shall not be considered
6 binding on the official receiving such recommendation.

7 (d) ACCESS TO INFORMATION AND PERSONNEL.—(1)
8 In order to carry out the duties specified in subsection
9 (c), the Ombudsman of the National Intelligence Author-
10 ity, the Analytic Review Unit, and other staff of the Office
11 of the Ombudsman of the National Intelligence Authority
12 shall, unless otherwise directed by the President, have ac-
13 cess to all analytic products, operational and field reports,
14 and raw intelligence of any element of the intelligence
15 community, and to any reports or other material of an
16 Inspector General, that might be pertinent to a matter
17 under consideration by the Ombudsman.

18 (2) The Ombudsman, the Analytic Review Unit, and
19 other staff of the Office shall have access to any employee,
20 or any employee of a contractor, of the intelligence com-
21 munity whose testimony is needed for the performance of
22 the duties of the Ombudsman.

23 (e) ANNUAL REPORTS.—The Ombudsman of the Na-
24 tional 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 oper-

ational 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 interagency counterterrorism planning and activities;

(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

1 to the Directorate by section 323 and such other capabili-
2 ties as the Director of the National Counterterrorism Cen-
3 ter considers appropriate.

4 (3) The Directorate shall have primary responsibility
5 within the United States Government for analysis of ter-
6 rorism and terrorist organizations from all sources of in-
7 telligence, whether collected inside or outside the United
8 States.

9 (4) The Directorate shall—

10 (A) be the principal repository within the
11 United States Government for all-source information
12 on suspected terrorists, their organizations, and
13 their capabilities;

14 (B) propose intelligence collection and analytic
15 requirements for action by elements of the intel-
16 ligence community inside and outside the United
17 States;

18 (C) have primary responsibility within the
19 United States Government for net assessments and
20 warnings about terrorist threats, which assessments
21 and warnings shall be based on a comparison of ter-
22 rorist intentions and capabilities with assessed na-
23 tional vulnerabilities and countermeasures;

24 (D) conduct, or recommend to the National In-
25 telligence Director to direct an element or elements

of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

(F) 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

1 based on policy objectives and priorities established
2 by the National Security Council;
3 (B) develop interagency plans under subpara-
4 graph (A) utilizing input from personnel in other de-
5 partments, agencies, and elements of the United
6 States Government who have expertise in the prior-
7 ities, functions, assets, programs, capabilities, and
8 operations of such departments, agencies, and ele-
9 ments with respect to counterterrorism;
10 (C) assign responsibilities for counterterrorism
11 operations to the departments and agencies of the
12 United States Government (including the Depart-
13 ment of Defense, the Central Intelligence Agency,
14 the Federal Bureau of Investigation, the Depart-
15 ment of Homeland Security, and other departments
16 and agencies of the United States Government), con-
17 sistent with the authorities of such departments and
18 agencies;
19 (D) monitor the implementation of operations
20 assigned under subparagraph (C) and update inter-
21 agency plans for such operations as necessary;
22 (E) report to the President and the National
23 Intelligence Director on the compliance of the de-
24 partments, 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.

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 2 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with the National Counterterrorism Center under this paragraph.

(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 of 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 COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) Within one year of enactment of this Act there shall be established within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to interdict the trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation 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 Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation 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 Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (f).

(3) The Director of the National Counterproliferation Center shall report to the President and the National In-

1 telligence Director on the planning and progress of
2 counterproliferation operations.

3 (d) PRIMARY MISSIONS.—The primary missions of
4 the National Counterproliferation Center shall be as fol-
5 lows:

6 (1) To develop and unify strategy for the
7 counterproliferation efforts of the United States
8 Government.

9 (2) To make recommendations to the National
10 Intelligence Director with regard to the collection
11 and analysis requirements and priorities of the Na-
12 tional Counterproliferation Center.

13 (3) To integrate counterproliferation intel-
14 ligence activities of the United States Government,
15 both inside and outside the United States, and with
16 other governments.

17 (4) To conduct strategic planning and develop
18 recommended courses of action for multilateral and
19 United States Government counterproliferation ac-
20 tivities which—

21 (A) involve more than one department,
22 agency, or element of the executive branch (un-
23 less otherwise directed by the President) of the
24 United States Government; 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 activities, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of counterproliferation intelligence, and the conduct of counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as a principal adviser to the President and the National Intelligence Director on operations relating to interagency counterproliferation planning and activities;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence and

operations across agency boundaries, both inside and outside the United States, and with foreign governments;

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

(4) advise the President on the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to counterproliferation;

(5) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the counterproliferation programs and activities of the United States Government; and

(6) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall

establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities 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 weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate office independent analyses (commonly referred to as ''red teaming'') of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(g) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for conducting strategic planning and developing courses of action for counterproliferation activities, as described in subsection (d)(4).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop 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

1 such departments, agencies, and elements with re-
2 spect to counterproliferation;
3 (C) assign responsibilities and propose courses
4 of action for counterproliferation operations to the
5 departments and agencies of the United States Gov-
6 ernment (including the Department of Defense, the
7 Department of State, the Central Intelligence Agen-
8 cy, the Federal Bureau of Investigation, the Depart-
9 ment of Homeland Security, and other departments
10 and agencies of the United States Government), con-
11 sistent with the authorities of such departments and
12 agencies;
13 (D) monitor the implementation of operations
14 assigned under subparagraph (C) and update inter-
15 agency plans for such operations as necessary;
16 (E) report to the President and the National
17 Intelligence Director on the performance of the de-
18 partments, agencies, and elements of the United
19 States with regard to the plans developed under sub-
20 paragraph (A); and
21 (F) perform such other duties and functions as
22 the Director of the National Counterproliferation
23 Center may prescribe.
24 (4) The Directorate may not direct the execution of
25 operations assigned under paragraph (3).

(h) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation 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 Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation 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 Counterproliferation 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 Counterproliferation 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 Counterproliferation Center from any 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 Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation 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 Counterproliferation 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 Counterproliferation 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 Counterproliferation 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 Counterproliferation Center has access to all databases and information maintained

by the elements of the intelligence community that are relevant to the duties of the Center.

(i) 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 Counterproliferation 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 Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (g)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the per-

formance 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 Counterproliferation 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 Counterproliferation 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.

(j) DEFINITIONS.—In this section:

(1) The term ''counterproliferation'' means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and

related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and roll-back proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) ''Counterproliferation'' does not include—

(A) the Cooperative Threat reduction and other threat reduction programs run or administered by the Department of Defense, Department of Energy and Department of State;

(B) the nonproliferation efforts and activities of the United States government as they apply to the implementation and management of nonproliferation treaties, conventions, and regimes, or;

(C) programs designed to protect members of the Armed Forces from the employment of weapons of mass destruction by developing and fielding protective equipment, gear and clothing, and other means to enhance the survivability of Armed Forces personnel on the battlefield.

(3) The term ''states and non-state actors of proliferation concern'' refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

(k) REPORTS ON ESTABLISHMENT.—(1)(A) The President shall submit to Congress a report on the plans of the President to establish the National Counterproliferation Center as required by this section.

(B) The report shall be submitted not later than six months after the date of the enactment of this Act, and

not later than 30 days before the date of the establishment of the National Counterproliferation Center.

(2) The President shall submit to Congress from time to time such updates of the plans under paragraph (1)(a) as the President considers appropriate. Each update shall include such recommendations for legislative or administrative action as the President considers appropriate to improve the effectiveness of the National Counterproliferation Center consistent with its mission.

(l) CONSTRUCTION WITH CERTAIN CONDITIONS.—Nothing in this section shall override recommendations contained in the forthcoming final report of the President's Commission on Weapons of Mass Destruction, established by Executive Order in February 2004, that will improve the effectiveness of the National Counterproliferation Center: *Provided,* That in the case of a conflict between the Weapons of Mass Destruction Commission's final report and the National Counterproliferation Center as established in this section, the Congress and the President shall consider the Commission's recommendations and act as soon as practicable thereafter to make such modifications to statute as deemed necessary.

SEC. 145. 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, whether expressed in terms of geographic region, in terms of function, or in other terms.

(3) There may be established under this subsection one or more national intelligence centers having intelligence responsibility for the following:

(A) The nuclear terrorism threats confronting the United States.

(B) The chemical terrorism threats confronting the United States.

(C) The biological terrorism threats confronting the United States.

(4) 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 intel-

1 ligence community selected by the Director for that pur-
2 pose.

3 (2) The Director shall determine the structure and
4 size of each national intelligence center.

5 (3) The Director shall notify Congress of the estab-
6 lishment of each national intelligence center before the
7 date of the establishment of such center. Each notice on
8 a center shall set forth the mission of such center, the
9 area of intelligence responsibility of such center, and the
10 proposed structure of such center.

11 (c) DIRECTORS OF CENTERS.—(1) Each national in-
12 telligence center shall have as its head a Director who
13 shall be appointed by the National Intelligence Director
14 for that purpose.

15 (2) The Director of a national intelligence center
16 shall serve as the principal adviser to the National Intel-
17 ligence Director on intelligence matters with respect to the
18 area of intelligence responsibility assigned to the center.

19 (3) In carrying out duties under paragraph (2), the
20 Director of a national intelligence center shall—

21 (A) manage the operations of the center;

22 (B) coordinate the provision of administration
23 and support by the element of the intelligence com-
24 munity with lead responsibility for the center under
25 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 of the center and the personnel of the center to effectively accomplish the mission of the center.

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

(d) MISSION OF CENTERS.—Pursuant to the direction of the National Intelligence Director, each national intelligence center shall, in the area of intelligence respon-

1 sibility assigned to the center by the Director pursuant
2 to intelligence priorities established by the President—
3 (1) have primary responsibility for providing
4 all-source analysis of intelligence based upon intel-
5 ligence gathered both abroad and domestically;
6 (2) have primary responsibility for identifying
7 and proposing to the National Intelligence Director
8 intelligence collection and analysis requirements;
9 (3) have primary responsibility for net assess-
10 ments and warnings;
11 (4) ensure that appropriate officials of the
12 United States Government and other appropriate of-
13 ficials have access to a variety of intelligence assess-
14 ments and analytical views;
15 (5) develop and unify strategy for the collection
16 and analysis of all-source intelligence;
17 (6) integrate intelligence collection and analysis,
18 both inside and outside the United States;
19 (7) at the discretion of the NID develop inter-
20 agency plans for the collection of all-source intel-
21 ligence, which plans shall—
22 (A) involve more than one department,
23 agency, or element of the executive branch (un-
24 less 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 agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(8) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

(9) 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, including through the establishment of mechanisms for the sharing of information and analysis among and between national intelligence centers having adjacent or significantly interrelated geographic regions or functional areas of intelligence responsibility.

(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.

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 2 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with a national intelligence center under this paragraph.

(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 sub-

1 section shall be undertaken by the supervisors of such per-
2 sonnel at the center.

3 (5) The supervisors of the staff of a national center
4 may, with the approval of the National Intelligence Direc-
5 tor, reward the staff of the center for meritorious perform-
6 ance by the provision of such performance awards as the
7 National Intelligence Director shall prescribe.

8 (6) The National Intelligence Director may delegate
9 to the Director of a national intelligence center any re-
10 sponsibility, power, or authority of the National Intel-
11 ligence Director under paragraphs (1) through (6).

12 (7) The Director of a national intelligence center may
13 recommend to the National Intelligence Director the reas-
14 signment to the home element concerned of any personnel
15 previously assigned or detailed to the center from another
16 element of the intelligence community.

17 (g) REVIEW AND MODIFICATION OF CENTERS.—(1)
18 Not less often than once each year, the National Intel-
19 ligence Director shall review the area of intelligence re-
20 sponsibility assigned to each national intelligence center
21 under this section in order to determine whether or not
22 such area of responsibility continues to meet intelligence
23 priorities established by the National Security Council.

24 (2) Not less often than once each year, the National
25 Intelligence Director shall review the staffing and manage-

ment of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) 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 line item for each national intelligence center under this section.

(i) 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 President.

(2) The National Intelligence Director shall notify Congress of any determination made under paragraph (1) before carrying out such determination.

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the esti-

mates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office 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 such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''OAA analysis'' of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

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 Di-

rector 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.

SEC. 153. ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS.

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

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

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

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

(A) identify the linguistic requirements for the National Intelligence Authority;

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

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

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

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

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

(c) PROFESSIONAL INTELLIGENCE TRAINING.—The National Intelligence Director shall require the head of each element and component within the National Intel-

ligence Authority who has responsibility for professional intelligence training to periodically review and revise the curriculum for the professional intelligence training of the senior and intermediate level personnel of such element or component in order to—

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

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

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

(C) periodically—

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

(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) If the National Intelligence Director and the Secretary of Defense are unable to reach agreement on a milestone decision under this subsection, the Director shall assume milestone decision authority subject to review by the President at the request of 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 Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence 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) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the National Intel-

ligence Director may, in the discretion of the Director, terminate the employment of any officer or employee of the National Intelligence Authority 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.

(c) OTHER 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.

(d) REGULATIONS.—The National Intelligence Director shall prescribe regulations on the application of the authorities, rights, and protections in and made applicable by subsections (a), (b), and (c), to the personnel of the National Intelligence Authority.

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 publica-

tion 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. 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 National Intelligence Director shall convene regular meetings of the Joint Intelligence Community Council.

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

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

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

SEC. 203. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

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

(1) The National Commission on Terrorist Attacks Upon the United States in its final report stated that, under Director Robert Mueller, the Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) In the report, the members of the Commission also urged that the Federal Bureau of Investigation fully institutionalize the shift of the Bureau to a preventive counterterrorism posture.

(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—The Director of the Federal Bureau of Investigation shall continue efforts to improve the intelligence capabilities of the Federal Bureau of Investigation and to develop and maintain within the Bureau a national intelligence workforce.

(c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In developing and maintaining a national intelligence workforce under subsection (b), the Director of the Federal Bureau of Investigation shall, develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner which ensures the existence within the Federal Bureau of Investigation an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.

(2) Each agent employed by the Bureau after the date of the enactment of this Act shall receive basic training in both criminal justice matters and national intelligence matters.

(3) Each agent employed by the Bureau after the date of the enactment of this Act shall, to the maximum extent practicable, be given the opportunity to undergo, during such agent's early service with the Bureau, mean-

ingful assignments in criminal justice matters and in national intelligence matters.

(4) The Director shall—

(A) establish career positions in national intelligence matters for agents, analysts, and related personnel of the Bureau; and

(B) in furtherance of the requirement under subparagraph (A) and to the maximum extent practicable, afford agents, analysts, and related personnel of the Bureau the opportunity to work in the career specialty selected by such agents, analysts, and related personnel over their entire career with the Bureau.

(5) The Director shall carry out a program to enhance the capacity of the Bureau to recruit and retain individuals with backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the Bureau.

(6) The Director shall, to the maximum extent practicable, afford the analysts of the Bureau training and career opportunities commensurate with the training and career opportunities afforded analysts in other elements of the intelligence community.

(7) Commencing as soon as practicable after the date of the enactment of this Act, each direct supervisor of a

1 Field Intelligence Group, and each Bureau Operational
2 Manager at the Section Chief and Assistant Special Agent
3 in Charge (ASAC) level and above, shall be a certified in-
4 telligence officer.

5 (8) The Director shall, to the maximum extent prac-
6 ticable, ensure that the successful discharge of advanced
7 training courses, and of one or more assignments to an-
8 other element of the intelligence community, is a pre-
9 condition to advancement to higher level intelligence as-
10 signments within the Bureau.

11 (d) FIELD OFFICE MATTERS.—(1) In improving the
12 intelligence capabilities of the Federal Bureau of Inves-
13 tigation under subsection (b), the Director of the Federal
14 Bureau of Investigation shall ensure that each Field Intel-
15 ligence Group reports directly to a field office senior man-
16 ager responsible for intelligence matters.

17 (2) The Director shall provide for such expansion of
18 the secure facilities in the field offices of the Bureau as
19 is necessary to ensure the discharge by the field offices
20 of the intelligence mission of the Bureau.

21 (3) The Director shall require that each Field Intel-
22 ligence Group manager ensures the integration of ana-
23 lysts, agents, linguists, and surveillance personnel in the
24 field.

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and the National Intelligence Director in a manner consistent with section 112(a)(8).

(f) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation shall, establish a budget structure of the Federal Bureau of Investigation to reflect the four principle missions of the Bureau as follows:

(1) Intelligence.

(2) Counterterrorism and counterintelligence.

(3) Criminal Enterprises/Federal Crimes.

(4) Criminal justice services.

(g) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress made as of the date of such report in carrying out the requirements of this section.

(2) The Director shall include in each annual program review of the Federal Bureau of Investigation that

is submitted to Congress a report on the progress made by each field office of the Bureau during the period covered by such review in addressing Bureau and national program priorities.

(3) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report assessing the qualifications, status, and roles of analysts at Bureau headquarters and in the field offices of the Bureau.

(4) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report on the progress of the Bureau in implementing information-sharing principles.

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. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act as the Office of Intelligence is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) Supervision of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Coordinating human source development and management by the Bureau.

(5) Coordinating collection by the Bureau against nationally-determined intelligence requirements.

(6) Strategic analysis.

(7) Intelligence program and budget management.

(8) The intelligence workforce.

(9) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

SEC. 207. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) EXECUTIVE COUNCIL.—The term ''Executive Council'' means the Executive Council on Information Sharing established under subsection (h).

(2) 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 individ-

uals, 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.

(3) ENVIRONMENT.—The term ''Environment'' means the Information Sharing Environment as 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 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 intelligence and homeland security information is urgently needed. An important conceptual model for a new ''trusted information network'' is the System-wide 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 ENVIRONMENT.—

(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 Environment 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;

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data; and

(L) utilizing privacy-enhancing technologies that minimize the inappropriate dissemination and disclosure of personally identifiable information.

(d) IMMEDIATE ACTIONS.—Not later than 180 days after the date of the enactment of this Act, the principal officer as designated in subsection 206(g), 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 Environment

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 Environment.

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

(1) in consultation with the Executive Council, issue guidelines—

(A) 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) issue guidelines on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls, in the course of which review, the President may consider any comments submitted by the Select Committee on Intelligence, the Committee on Armed Services, the Committee on Foreign Relations of the Senate, and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives regarding—

(i) the scope of the review the President should undertake in formulating the guidelines under this subparagraph; and

(ii) the substance of what guidelines should be issued.

(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 Environment; 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 1 year after the date of the enactment of this Act, the President shall submit to Congress an enterprise architecture and implementation plan for the Environment. The enterprise architecture and implementation plan shall be prepared by the principal officer in consultation with the Executive Council and shall include—

(1) a description of the parameters of the proposed Environment, 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 Environment, including identification of any agency that will build the infrastructure needed to operate and manage the Environment (as distinct from the individual agency components that are to be part of the Environment), 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 Environment; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Environment;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Environment;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Environment;

(7) a plan, including a time line, for the development and phased implementation of the Environment;

(8) total budget requirements to develop and implement the Environment, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act;

(9) an estimate of training requirements needed to ensure that the Environment will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Environment; and

(11) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Environment.

(g) RESPONSIBILITIES OF EXECUTIVE COUNCIL FOR INFORMATION SHARING ENVIRONMENT.—Not later than 120 days after the date of enactment, with notification to Congress, the President shall designate an individual as the principal officer responsible for information sharing across the Federal government. That individual shall have and exercise governmentwide authority and have management expertise in enterprise architecture, information sharing, and interoperability.

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The principal officer designated under this subsection, in consultation with the Executive Council, shall—

(i) implement and manage the Environment;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Environment; and

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

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

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

(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.

(h) ESTABLISHMENT OF EXECUTIVE COUNCIL.—There is established an Executive Council on Information Sharing that shall assist the principal officer as designated under subsection 206(g) in the execution of the duties under this Act concerning information sharing.

(1) MEMBERSHIP.—The Executive Council shall be chaired by the principal officer as designated in

subsection 206(g). The members of the Executive Council shall be—

(A) the Director of Management and Budget;

(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) The Director of Central Intelligence Agency or his designees;

(I) such other Federal officials as the President shall designate;

(J) representatives of State, tribal, and local governments, to be appointed by the President; and

(K) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(2) RESPONSIBILITIES.—The Executive Council shall assist the President in—

(A) implementing and managing the Environment;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Environment;

(C) ensuring there is coordination among departments and agencies participating in the Environment in the development and implementation of the Environment;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Environment;

(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 input provided by persons from outside the Federal government with significant experience and expertise in policy, technical, and operational matters, including issues of security, privacy, or civil liberties.

(3) 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.).

(4) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the principal officer as designated in section 206(g), 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.

(5) 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) REPORTS.—

(1) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, and semiannually thereafter, the President shall submit a report to Congress on the state of the Environment 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 Environment has been implemented, including how the Environment has fared on the governmentwide 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 Environment in the preceding year;

(D) actions taken to ensure that agencies procure new technology that is consistent with the Environment and information on whether new systems and technology are consistent with the Environment;

(E) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Environment 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 Environment, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Environment;

(ii) have systems which have become integrated into the Environment;

(iii) are providing as well as receiving information; and

(iv) are using the Environment 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 Environment; 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 Environment—

(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 Environment and, in particular, the accuracy of information about individuals;

(M) an assessment of the Environment'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 Environment.

(j) AGENCY RESPONSIBILITIES.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Environment shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Environment under subsections (c) and (g);

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

(3) ensure full agency or department cooperation in the development of the Environment and associated enterprise architecture to implement governmentwide information sharing, and in the man-

agement and acquisition of information technology consistent with applicable law.

(k) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Environment or otherwise participates, or expects to participate, in the Environment, shall submit to the principal officer as designated in section 206(g)—

(1) not later than 15 months after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Environment'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 Environment, 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

Environment'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 Environment's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Environment in the year following the submission of the report.

(l) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Environment, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Environment's requirements and to assess the effectiveness of the Environment 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 En-

vironment 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 Environment'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.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 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 Environment implementation plan required by subsection (f).

SEC. 207. ALTERNATIVE ANALYSES OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Intelligence Director should consider the advisability of establishing for each element of

the intelligence community an element, office, or component whose purpose is the alternative analysis (commonly referred to as a ''red-team analysis'') of the information and conclusions in the intelligence products of such element of the intelligence community.

(b) REPORT.—(1) 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 actions taken to establish for each element of the intelligence community an element, office, or component described in subsection (a).

(2) The report shall be submitted in an unclassified form, but may include a classified annex.

SEC. 208. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF DEFENSE SCIENCE BOARD ON PREVENTING AND DEFENDING AGAINST CLANDESTINE NUCLEAR ATTACK.

(a) FINDING.—Congress finds that the June 2004 report of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack—

(1) found that it would be easy for adversaries to introduce and detonate a nuclear explosive clandestinely in the United States;

(2) found that clandestine nuclear attack and defense against such attack should be treated as an emerging aspect of strategic warfare and that those matters warrant national and Department of Defense attention; and

(3) called for a serious national commitment to a multidepartment program to create a multi-element, layered, global, civil/military complex of systems and capabilities that can greatly reduce the likelihood of a successful clandestine attack, achieving levels of protection effective enough to warrant the effort.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Energy, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions proposed to be taken to address the recommendations of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack.

SEC. 209. USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The National Intelligence Director shall take actions to ensure, to the extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) PROCEDURES FOR UTILIZATION.—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) DEFINITIONS.—In this section, the terms ''imagery'' and ''geospatial information'' have the meanings given such terms in section 467 of title 10, United States Code.

SEC. 210. PERMANENT AUTHORITY FOR PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) IN GENERAL.—Section 710 of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 50 U.S.C. 435 note) is amended—

(1) by striking ''(a) EFFECTIVE DATE.—''; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENT.—The head of such section is amended by striking ''**; SUNSET**''.

(c) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (m) may be obligated for deployment or implementation of the Environment unless the guidelines and requirements under subsection (e) are submitted to Congress.

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, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; 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 subsections (e) and (g) of section 205;

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from ter-

1 rorism, including the implementation of infor-
2 mation sharing guidelines under subsections (e)
3 and (g) of section 205;
4 (C) advise the President and the depart-
5 ments, agencies, and elements of the executive
6 branch to ensure that privacy and civil liberties
7 are appropriately considered in the development
8 and implementation of such legislation, regula-
9 tions, policies, and guidelines; and
10 (D) in providing advice on proposals to re-
11 tain or enhance a particular governmental
12 power, consider whether the department, agen-
13 cy, or element of the executive branch has es-
14 tablished—
15 (i) that the need for the power is bal-
16 anced with the need to protect privacy and
17 civil liberties;
18 (ii) that there is adequate supervision
19 of the use by the executive branch of the
20 power to ensure protection of privacy and
21 civil liberties; and
22 (iii) that there are adequate guidelines
23 and oversight to properly confine its use.
24 (2) OVERSIGHT.—The Board shall continually
25 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 subsections (e) and (g) of section 205 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;

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d); and

(D) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement.

(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 established—

(i) that the need for the power is balanced with the need to protect privacy and civil liberties;

(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 con-

sistent 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.

(i) PROTECTIONS FOR HUMAN RESEARCH SUBJECTS.—The Secretary of Homeland Security shall ensure that the Department of Homeland Security complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by such Secretary, with respect to research that is conducted or supported by such Department.

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, ob-

jective, 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, 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, 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 timely, objective, independent of political considerations, and has not been shaped to serve policy goals.

(d) NATIONAL INTELLIGENCE COUNCIL.—The National Intelligence Council shall produce national intel-

ligence estimates for the United States Government that are timely, objective, 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 committees and Members of Congress specified in subsection (c), 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 (3), 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 committees and Members of Congress specified in subsection (c), 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, the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives, and the Majority Leader and the Minority Leader of the Senate. Upon making a report covered by this paragraph—

"(A) the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such a committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request;

"(B) the Speaker of the House of Representatives and the Majority Leader of the House of Representatives or the Minority Leader of the House of Representatives shall notify the other or others, as the case may be, of such request; and

"(C) the Majority Leader and Minority Leader of the Senate shall notify the other 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.

(c) COMMITTEES AND MEMBERS OF CONGRESS.—The committees and Members of Congress specified in this subsection are—

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

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

(3) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(4) the Majority Leader and the Minority Leader of the Senate.

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.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of—

(i) a false or inaccurate statement to Congress contained in any intelligence assessment, report, or estimate; or

(ii) the withholding from Congress of any intelligence information material to any intelligence assessment, report, or estimate.

(B) EXCEPTION.—Paragraph (1) 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) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives;

(iii) the Majority Leader and the Minority Leader of the Senate;

(iv) any other Member of Congress who is authorized to receive information of the type disclosed; and

(v) 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.

SEC. 226. CONGRESSIONAL APPEALS OF CLASSIFICATION DECISIONS.

(a) REDESIGNATION OF PUBLIC INTEREST DECLASSIFICATION BOARD AS INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.—(1) Subsection (a) of section 703 of the Public Interest Declassification Act of 2000 (title VII of Public Law 10–567; 50 U.S.C. 435 note) is amended by striking "'Public Interest Declassification Board'" and inserting "'Independent National Security Classification Board'".

(2) The heading of such section is amended to read as follows:

"SEC. 703. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.".

(b) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Independent National Security Classification Board shall, pursuant to a request under paragraph (3), review any classification decision made by an executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review, in a timely manner, the existing or proposed classification of any document or other material the review of which is requested by the chairman or ranking member of—

(A) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(B) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents

or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress justification for the President's decision not to implement such recommendation.

(5) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(6) EXECUTIVE AGENCY DEFINED.—In this section, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code .

Subtitle D—Homeland Security Civil Rights and Civil Liberties Protection

SEC. 231. SHORT TITLE.

This title may be cited as the ''Homeland Security Civil Rights and Civil Liberties Protection Act of 2004''.

SEC. 232. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

''(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and''.

SEC. 233. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

''(a) IN GENERAL.—The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—'';

(2) by amending paragraph (1) to read as follows:

''(1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;'';

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

''(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

"(5) coordinate with the Privacy Officer to ensure that—

"(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

"(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

"(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.".

SEC. 234. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–

15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

"(2) The senior official designated under paragraph (1) shall—

"(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

"(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

"(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

"(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

"(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

"(i) alleged abuses of civil rights or civil liberties; and

"(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

"(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

"(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

"(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

"(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

"(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

"(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.".

SEC. 235. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting ", who shall report directly to the Secretary," after "in the Department";

(2) in paragraph (4), by striking "and" at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

"(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

"(B) Congress receives appropriate reports on such programs, policies, and procedures; and".

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.

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

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

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

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

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

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

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

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

other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection; and

''(4) perform such other functions and duties related to intelligence affecting the national security as the President or the 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 or international organizations on all matters involving intelligence related to the national security."

(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 intel-

ligence 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).

(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)).

(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)(14) 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''.

(5) Section 506A(b)(1) of that Act (50 U.S.C. 415a–1(b)(1)) is amended by striking ''Office of the Deputy Di-

rector 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)(14) 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)(14) 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)(14) 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. MODIFICATION OF COUNTERINTELLIGENCE AND NATIONAL INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) The term 'counterintelligence' means foreign intelligence gathered, and information gathering 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, or foreign persons, or international terrorist activities.''; and

(2) in paragraph (5)(B)—

(A) by striking ''counterintelligence or''; and

(B) by striking ''expressly provided for in this title'' and insert ''expressly provided for in law''.

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 de-

partment 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 AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403–5(a)) is amended—

(1) in paragraph (1), by striking "ensure" and inserting "assist the Director in ensuring"; and

(2) in paragraph (2), by striking "appropriate".

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. CONFORMING AMENDMENTS ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by adding ''and'' at the end;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in subsection (e), by striking paragraph (2) and inserting the following new paragraph (2):

''(2) the term 'appropriate congressional committees' means—

''(A)(i) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

''(ii) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

''(B) in the case of a transfer of funds to or from, or a reprogramming within, the Department of Defense—

''(i) the committees and select committees referred to in subparagraph (A);

"(ii) the Committee on Armed Services of the House of Representatives; and

"(iii) the Committee on Armed Services of the Senate; and

"(C) in the case of a transfer of funds to or from, or a reprogramming within, the Federal Bureau of Investigation—

"(i) the committees and select committees referred to in subparagraph (A);

"(ii) the Committee on the Judiciary of the House of Representatives; and

"(iii) the Committee on the Judiciary of the Senate; and".

SEC. 310. MODIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES UNDER NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Paragraph (7) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

"(7) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate;

"(B) the Permanent Select Committee on Intelligence of the House of Representatives;

"(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

"(D) the Majority Leader and the Minority Leader of the Senate.".

(b) FUNDING OF INTELLIGENCE ACTIVITIES.—Paragraph (2) of section 504(e) of that Act (50 U.S.C. 414(e)) is amended to read as follows:

"(2) the term 'appropriate congressional committees' means—

"(A) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

"(B) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives;

"(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

"(D) the Majority Leader and the Minority Leader of the Senate;".

SEC. 311. 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. 312. MODIFICATION OF AUTHORITIES RELATING TO NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 902(a) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 116 Stat,. 2432; 50 U.S.C. 402b) is amended—

(1) by striking ''President'' and inserting ''National Intelligence Director''; and

(2) by striking ''Director of Central Intelligence'' and inserting ''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 132(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. 313. 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 COUNTERINTELLIGENCE 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:

"The Director of the Central Intelligence Agency".

"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:

"Deputy 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 com-

prehensive 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 rel-

evant documents in accordance with section 716 of title 31, United States Code.

SEC. 336. NATIONAL INTELLIGENCE COUNCIL REPORT ON METHODOLOGIES UTILIZED FOR NATIONAL INTELLIGENCE ESTIMATES.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the National Intelligence Council shall submit to Congress a report that includes the following:

(1) The methodologies utilized for the initiation, drafting, publication, coordination, and dissemination of the results of National Intelligence Estimates (NIEs).

(2) Such recommendations as the Council considers appropriate regarding improvements of the methodologies utilized for National Intelligence Estimates in order to ensure the timeliness of such Estimates and ensure that such Estimates address the national security and intelligence priorities and objectives of the President and the National Intelligence Director.

(b) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SEC. 337. NATIONAL INTELLIGENCE DIRECTOR REPORT ON NATIONAL COUNTERTERRORISM CENTER.

(a) REPORT.—Not later than one year after the date of the establishment of the National Counterterrorism Center under section 143, the National Intelligence Director shall submit to Congress a report evaluating the effectiveness of the Center in achieving its primary missions under subsection (d) of that section.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the effectiveness of the National Counterterrorism Center in achieving its primary missions.

(2) An assessment of the effectiveness of the authorities of the Center in contributing to the achievement of its primary missions, including authorities relating to personnel and staffing, funding, information sharing, and technology.

(3) An assessment of the relationships between the Center and the other elements and components of the intelligence community.

(4) An assessment of the extent to which the Center provides an appropriate model for the establishment of national intelligence centers under section 144.

(c) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SEC. 338. COMPONENTS OF NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the National Intelligence Program shall consist of all programs, projects, and activities that are part of the National Foreign Intelligence Program as of the effective date of this section.

(b) JOINT REVIEW OF CERTAIN PROGRAMS.—(1) The National Intelligence Director and the Secretary of Defense shall jointly review the programs, projects, and activities as follows:

(A) The programs, projects, and activities within the Joint Military Intelligence Program as of the effective date of this section.

(B) The programs, projects, and activities within the Tactical Intelligence and Related Activities program as of the effective date of this section.

(C) The programs, projects, and activities of the Defense Intelligence Agency as of the effective date of this section that support the intelligence staff of the Chairman of the Joint Chiefs of Staff, the intelligence staffs of the unified combatant com-

mands, and the portions of the sensitive compartmented communications systems that support components of the Department of Defense.

(2) As part of the review under paragraph (1), the Director shall consult with the head of each element of the intelligence community.

(3)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in paragraph (1)(C) shall be completed not later than 60 days after the date on which the first individual nominated as National Intelligence Director after the date of the enactment of this Act is confirmed by the Senate.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in paragraph (1)(C) to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

(C) During the period of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), no action shall be taken that would have the effect of prejudicing the outcome of such review.

(4)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1) shall be completed not later than one year after the effective date of this section.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in such subparagraphs to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

SEC. 339. 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 subsections (b), (c), and (d), titles I through III of this Act, and the amendments made by such titles, shall take effect 180 days after the date of the enactment of this Act.

(b) SPECIFIED EFFECTIVE DATES.—(1) The provisions of section 206 shall take effect as provided in such provisions.

(2) The provisions of sections 211 and 212 shall take effect 90 days after the date of the enactment of this Act.

(c) EARLIER EFFECTIVE DATE.—In order to safeguard the national security of the United States through rapid implementation of titles I through III of this Act while also ensuring a smooth transition in the implementation of such titles, the President may provide that titles I through III of this Act (including the amendments made by such titles), or one or more particular provisions of such titles (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.

(d) DELAYED EFFECTIVE DATE.—(1) Except with respect to a provision specified in subsection (b), the President may extend the effective date of a provision of titles I through III of this Act (including the amendments made by such provision) for any period up to 180 days after the effective date otherwise provided by this section for such provision.

(2) The President may extend the effective date of a provision under paragraph (1) only if the President determines that the extension is necessary to safeguard the national security of the United States and after balancing the need for a smooth transition in the implementation of titles I through III of this Act against the need for a rapid implementation of such titles.

(e) NOTIFICATION OF EFFECTIVE DATES.—If the President exercises the authority in subsection (c) or (d), the President shall—

(1) notify Congress of the exercise of such authority; and

(2) publish in the Federal Register notice of the earlier or delayed effective date or dates involved, including each provision (and amendment) covered by such earlier or delayed 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—TRANSPORTATION SECURITY

SEC. 401. WATCHLISTS FOR PASSENGERS ABOARD VESSELS.

(a) IN GENERAL.—As soon as practicable but not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) implement a procedure under which the Department of Homeland Security compares information about passengers and crew who are to be carried aboard a cruise ship with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates;

(2) use the information obtained by comparing the passenger and crew information with the information in the database to prevent known or suspected terrorists and their associates from boarding such vessels or to subject them to specific additional security scrutiny, through the use of ''no transport'' and ''automatic selectee'' lists or other means; and

(3) if not practicable, enforcement of subsection (2) shall be waived for cruise ships embarking at foreign ports.

(b) COOPERATION FROM OPERATORS OF PASSENGER VESSELS.—The Secretary of Homeland Security shall by

rulemaking require operators of cruise ships to provide the passenger and crew information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE ''NO TRANSPORT'' AND ''AUTOMATIC SELECTEE'' LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigations, 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 databases.

(2) ACCURACY OF ENTRIES.—In developing the ''no transport'' and ''automatic selectee'' lists under subsection (a)(1), 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 and crew screening process. The Secretary shall also establish a process to provide an individual whose name is confused with,

or similar to, a name in the watchlist database with a means of demonstrating that such individual is not the person named in the database.

(d) CRUISE SHIP DEFINED.—In this section, the term ''cruise ship'' shall be as defined in 33 CFR 104.105(a)(5) and (6) on the date of enactment of this Act.

TITLE V—AIR CARGO SAFETY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. 502. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

"(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

"(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.".

SEC. 503. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44925. Regular inspections of air cargo shipping facilities

"The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular

basis at shipping facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44925. Regular inspections of air cargo shipping facilities''.

SEC. 504. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44926. Air cargo security

''(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to deter-

mine if the indirect air carriers are meeting the security requirements of this title.

"(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

"(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

"(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

"(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

"(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.".

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transpor-

tation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

"44926. Air cargo security".

SEC. 505. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safeguarded from security breaches.

SEC. 506. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. 507. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

TITLE VI—AVIATION SECURITY

SEC. 601. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator may develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration may use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. 602. AIRCRAFT CHARTER CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of charter aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to charter an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to charter an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) PRIVACY SAFEGUARDS.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of chartering aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) TRANSFER.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of chartering air carriers to the public to the Secretary.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section precludes the Secretary from requiring operators of charter aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this section.

SEC. 603. AIRCRAFT RENTAL CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of rental aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to rent an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to rent an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) PRIVACY SAFEGUARDS.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of renting aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) TRANSFER.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of renting aircraft to the public to the Secretary.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section precludes the Secretary from requiring operators of rental aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this section.

SEC. 604. REPORT ON RENTAL AND CHARTER CUSTOMER PRESCREENING PROCEDURES.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to Congress on the feasibility of extending the requirements of section —02, section —03, or both sections to apply to aircraft with a maximum certificated takeoff weight of 12,500 pounds or less.

(b) ISSUES ADDRESSED.—The report shall—

(1) examine the technology and communications systems needed to carry out such procedures;

(2) provide an analysis of the risks posed by such aircraft; and

(3) examine the operational impact of proposed procedures on the commercial viability of that segment of charter and rental aviation operations.

SEC. 605. AVIATION SECURITY STAFFING.

(a) STAFFING LEVEL STANDARDS.—

(1) DEVELOPMENT OF STANDARDS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO ANALYSIS.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) REPORT TO CONGRESS.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process, including the use of maximum time delay goals of no more than 10 minutes on the average.

(b) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. 606. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the use

of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) RESEARCH AND DEVELOPMENT; DEPLOYMENT.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deploy-

ment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) AUTHORIZATION FOR EXPIRING AND NEW LOIS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) REPORTS.—The Secretary shall transmit an annual report for fiscal year 2005, fiscal year 2006, and fiscal year 2007 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. 607. AIR CARGO SECURITY MEASURES.

(a) ENHANCEMENT OF AIR CARGO SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) SUPPLY CHAIN SECURITY.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling

agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft, including targeted inspections of high risk items.

(c) INCREASED CARGO INSPECTIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the percentage of cargo screened or inspected is at least two-fold the percentage that is screened or inspected as of September 30, 2004.

(c) ALL-CARGO AIRCRAFT SECURITY.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"§ 44925. All-cargo aircraft security

''(a) ACCESS TO FLIGHT DECK.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

''(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

''(A) requiring, to the extent consistent with engineering and safety standards, that all-cargo aircraft operators engaged in air trans-

portation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

"(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

"(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

"(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

"(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

"(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

"(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

"(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.".

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"44925. All-cargo aircraft security.".

SEC. 608. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland

Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. 609. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of Inspections and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 610. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system;

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation

Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. 611. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled ''Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened'' (GAO–03–760), August, 2003.

SEC. 612. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use

of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. 613. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security $100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. 614. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

"§ 41512. Bereavement fares.

''Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation

in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

''41512. Bereavement fares''.

SEC. 615. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised list that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. 616. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on pro-

tecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'').

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial

aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect

commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. 617. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect explosives, including in chemical and plastic forms. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. 618. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a clas-

sified report on the number of individuals serving only as sworn Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. 619. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. 620. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance, subject to the availability of funds, to public airports that have baggage handling areas

that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. 621. EFFECTIVE DATE.

Notwithstanding any other provision of this act, this title takes effect on the date of enactment of this Act.

TITLE VII—OTHER MATTERS

SEC. 701. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section 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) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least 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.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 702. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 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 made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 703. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

TITLE VIII—VISA REQUIREMENTS

SEC. 801. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

''(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

''(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) by a consular official and such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

"(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

"(iii) from the consular post located in the country in which the alien is a national; and

"(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

"(C) by the Secretary of State if the Secretary determines that such waiver is—

"(i) in the national interest of the United States; or

"(ii) necessary as a result of unusual circumstances; and

"(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

"(A) is not a national of the country in which the alien is applying for a visa;

"(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

"(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

"(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

"(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

"(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

"(E) is identified as a member of a group or sector that the Secretary of State determines—

"(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

"(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

"(iii) poses a security threat to the United States.".

SEC. 802. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting ''The alien shall provide complete and accurate information in response to any request for information contained in the application.'' after the second sentence.

SEC. 803. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

TITLE IX—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 901. ESTABLISHMENT.

The Secretary of Homeland Security may carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 902. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry with a relatively small presence of United States border patrol officers.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 903. ADMINISTRATIVE PROVISIONS.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 904. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding whether to expand the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

TITLE X—911 COMMISSION IMPLEMENTATION ACT OF 2004

Subtitle A—The Role of Diplomacy, Foreign Aid, and the Military in the War on Terrorism

SEC. 1001. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. 1002. 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 21st 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;

(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; and

(4) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

SEC. 1003. 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 moderate, responsible government that serves as a voice of tolerance 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 fostering a stable and secure future in Pakistan, as long as its leaders remain committed to combating extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. 1004. 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) SENSE OF CONGRESS.—

(1) ACTIONS FOR AFGHANISTAN.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) 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.

(B) 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.

(C) 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.

(2) REVISION OF AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—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.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund

under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) 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.

SEC. 1005. 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 Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) 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, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(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;

(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; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. 1006. EFFORTS TO COMBAT ISLAMIST TERRORISM.

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

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in 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 hu-

manely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of 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.

SEC. 1007. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dic-

tatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

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

(1) United States foreign policy should promote the 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. 1008. 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 and understood 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) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary 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, unless otherwise authorized by Congress.

SEC. 1009. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

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

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) 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) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005

through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. 1010. 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, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) 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, such sums as may be necessary for each

of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. 1011. 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 low-

ering 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) one 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.

SEC. 1012. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(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. 1013. 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. 1014. TREATMENT OF FOREIGN PRISONERS.

(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 are 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) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter ''prisoners'') humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the

1 protections of the Geneva Conventions until such
2 time as their status can be determined pursuant to
3 the procedures authorized by Army Regulation 190–
4 8, Section 1–6.
5 (4) It is the policy of the United States to expe-
6 ditiously prosecute cases of terrorism or other crimi-
7 nal acts alleged to have been committed by prisoners
8 in the custody of the United States Armed Forces
9 at Guantanamo Bay, Cuba, in order to avoid the in-
10 definite detention of prisoners, which is contrary to
11 the legal principles and security interests of the
12 United States.
13 (c) REPORTING.—The Department of Defense shall
14 submit to the appropriate congressional committees:
15 (1) A quarterly report providing the number of
16 prisoners who were denied Prisoner of War (POW)
17 status under the Geneva Conventions and the basis
18 for denying POW status to each such prisoner.
19 (2) A report setting forth—
20 (A) the proposed schedule for military
21 commissions to be held at Guantanamo Bay,
22 Cuba; and
23 (B) the number of individuals currently
24 held at Guantanamo Bay, Cuba, the number of
25 such individuals who are unlikely to face a mili-

tary commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treat-

ment 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 and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director 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) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each 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 United States Government personnel or by a person providing services to the United States Government 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.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term ''cruel, inhumane, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term ''Director'' means the National Intelligence Director.

(3) 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).

(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.

SEC. 1015. 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 and other terror groups have 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 supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonprolifera-

tion assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are

operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

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

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term ''Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs'' includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. 1016. 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) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States 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 the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. 1017. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of 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; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of

1 secondary schools in Pakistan, and an examina-
2 tion of the efforts of the Government of Paki-
3 stan to fund modern public education;
4 (B) recommendations on the funding nec-
5 essary to provide various levels of educational
6 support;
7 (C) an examination of the current composi-
8 tion and levels of United States military aid to
9 Pakistan, together with any recommendations
10 for changes in such levels and composition that
11 the President considers appropriate; and
12 (D) an examination of other major types of
13 United States financial support to Pakistan, to-
14 gether with any recommendations for changes
15 in the levels and composition of such support
16 that the President considers appropriate.
17 (3) SUPPORT FOR AFGHANISTAN.—
18 (A) SPECIFIC OBJECTIVES.—A description
19 of the strategy of the United States to provide
20 aid to Afghanistan during the 5-year period be-
21 ginning on the date of enactment of this Act,
22 including a description of the resources nec-
23 essary during the next 5 years to achieve spe-
24 cific objectives in Afghanistan in the following
25 areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President 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 two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Is-

lamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing ap-

pearances 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.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ____09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the

private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section ____10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the

President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of 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, including a description of—

(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 governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. 1018. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

Subtitle B—Terrorist Travel and Effective Screening

SEC. 1021. 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 regu-

lated 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 smug-

glers, 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 Department of Homeland Security to aid in

the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(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 and immigration adjudicators, as appropriate, the security clearances necessary to access law enforcement sensitive and intelligence 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 or other documentation described in section ____04(b) 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 initial and ongoing annual training programs for consular, border, and immigration officials who encounter or work with travel or immigration documents as part of their duties to teach such officials how to effectively detect and disrupt terrorist travel.

(B) TERRORIST TRAVEL INTELLIGENCE.—The Secretary may assist State, local, and tribal governments, and private industry, in estab-

lishing training programs related to terrorist travel intelligence.

(C) 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.

(D) 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 who encounter or work with travel or immigration doc-

uments as part of their duties have received training under this paragraph; and

(ii) the Secretary of State shall certify to Congress that all consular officers who encounter or work with travel or immigration documents as part of their duties 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. 1022. 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, feasible, and if practicable, compatible with the biometric entry and exit data system described in section ____03.

(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, private parties, 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) MAINTAINING ACCURACY AND INTEGRITY OF THE INTEGRATED SCREENING SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the integrated screening system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Each head of a Federal agency that has databases and data systems linked to the integrated screening system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the

accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(h) IMPLEMENTATION.—

(1) PHASE I.—The Secretary shall—

(A) develop plans for, and begin implementation of, a single program for registered travelers to expedite travel across the border, as required under section ____03(g);

(B) continue the implementation of a biometric exit and entry data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ____03 and other existing authorities;

(C) centralize the ''no-fly'' and ''automatic-selectee'' lists, making use of improved terror-

ists watch lists, as required by section _____03;

(D) develop plans, in consultation with other relevant agencies, for the sharing of terrorist information with trusted governments, as required by section ____05;

(E) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(F) 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 ____03(g);

(B) complete the implementation of a biometric entry and exit data system that links to relevant databases and data systems, as re-

quired by subsections (c) through (f) of section ____03, 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.

(i) 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.

(j) 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. 1023. 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) DEFINITION.—In this section, the term ''entry and exit data system'' means the entry and exit system required by applicable sections of—

(1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(3) the Visa Waiver Permanent Program Act (Public Law 106–396);

(4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(c) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary

shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with

1 processing individuals through the
2 system; and
3 (III) programs or policies
4 planned or implemented to correct
5 problems identified in subclause (I) or
6 (II); and
7 (v) an assessment of the effectiveness
8 of the entry and exit data system in ful-
9 filling its intended purposes, including pre-
10 venting terrorists from entering the United
11 States;
12 (B) a description of factors relevant to the
13 accelerated implementation of the biometric
14 entry and exit data system, including—
15 (i) the earliest date on which the Sec-
16 retary estimates that full implementation
17 of the biometric entry and exit data system
18 can be completed;
19 (ii) the actions the Secretary will take
20 to accelerate the full implementation of the
21 biometric entry and exit data system at all
22 ports of entry through which all aliens
23 must pass that are legally required to do
24 so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) COLLECTION OF BIOMETRIC EXIT DATA.—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) INTEGRATION AND INTEROPERABILITY.—

(1) INTEGRATION OF DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully integrate all databases and data systems that process or contain information on aliens, which are maintained by—

(A) the Department of Homeland Security, at—

(i) the United States Immigration and Customs Enforcement;

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) INTEROPERABLE DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of

the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine—

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(g) 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 borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—In this subsection, the term ''registered traveler program'' means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PROGRAM.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) PARTICIPATION.—The registered traveler program shall include as many participants as practicable by—

(i) minimizing the cost of enrollment;

(ii) making program enrollment convenient and easily accessible; and

(iii) providing applicants with clear and consistent eligibility guidelines.

(C) INTEGRATION.—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) REVIEW AND EVALUATION.—In developing the registered traveler program, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and

(iv) review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the registered traveler program.

(h) 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. 1024. 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 State, in consultation with the Secretary of Homeland Security, shall develop and implement a plan as expeditiously as possible to require biometric passports or other identification deemed by the Secretary of State 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) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

(A) where the Secretary of State, in consultation with the Secretary of Homeland Security, 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;

(B) in the case of an unforeseen emergency in individual cases; or

(C) in the case of humanitarian or national interest reasons in individual cases.

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security,

completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. 1025. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.

(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.

(d) PREINSPECTION AT FOREIGN AIRPORTS.—

(1) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

''(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such

preinspection stations shall be in addition to those established prior to September 30, 1996, or pursuant to paragraph (1).''.

(2) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Foreign Relations of the Senate; and

(D) the Committee on International Relations of the House of Representatives.

SEC. 1026. 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 (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

(2) STATE CERTIFICATION.—

(A) IN GENERAL.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

(B) FREQUENCY.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

(C) COMPLIANCE.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

(D) AUDITS.—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.

(3) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use

of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

(D) may not require a single design to which birth certificates issued by all States must conform; and

(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

(A) the Secretary of Homeland Security;

(B) the Commissioner of Social Security;

(C) State vital statistics offices; and

(D) other appropriate Federal agencies.

(5) EXTENSION OF EFFECTIVE DATE.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certifi-

cates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

(i) computerizing their birth and death records;

(ii) developing the capability to match birth and death records within each State and among the States; and

(iii) noting the fact of death on the birth certificates of deceased persons.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion

that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

SEC. 1027. 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 newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

(B) DATE FOR CONFORMANCE.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is prac-

ticable for the States to comply with such date with reasonable efforts.

(C) STATE CERTIFICATION.—

(i) IN GENERAL.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

(ii) FREQUENCY.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

(iii) AUDITS.—The Secretary of Transportation may conduct periodic audits of each State's compliance with the requirements of this section.

(2) MINIMUM STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall by regulation, establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

(D) security standards to ensure that driver's licenses and personal identification cards are—

(i) resistant to tampering, alteration, or counterfeiting; and

(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(E) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

(A) shall facilitate communication between the chief driver licensing official of a State, an

appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy and civil and due process rights of individuals who apply for and hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and shall include an assessment of the benefits and costs of the recommendation; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's li-

1 censes and personal identification cards issued by a
2 State applying for a grant bears to the average an-
3 nual number of such documents issued by all States.
4 (3) MINIMUM ALLOCATION.—Notwithstanding
5 paragraph (2), each State shall receive not less than
6 0.5 percent of the grant funds made available under
7 this subsection.
8 (d) EXTENSION OF EFFECTIVE DATE.—The Sec-
9 retary of Transportation may extend the date specified
10 under subsection (b)(1)(A) for up to 2 years for driver's
11 licenses issued by a State if the Secretary determines that
12 the State made reasonable efforts to comply with the date
13 under such subsection but was unable to do so.
14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary of
16 Transportation for each of the fiscal years 2005 through
17 2009, such sums as may be necessary to carry out this
18 section.
19 **SEC. 1028. SOCIAL SECURITY CARDS.**
20 (a) SECURITY ENHANCEMENTS.—The Commissioner
21 of Social Security shall—
22 (1) not later than 180 days after the date of
23 enactment of this section, issue regulations to re-
24 strict the issuance of multiple replacement social se-
25 curity cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require verification of 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 Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 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.

SEC. 1029. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title shall take effect on the date of enactment of this Act.

Subtitle C—Transportation Security

SEC. 1031. 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. 1032. 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 ob-

jectives 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 required by 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. 1033. 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 180 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 ad-

ditional 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 dis-

positive 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. 1034. 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 screen-

ers 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 develop-

ment 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.

(e) BLAST-RESISTANT CARGO AND BAGGAGE CONTAINERS.—

(1) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation—

(A) shall assess the feasibility of requiring the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device; and

(B) may require their use on some or all flights on aircraft for which such containers are available.

(2) PILOT PROGRAM.—Before requiring the use of such containers on any such flights, the Secretary of Homeland Security shall conduct a pilot program to evaluate the use of currently available blast-resistant containers for cargo and baggage on passenger

aircraft. In conducting the pilot program the Secretary—

(A) shall test the feasibility of using the containers by deploying them on participating air carrier flights; but

(B) may not disclose to the public the number of blast-resistant containers being used in the program or publicly identify the flights on which the containers are used.

(3) ASSISTANCE FOR PARTICIPATION IN PILOT PROGRAM.—

(A) IN GENERAL.—As part of the pilot program, the Secretary may provide assistance to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(B) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires.

(C) TYPES OF ASSISTANCE.—Assistance provided by the Secretary to air carriers that volunteer to participate in the pilot program may include the use of blast-resistant con-

tainers and financial assistance to cover increased costs to the carriers associated with the use and maintenance of the containers, including increased fuel costs.

(4) TECHNOLOGICAL IMPROVEMENTS.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation, shall—

(A) support efforts to further the development and improvement of blast-resistant containers for potential use on aircraft, including designs that—

(i) will work on a variety of aircraft, including narrow body aircraft; and

(ii) minimize the weight of such containers without compromising their effectiveness; and

(B) explore alternative technologies for minimizing the potential effects of detonation of an explosive device on cargo and passenger aircraft.

(5) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the pilot program and on progress made in developing improved containers and equivalent technologies.

The report may be submitted in classified and redacted formats.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this section. Such sums shall remain available until expended.

(f) 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).

SEC. 1035. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

Subtitle D—National Preparedness

SEC. 1041. 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. 1042. 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 Colum-

bia, 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. 1043. 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. 1044. 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 805, 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

1 Protection Association 1600 Standard on Disaster/Emer-
2 gency Management and Business Continuity Programs.''.
3 (2) TECHNICAL AND CONFORMING AMEND-
4 MENT.—Section 1(b) of that Act, as amended by
5 section 805, is amended by inserting after the item
6 relating to section 510 the following:

''Sec. 511. Private sector preparedness program.''.

7 (c) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that insurance and credit-rating industries should
9 consider compliance with the voluntary national prepared-
10 ness standard, the adoption of which is promoted by the
11 Secretary of Homeland Security under section 511 of the
12 Homeland Security Act of 2002, as added by subsection
13 (b), in assessing insurability and credit worthiness.

14 **SEC. 1045. CRITICAL INFRASTRUCTURE AND READINESS**
15 **ASSESSMENTS.**

16 (a) FINDINGS.—Congress finds the following:
17 (1) Under section 201 of the Homeland Secu-
18 rity Act of 2002 (6 U.S.C 121), the Department of
19 Homeland Security, through the Under Secretary
20 for Information Analysis and Infrastructure Protec-
21 tion, has the responsibility—
22 (A) to carry out comprehensive assess-
23 ments of the vulnerabilities of the key resources
24 and critical infrastructure of the United States,
25 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. 1046. 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 Department of Defense has primary responsibility for the military defense of the United States.

(2) Prior to September 11, 2001, the North American Aerospace Defense Command (NORAD), which had responsibility for defending United States airspace, focused on threats coming from outside the borders of the United States.

(3) The United States Northern Command has been established to assume responsibility for the military defense of the United States, as well as to provide military support to civil authorities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of the plans and strategies of the United States Northern Command with a view to ensuring that the United States Northern Command is prepared to respond effectively to all threats within the United States, should it be called upon to do so by the President.

(c) ANNUAL REPORT.—

(1) REQUIREMENT FOR REPORT.—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 an annual report describing the plans and strategies of the United States Northern Command to defend the United States against all threats within the United States, in the case that it is called upon to do so by the President.

(2) SUBMISSION OF REPORT.—The annual report required by paragraph (1) shall be submitted in conjunction with the submission of the President's budget request to Congress.

SEC. 1047. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title takes effect on the date of the enactment of this Act.

Subtitle E—Homeland Security Grants

SEC. 1051. SHORT TITLE.

This title may be cited as the ''Homeland Security Grant Enhancement Act of 2004''.

SEC. 1052. DEFINITIONS.

In this title, the following definitions shall apply:

(1) INSULAR AREA.—The term ''insular area'' means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(2) LARGE HIGH-THREAT STATE FUND.—The term ''Large High-Threat State Fund'' means the fund containing amounts authorized to be appropriated for States that elect to receive Federal financial assistance through a per capita share of 38.625 percent of the amount appropriated for the State Homeland Security Grant Program.

(3) LOCAL GOVERNMENT.—The term ''local government'' has the same meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(4) STATE.—The term ''State'' means each of the several States of the United States and the District of Columbia.

(5) STATE HOMELAND SECURITY GRANT PROGRAM.—The term ''State Homeland Security Grant Program'' means the program receiving 75 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

(6) THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.—The term ''Threat-Based Homeland Security Grant Program'' means the program authorized under section 6.

(7) URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.—The term ''Urban Area Security Initiative Grant Program'' means the program receiving 25 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

SEC. 1053. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR TRADITIONAL FIRST RESPONDER MISSIONS.

(a) IN GENERAL.—This title shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (b), which existed on September 10, 2001, to enhance traditional missions

of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(b) PROGRAMS INCLUDED.—The programs referred to in subsection (a) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106–74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

(7) Grant programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5206).

SEC. 1054. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 801 the following:

"SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in coordination with the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other agencies providing assistance for first responder preparedness, as identified by the President, shall establish the Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs (referred to in this subtitle as the 'Interagency Committee').

"(2) COMPOSITION.—The Interagency Committee shall be composed of—

"(A) a representative of the Department;

"(B) a representative of the Department of Health and Human Services;

"(C) a representative of the Department of Transportation;

"(D) a representative of the Department of Justice;

"(E) a representative of the Environmental Protection Agency; and

"(F) a representative of any other department or agency determined to be necessary by the President.

1 "(3) RESPONSIBILITIES.—The Interagency
2 Committee shall—
3 "(A) report on findings to the Information
4 Clearinghouse established under section 801(d);
5 "(B) consult with State and local govern-
6 ments and emergency response providers re-
7 garding their homeland security needs and ca-
8 pabilities;
9 "(C) advise the Secretary on the develop-
10 ment of performance measures for homeland se-
11 curity grant programs and the national strategy
12 for homeland security;
13 "(D) compile a list of homeland security
14 assistance programs;
15 "(E) not later than 1 year after the effec-
16 tive date of the Homeland Security Grant En-
17 hancement Act of 2004—
18 "(i) develop a proposal to coordinate,
19 to the maximum extent practicable, the
20 planning, reporting, application, and other
21 guidance documents contained in homeland
22 security assistance programs to eliminate
23 all redundant and duplicative require-
24 ments; and

"(ii) submit the proposal developed under clause (i) to Congress and the President.

"(b) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee, which shall include—

"(1) scheduling meetings;

"(2) preparing agenda;

"(3) maintaining minutes and records; and

"(4) producing reports.

"(c) CHAIRPERSON.—The Secretary shall designate a chairperson of the Interagency Committee.

"(d) MEETINGS.—The Interagency Committee shall meet—

"(1) at the call of the Secretary; or

"(2) not less frequently than once every 1 month.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 801 the following:

"Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs.".

SEC. 1055. STREAMLINING FEDERAL HOMELAND SECURITY GRANTS.

(a) DIRECTOR OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.—Section 801(a) of the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is amended to read as follows:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Office of the Secretary the Office for State and Local Government Coordination and Preparedness, which shall oversee and coordinate departmental programs for, and relationships with, State and local governments.

''(2) EXECUTIVE DIRECTOR.—The Office established under paragraph (1) shall be headed by the Executive Director of State and Local Government Coordination and Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate.''.

(b) OFFICE FOR DOMESTIC PREPAREDNESS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by redesignating section 430 as section 803 and transferring that section to the end of subtitle A of title VIII, as amended by section 4; and

(2) in section 803, as redesignated by paragraph (1)—

(A) in subsection (a), by striking ''the Directorate of Border and Transportation Security'' and inserting ''the Office for State and Local Government Coordination and Preparedness'';

(B) in subsection (b), by striking ''who shall be appointed by the President'' and all that follows and inserting ''who shall report directly to the Executive Director of State and Local Government Coordination and Preparedness.'';

(C) in subsection (c)—

(i) in paragraph (7)—

(I) by striking ''other'' and inserting ''the'';

(II) by striking ''consistent with the mission and functions of the Directorate''; and

(III) by striking ''and'' at the end; and

(ii) in paragraph (8)—

(I) by inserting ''carrying out'' before ''those elements'';

(II) by striking the period at the end and inserting "; and" ; and

(iii) by adding at the end the following:

"(9) managing the Homeland Security Information Clearinghouse established under section 801(d).";

(D) by redesignating subsection (d) as subsection (e).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by striking the item relating to section 430;

(2) by amending section 801 to read as follows:

"Sec. 801. Office of State and Local Government Coordination and Preparedness."; and

(3) by inserting after the item relating to section 802, as added by this Act, the following:

"Sec. 803. Office for Domestic Preparedness.".

(d) ESTABLISHMENT OF HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), as amended by subsection (a), is further amended by adding at the end the following:

"(d) HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—

"(1) ESTABLISHMENT.—There is established within the Office for State and Local Government Coordination a Homeland Security Information Clearinghouse (referred to in this section as the 'Clearinghouse'), which shall assist States, local governments, and first responders in accordance with paragraphs (2) through (6).

"(2) HOMELAND SECURITY GRANT INFORMATION.—The Clearinghouse shall create a new website or enhance an existing website, establish a toll-free number, and produce a single publication that each contain information regarding the homeland security grant programs identified under section 802(a)(4).

"(3) TECHNICAL ASSISTANCE.—The Clearinghouse, in consultation with the Interagency Committee established under section 802, shall provide information regarding—

"(A) technical assistance provided by any Federal agency to States and local governments regarding homeland security matters; and

"(B) templates for conducting threat analyses and vulnerability assessments.

"(4) BEST PRACTICES.—The Clearinghouse shall work with States, local governments, emer-

gency response providers and the National Domestic Preparedness Consortium, and private organizations to gather, validate, and disseminate information regarding successful State and local homeland security programs and practices.

''(5) USE OF FEDERAL FUNDS.—The Clearinghouse shall compile information regarding equipment, training, and other services purchased with Federal funds provided under the homeland security grant programs identified under section 802(a)(4), and make such information, and information regarding voluntary standards of training, equipment, and exercises, available to States, local governments, and first responders.

''(6) OTHER INFORMATION.—The Clearinghouse shall provide States, local governments, and first responders with any other information that the Secretary determines necessary.''.

SEC. 1056. THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security (referred to in this section as the ''Secretary'') may award grants to States and local governments to enhance homeland security.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under subsection (a)—

(A) shall be used to address homeland security matters related to acts of terrorism or major disasters and related capacity building; and

(B) shall not be used to supplant ongoing first responder expenses or general protective measures.

(2) ALLOWABLE USES.—Grants awarded under subsection (a) may be used to—

(A) develop State plans or risk assessments (including the development of the homeland security plan) to respond to terrorist attacks and strengthen all hazards emergency planning and communitywide plans for responding to terrorist or all hazards emergency events that are coordinated with the capacities of applicable Federal, State, and local governments, first responders, and State and local government health agencies;

(B) develop State, regional, or local mutual aid agreements;

(C) purchase or upgrade equipment based on State and local needs as identified under a State homeland security plan;

(D) conduct exercises to strengthen emergency preparedness of State and local first responders including law enforcement, firefighting personnel, and emergency medical service workers, and other emergency responders identified in a State homeland security plan;

(E) pay for overtime expenses relating to—

(i) training activities consistent with the goals outlined in a State homeland security plan;

(ii) as determined by the Secretary, activities relating to an increase in the threat level under the Homeland Security Advisory System; and

(iii) any other activity relating to the State Homeland Security Strategy, and approved by the Secretary;

(F) promote training regarding homeland security preparedness including—

(i) emergency preparedness responses to a use or threatened use of a weapon of mass destruction; and

(ii) training in the use of equipment, including detection, monitoring, and decontamination equipment, and personal protective gear; and

(G) conduct any activity permitted under the Law Enforcement Terrorism Prevention Grant Program.

(3) PROHIBITED USES.—

(A) CONSTRUCTION.—Grants awarded under subsection (a) may not be used to construct buildings or other physical facilities, except those described in section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) and approved by the Secretary in the homeland security plan certified under subsection (d), or to acquire land.

(B) COST SHARING.—Grant funds provided under this section shall not be used for any State or local government cost sharing contribution request under this section.

(c) APPLICATION.—

(1) SUBMISSION.—A State may apply for a grant under this section by submitting to the Secretary an application at such time, and in such manner, and containing such information the Secretary may reasonably require.

(2) REVISIONS.—A State may revise a homeland security plan certified under subsection (d) at the time an application is submitted under paragraph (1) after receiving approval from the Secretary.

(3) APPROVAL.—The Secretary shall not award a grant under this section unless the application submitted by the State includes a homeland security plan meeting the requirements of subsection (d).

(4) RELEASE OF FUNDS.—The Secretary shall release grant funds to States with approved plans after the approval of an application submitted under this subsection.

(d) HOMELAND SECURITY PLAN.—

(1) IN GENERAL.—An application submitted under subsection (c) shall include a certification that the State has prepared a 3-year State homeland security plan (referred to in this subsection as the ''plan'') to respond to terrorist attacks and strength-

en all hazards emergency planning that has been approved by the Secretary.

(2) CONTENTS.—The plan shall contain measurable goals and objectives that—

(A) establish a 3-year strategy to set priorities for the allocation of funding to political subdivisions based on the risk, capabilities, and needs described under paragraph (3)(C);

(B) provide for secure interoperable communications;

(C) provide for local coordination of response and recovery efforts, including procedures for effective incident command in conformance with the National Incident Management System;

(D) ensure that first responders and other emergency personnel have adequate training and appropriate equipment for the threats that may occur;

(E) provide for improved coordination and collaboration among police, fire, and public health authorities at State and local levels;

(F) coordinate emergency response and public health plans;

(G) mitigate risks to critical infrastructure that may be vulnerable to terrorist attacks;

(H) promote regional coordination among contiguous local governments;

(I) identify necessary protective measures by private owners of critical infrastructure;

(J) promote orderly evacuation procedures when necessary;

(K) ensure support from the public health community for measures needed to prevent, detect and treat bioterrorism, and radiological and chemical incidents;

(L) increase the number of local jurisdictions participating in local and statewide exercises;

(M) meet preparedness goals as determined by the Secretary; and

(N) include a report from the relevant advisory committee established under paragraph (3)(D) that documents the areas of support, disagreement, or recommended changes to the plan before its submission to the Secretary.

(3) DEVELOPMENT PROCESS.—

(A) IN GENERAL.—In preparing the plan under this section, a State shall—

(i) provide for the consideration of all homeland security needs;

(ii) follow a process that is continuing, inclusive, cooperative, and comprehensive, as appropriate; and

(iii) coordinate the development of the plan with the homeland security planning activities of local governments.

(B) COORDINATION WITH LOCAL PLANNING ACTIVITIES.—The coordination under subparagraph (A)(iii) shall contain input from local stakeholders, including—

(i) local officials, including representatives of rural, high-population, and high-threat jurisdictions;

(ii) first responders and emergency response providers; and

(iii) private sector companies, such as railroads and chemical manufacturers.

(C) SCOPE OF PLANNING.—Each State preparing a plan under this section shall, in conjunction with the local stakeholders under subparagraph (B), address all the information requested by the Secretary, and complete a comprehensive assessment of—

(i) risk, including a—

(I) vulnerability assessment;

(II) threat assessment; and

(III) public health assessment, in coordination with the State bioterrorism plan; and

(ii) capabilities and needs, including—

(I) an evaluation of current preparedness, mitigation, and response capabilities based on such assessment mechanisms as shall be determined by the Secretary;

(II) an evaluation of capabilities needed to address the risks described under clause (i); and

(III) an assessment of the shortfall between the capabilities described under subclause (I) and the required capabilities described under subclause (II).

(D) ADVISORY COMMITTEE.—

(i) IN GENERAL.—Each State preparing a plan under this section shall establish an advisory committee to receive comments from the public and the local

stakeholders identified under subparagraph (B).

(ii) COMPOSITION.—The Advisory Committee shall include local officials, local first responders, and emergency response providers that are representative of the counties, cities, and towns within the State, and which shall include representatives of rural, high-population, and high-threat jurisdictions.

(4) PLAN APPROVAL.—The Secretary shall approve a plan upon finding that the plan meets the requirements of—

(A) paragraphs (2) and (3);

(B) the interim performance measurements under subsection (g)(1), or the national performance standards under subsection (g)(2); and

(C) any other criteria the Secretary determines necessary to the approval of a State plan.

(5) REVIEW OF ADVISORY COMMITTEE REPORT.—The Secretary shall review the recommendations of the advisory committee report incorporated into a plan under subsection (d)(2)(N), including any dissenting views submitted by advisory com-

mittee members, to ensure cooperation and coordination between local and State jurisdictions in planning the use of grant funds under this section.

(e) TENTATIVE ALLOCATION.—

(1) URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall allocate 25 percent of the funds appropriated under the Threat-Based Homeland Security Grant Program for discretionary grants to be provided directly to local governments, including multistate entities established by a compact between 2 or more States, in high threat areas, as determined by the Secretary based on the criteria under subparagraph (B).

(B) CRITERIA.—The Secretary shall ensure that each local government receiving a grant on the basis of terrorist threat under this paragraph—

(i) has a large population or high population density;

(ii) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset iden-

tified by the Secretary or State homeland security plan;

(iii) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(iv) are subject to other threat factors specified in writing by the Secretary.

(C) CONSISTENCY.—Any grant awarded under this paragraph shall be used to supplement and support, in a consistent and coordinated manner, those activities and objectives described under subsection (b) or a State homeland security plan.

(D) COORDINATION.—The Secretary shall ensure that any grants made under this paragraph encourage multiple contiguous units of local government and mutual aid partners to coordinate any homeland security activities.

(2) STATE HOMELAND SECURITY GRANT PROGRAM.—

(A) STATES.—Each State whose application is approved under subsection (c) shall receive, for each fiscal year, the greater of—

(i) 0.75 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the State's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(B) INSULAR AREAS.—Each insular area shall receive, for each fiscal year, the greater of—

(i) 0.075 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the insular area's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(3) SECONDARY DISTRIBUTION.—After the distribution of funds under paragraph (2), the Secretary shall, from the remaining funds for the State Homeland Security Grant Program and 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), distribute on the basis of terrorist threat amounts to each State that—

(A) has a substantial percentage of its population residing in Metropolitan Statistical Areas, as defined by the Office of Management and Budget;

(B) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(C) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(D) are subject to other threat factors specified in writing by the Secretary.

(4) DISTRIBUTION OF FUNDS.—If the amounts tentatively allocated under paragraphs (1) through (3) equal the sum of the amounts appropriated pursuant to subsection (j), the Secretary shall distribute the appropriated amounts based on the tentative allocation.

(5) PROPORTIONAL REDUCTION.—If the amount appropriated for the Large High-Threat State Fund pursuant to subsection (j)(2) is less than 10.8 percent of the amount appropriated for

the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), the Secretary shall proportionately reduce the amounts tentatively allocated under paragraphs (1) through (3) so that the amount distributed is equal to the sum of the amounts appropriated for such programs.

(6) FUNDING FOR LOCAL ENTITIES AND FIRST RESPONDERS.—The Secretary shall require recipients of the State Homeland Security Grant to provide local governments and first responders, consistent with the applicable State homeland security plan, with not less than 80 percent of the grant funds, the resources purchased with such grant funds, or a combination thereof, not later than 60 days after receiving grant funding.

(7) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this subsection shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this Act.

(8) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

(A) IN GENERAL.—The Secretary shall designate not more than 25 percent of the amounts allocated through the State Homeland

Security Grant Program to be used for the Law Enforcement Terrorism Prevention Program to provide grants to law enforcement agencies to enhance capabilities for terrorism prevention.

(B) USE OF FUNDS.—Grants awarded under this paragraph may be used for—

(i) information sharing to preempt terrorist attacks;

(ii) target hardening to reduce the vulnerability of selected high value targets;

(iii) threat recognition to recognize the potential or development of a threat;

(iv) intervention activities to interdict terrorists before they can execute a threat;

(v) interoperable communication systems;

(vi) overtime expenses related to the State Homeland Security Strategy approved by the Secretary; and

(vii) any other terrorism prevention activity authorized by the Secretary.

(f) REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a grant under this section shall annually submit a report to the Secretary that contains—

(A) an accounting of the amount of State and local funds spent on homeland security activities under the applicable State homeland security plan; and

(B) information regarding the use of grant funds by units of local government as required by the Secretary.

(g) ACCOUNTABILITY.—

(1) INTERIM PERFORMANCE MEASURES.—

(A) IN GENERAL.—Before establishing performance standards under paragraph (2), the Secretary shall assist each State in establishing interim performance measures based upon—

(i) the goals and objectives under subsection (d)(2); and

(ii) any other factors determined by the Secretary.

(B) ANNUAL REPORT.—Before establishing performance measures under paragraph (2), each State with an approved State plan shall submit to the Secretary a report detailing the progress the State has made in meeting the interim performance measures established under subparagraph (A).

(2) NATIONAL PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall set national performance standards based in part on the goals and objectives under subsection (d)(2) and any other factors the Secretary determines relevant.

(B) COMPLIANCE.—The Secretary shall ensure that State plans are in conformance with the standards set under subparagraph (A).

(C) ANNUAL REPORT.—After the establishment of performance standards under subparagraph (A), each State with an approved State homeland security plan shall submit to the Secretary a report on the progress the State has made in meeting such standards.

(3) GENERAL ACCOUNTING OFFICE ACCESS TO INFORMATION.—Each recipient of a grant under this section and the Department of Homeland Security shall provide the General Accounting Office with full access to information regarding the activities carried out under this section.

(4) AUDIT.—Grant recipients that expend $500,000 or more in Federal funds during any fiscal year shall submit to the Secretary an organization wide financial and compliance audit report in con-

formance with the requirements of chapter 75 of title 31, United States Code.

(h) REMEDIES FOR NON-COMPLIANCE.—

(1) IN GENERAL.—If the Secretary finds, after reasonable notice and an opportunity for a hearing, that a recipient of a grant under this section has failed to substantially comply with any provision of this section, the Secretary shall—

(A) terminate any payment of grant funds to be made to the recipient under this section;

(B) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not expended by the recipient in accordance with this section; or

(C) limit the use of grant funds received under this section to programs, projects, or activities not affected by the failure to comply.

(2) DURATION OF PENALTY.—The Secretary shall apply an appropriate penalty under paragraph (1) until such time as the Secretary determines that the grant recipient is in full compliance with this section.

(3) DIRECT FUNDING.—If a State fails to substantially comply with any provision of this section,

including failing to provide local governments with grant funds or resources purchased with grant funds in a timely fashion, a local government entitled to receive such grant funds or resources may petition the Secretary, at such time and in such manner as determined by the Secretary, to request that grant funds or resources be provided directly to the local government.

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants, where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(j) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to Congress that provides—

(1) findings relating to the performance standards established under subsection (g);

(2) the status of preparedness goals and objectives;

(3) an evaluation of how States and local governments are meeting preparedness goals and objectives;

(4) the total amount of resources provided to the States;

(5) the total amount of resources provided to units of local government; and

(6) a list of how these resources were expended.

(k) AUTHORIZATION OF APPROPRIATIONS.—

(1) THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) LARGE HIGH-THREAT STATE FUND.—There are authorized to be appropriated 10.8 percent of the funds appropriated in any fiscal year pursuant to paragraph (1), which shall be used to carry out the Large High-Threat State Fund.

SEC. 1057. ELIMINATING HOMELAND SECURITY FRAUD, WASTE, AND ABUSE.

(a) ANNUAL GENERAL ACCOUNTING OFFICE AUDIT AND REPORT.—

(1) AUDIT.—The Comptroller General shall conduct an annual audit of the Threat Based Homeland Security Grant Program

(2) REPORT.—The Comptroller General shall provide a report to Congress on the results of the audit conducted under paragraph (1), which includes—

(A) an analysis of whether the grant recipients allocated funding consistent with the State homeland security plan and the guidelines established by the Department of Homeland Security; and

(B) the amount of funding devoted to overtime and administrative expenses.

(b) REVIEWS OF THREAT-BASED HOMELAND SECURITY FUNDING.—The Secretary, through the appropriate

agency, shall conduct periodic reviews of grants made through the Threat Based Homeland Security Grant Program to ensure that recipients allocate funds consistent with the guidelines established by the Department of Homeland Security.

(c) REMEDIES FOR NON-COMPLIANCE.—If the Secretary determines, after reasonable notice and an opportunity for a hearing, that a recipient of a Threat Based Homeland Security Grant has failed to substantially comply with any regulations or guidelines issues by the Department regarding eligible expenditures, the Secretary shall—

(1) terminate any payment of grant funds scheduled to be made to the recipient;

(2) reduce the amount of payment of grant finds to the recipient by an amount equal to the amount of grant funds that were not expended by the recipient in accordance with such guidelines; or

(3) limit the use of grant funds received under the Threat Based Homeland Security Grant Program to programs, projects, or activities not affected by the failure to comply.

(d) DURATION OF PENALTY.—The Secretary shall apply an appropriate penalty under subsection (c) until such time as the Secretary determines that the grant re-

cipient is in full compliance with the guidelines established by the Department of Homeland Security.

SEC. 1058. FLEXIBILITY IN UNSPENT HOMELAND SECURITY FUNDS.

(a) REALLOCATION OF FUNDS.—The Director of the Office for Domestic Preparedness, Department of Homeland Security, shall allow any State to request approval to reallocate funds received pursuant to appropriations for the State Homeland Security Grant Program under Public Laws 105–277 (112 Stat. 2681 et seq.), 106–113 (113 Stat. 1501A–3 et seq.), 106–553 (114 Stat. 2762A–3 et seq.), 107–77 (115 Stat. 78 et seq.), or the Consolidated Appropriations Resolution of 2003 (Public Law 108–7), among the 4 categories of equipment, training, exercises, and planning.

(b) APPROVAL OF REALLOCATION REQUESTS.—The Director shall approve reallocation requests under subsection (a) in accordance with the State plan and any other relevant factors that the Secretary of Homeland Security determines to be necessary.

(c) LIMITATION.—A waiver under this section shall not affect the obligation of a State to pass through 80 percent of the amount appropriated for equipment to units of local government.

SEC. 1059. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid

waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section shall take effect on the date of enactment of this Act.

Subtitle F—Public Safety Spectrum

SEC. 1061. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Spectrum Availability for Emergency-Response and Law-Enforcement To Improve Vital Emergency Services Act" or the "SAVE LIVES Act".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 1061. Short title; table of contents.
Sec. 1062. Findings.
Sec. 1063. Setting a specific date for the availability of spectrum for public safety organizations and creating a deadline for the transition to digital television.
Sec. 1063. Studies of communications capabilities and needs.
Sec. 1064. Statutory authority for the Department of Homeland Security's "SAFECOM" program.
Sec. 1065. Grant program to provide enhanced interoperability of communications for first responders.
Sec. 1066. Digital transition public safety communications grant and consumer assistance fund.
Sec. 1067. Digital transition program.
Sec. 1068. FCC Authority to require label requirement for analog television sets.
Sec. 1069. Report on consumer education program requirements.
Sec. 1070. FCC to issue decision in certain proceedings.
Sec. 1071. Definitions.
Sec. 1072. Effective date.

SEC. 1062. FINDINGS.

The Congress finds the following:

(1) In its final report, the 9–11 Commission advocated that Congress pass legislation providing for the expedited and increased assignment of radio spectrum for public safety purposes. The 9–11 Commission stated that this spectrum was necessary to improve communications between local, State and

Federal public safety organizations and public safety organizations operating in neighboring jurisdictions that may respond to an emergency in unison.

(2) Specifically, the 9–11 Commission report stated ''The inability to communicate was a critical element at the World Trade Center, Pentagon and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.''.

(3) In the Balanced Budget Act of 1997, the Congress directed the FCC to allocate spectrum currently being used by television broadcasters to public safety agencies to use for emergency communications. This spectrum has specific characteristics that make it an outstanding choice for emergency communications because signals sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

(4) This spectrum will not be fully available to public safety agencies until the completion of the

digital television transition. The need for this spectrum is greater than ever. The nation cannot risk further loss of life due to public safety agencies' first responders' inability to communicate effectively in the event of another terrorist act or other crisis, such as a hurricane, tornado, flood, or earthquake.

(5) In the Balanced Budget Act of 1997, Congress set a date of December 31, 2006, for the termination of the digital television transition. Under current law, however, the deadline will be extended if fewer than 85 percent of the television households in a market are able to continue receiving local television broadcast signals.

(6) Federal Communications Commission Chairman Michael K. Powell testified at a hearing before the Senate Commerce, Science, and Transportation Committee on September 8, 2004, that, absent government action, this extension may allow the digital television transition to continue for ''decades'' or ''multiples of decades''.

(7) The Nation's public safety and welfare cannot be put off for ''decades'' or ''multiples of decades''. The Federal government should ensure that this spectrum is available for use by public safety organizations by January 1, 2009.

(8) Any plan to end the digital television transition would be incomplete if it did not ensure that consumers would be able to continue to enjoy over-the-air broadcast television with minimal disruption. If broadcasters air only a digital signal, some consumers may be unable to view digital transmissions using their analog-only television set. Local broadcasters are truly an important part of our homeland security and often an important communications vehicle in the event of a national emergency. Therefore, consumers who rely on over-the-air television, particularly those of limited economic means, should be assisted.

(9) The New America Foundation has testified before Congress that the cost to assist these 17.4 million exclusively over-the-air households to continue to view television is less than $1 billion dollars for equipment, which equates to roughly 3 percent of the Federal revenue likely from the auction of the analog television spectrum.

(10) Specifically, the New America Foundation has estimated that the Federal Government's auction of this spectrum could yield $30-to-$40 billion in revenue to the Treasury. Chairman Powell stated at the September 8, 2004, hearing that ''estimates

of the value of that spectrum run anywhere from $30 billion to $70 billion''.

(11) Additionally, there will be societal benefits with the return of the analog broadcast spectrum. Former FCC Chairman Reed F. Hundt, at an April 28, 2004, hearing before the Senate Commerce, Science, and Transportation Committee, testified that this spectrum ''should be the fit and proper home of wireless broadband''. Mr. Hundt continued, ''Quite literally, [with this spectrum] the more millions of people in rural America will be able to afford Big Broadband Internet access, the more hundreds of millions of people in the world will be able to afford joining the Internet community.''.

(12) Due to the benefits that would flow to the Nation's citizens from the Federal Government reclaiming this analog television spectrum—including the safety of our Nation's first responders and those protected by first responders, additional revenues to the Federal treasury, millions of new jobs in the telecommunications sector of the economy, and increased wireless broadband availability to our Nation's rural citizens—Congress finds it necessary to set January 1, 2009, as a firm date for the return of this analog television spectrum.

SEC. 1063. SETTING A SPECIFIC DATE FOR THE AVAILABILITY OF SPECTRUM FOR PUBLIC SAFETY ORGANIZATIONS AND CREATING A DEADLINE FOR THE TRANSITION TO DIGITAL TELEVISION.

(a) IN GENERAL.—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) ACCELERATION OF DEADLINE FOR PUBLIC SAFETY USE.—

"(i) Notwithstanding subparagraphs (A) and (B), the Commission shall take all action necessary to complete by December 31, 2007—

"(I) the return of television station licenses operating on channels between 764 and 776 megaHertz and between 794 and 806 megaHertz; and

"(II) assignment of the electromagnetic spectrum between 764 and 776 megahertz, and between 794 and 806 megahertz, for public safety services.

"(ii) Notwithstanding subparagraphs (A) and (B), the Commission shall have the authority to modify, reassign, or re-

quire the return of, the television station licenses assigned to frequencies between 758 and 764 megahertz, 776 and 782 megahertz, and 788 and 794 megahertz as necessary to permit operations by public safety services on frequencies between 764 and 776 megahertz and between 794 and 806 megahertz, after the date of enactment of this section, but such modifications, reassignments, or returns may not take effect until after December 31, 2007.''.

(b) The FCC may waive the requirements of sections (i) and (ii) and such other rules as necessary—

(A) in the absence of a bona fide request from relevant first responders in the affected designated market area, and;

(B) to the extent necessary to avoid consumer disruption but only if all relevant public safety entities are able to use such frequencies free of interference by December 31, 2007, or are otherwise able to resolve interference issues with relevant broadcast licensee by mutual agreement.''

SEC. 1064. STUDIES OF COMMUNICATIONS CAPABILITIES AND NEEDS.

(a) IN GENERAL.—The Commission, in consultation with the Secretary of Homeland Security, shall conduct a study to assess strategies that may be used to meet public safety communications needs, including—

(1) the short-term and long-term need for additional spectrum allocation for Federal, State, and local first responders, including an additional allocation of spectrum in the 700 megaHertz band;

(2) the need for a nationwide interoperable broadband mobile communications network;

(3) the ability of public safety entities to utilize wireless broadband applications; and

(4) the communications capabilities of first receivers such as hospitals and health care workers, and current efforts to promote communications coordination and training among the first responders and the first receivers.

(b) REALLOCATION STUDY.—The Commission shall conduct a study to assess the advisability of reallocating any amount of spectrum in the 700 megaHertz band for unlicensed broadband uses. In the study, the Commission shall consider all other possible users of this spectrum, including public safety.

(c) REPORT.—The Commission shall report the results of the studies, together with any recommendations it may have, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 1 year after the date of enactment of this Act.

SEC. 1065. STATUTORY AUTHORITY FOR THE DEPARTMENT OF HOMELAND SECURITY'S "SAFECOM" PROGRAM.

Section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The"; and

(2) by adding at the end the following:

"(b) SAFECOM AUTHORIZED.—

"(1) IN GENERAL.—In carrying out subsection (a), the Under Secretary shall establish a program to address the interoperability of communications devices used by Federal, State, tribal, and local first responders, to be known as the Wireless Public Safety Interoperability Communications Program, or 'SAFECOM'. The Under Secretary shall coordinate the program with the Director of the Department of Justice's Office of Science and Technology and all other Federal programs engaging in communications

interoperability research, development, and funding activities to ensure that the program takes into account, and does not duplicate, those programs or activities.

"(2) COMPONENTS.—The program established under paragraph (1) shall be designed—

"(A) to provide research on the development of a communications system architecture that would ensure the interoperability of communications devices among Federal, State, tribal, and local officials that would enhance the potential for a coordinated response to a national emergency;

"(B) to support the completion and promote the adoption of mutually compatible voluntary consensus standards developed by a standards development organization accredited by the American National Standards Institute to ensure such interoperability; and

"(C) to provide for the development of a model strategic plan that could be used by any State or region in developing its communications interoperability plan.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection—

"(A) $22,105,000 for fiscal year 2005;

"(B) $22,768,000 for fiscal year 2006;

"(C) $23,451,000 for fiscal year 2007;

"(D) $24,155,000 for fiscal year 2008; and

"(E) $24,879,000 for fiscal year 2009.

"(c) NATIONAL BASELINE STUDY OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.—By December 31, 2005, the Under Secretary of Homeland Security for Science and Technology shall complete a study to develop a national baseline for communications interoperability and develop common grant guidance for all Federal grant programs that provide communications-related resources or assistance to State and local agencies, any Federal programs conducting demonstration projects, providing technical assistance, providing outreach services, providing standards development assistance, or conducting research and development with the public safety community with respect to wireless communications. The Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce con-

taining the Under Secretary's findings, conclusions, and recommendations from the study.''.

SEC. 1066. GRANT PROGRAM TO PROVIDE ENHANCED INTEROPERABILITY OF COMMUNICATIONS FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program to help State, local, tribal, and regional first responders acquire and deploy interoperable communications equipment, purchase such equipment, and train personnel in the use of such equipment. The Secretary, in cooperation with the heads of other Federal departments and agencies who administer programs that provide communications-related assistance programs to State, local, and tribal public safety organizations, shall develop and implement common standards to the greatest extent practicable.

(b) APPLICATIONS.—To be eligible for assistance under the program, a State, local, tribal, or regional first responder agency shall submit an application, at such time, in such form, and containing such information as the Under Secretary of Homeland Security for Science and Technology may require, including—

(1) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure

interoperability with other appropriate Federal, State, local, tribal, and regional agencies in a regional or national emergency;

(2) assurance that the equipment and system would—

(A) not be incompatible with the communications architecture developed under section 302(b)(2)(A) of the Homeland Security Act of 2002;

(B) would meet any voluntary consensus standards developed under section 302(b)(2)(B) of that Act; and

(C) be consistent with the common grant guidance established under section 302(b)(3) of the Homeland Security Act of 2002.

(c) GRANTS.—The Under Secretary shall review applications submitted under subsection (b). The Secretary, pursuant to an application approved by the Under Secretary, may make the assistance provided under the program available in the form of a single grant for a period of not more than 3 years.

SEC. 1067. DIGITAL TRANSITION PUBLIC SAFETY COMMUNICATIONS GRANT AND CONSUMER ASSISTANCE FUND.

(a) IN GENERAL.—There is established on the books of the Treasury a separate fund to be known as the ''Digital Transition Consumer Assistance Fund'', which shall be administered by the Secretary, in consultation with the Assistant Secretary of Commerce for Communications and Information.

(b) CREDITING OF RECEIPTS.—The Fund shall be credited with the amount specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

(c) FUND AVAILABILITY.—

(1) APPROPRIATIONS.—

(A) CONSUMER ASSISTANCE PROGRAM.—There are appropriated to the Secretary from the Fund such sums, not to exceed $1,000,000,000, as are required to carry out the program established under section 8 of this Act.

(B) PSO GRANT PROGRAM.—To the extent that amounts available in the Fund exceed the amount required to carry out that program, there are authorized to be appropriated to the Secretary of Homeland Security, such sums as

are required to carry out the program established under section 6 of this Act, not to exceed an amount, determined by the Director of the Office of Management and Budget, on the basis of the findings of the National Baseline Interoperability study conducted by the SAFECOM Office of the Department of Homeland Security.

(2) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the date on which the programs under section 6 and 8 of this Act terminate, as determined by the Secretary of Homeland Security and the Secretary of Commerce respectively, shall revert to and be deposited in the general fund of the Treasury.

(d) DEPOSIT OF AUCTION PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by inserting ''or subparagraph (D)'' in subparagraph (A) after ''subparagraph (B)''; and

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

''(D) DISPOSITION OF CASH PROCEEDS FROM AUCTION OF CHANNELS 52 THROUGH 69.—Cash proceeds attributable to the auction

of any eligible frequencies between 698 and 806 megaHertz on the electromagnetic spectrum conducted after the date of enactment of the SAVE LIVES Act shall be deposited in the Digital Transition Consumer Assistance Fund established under section 7 of that Act.''.

SEC. 1068. DIGITAL TRANSITION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Commission and the Director of the Office of Management and Budget, shall establish a program to assist households—

(1) in the purchase or other acquisition of digital-to-analog converter devices that will enable television sets that operate only with analog signal processing to continue to operate when receiving a digital signal;

(2) in the payment of a one-time installation fee (not in excess of the industry average fee for the date, locale, and structure involved, as determined by the Secretary) for installing the equipment required for residential reception of services provided by a multichannel video programming distributor (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 602(13)); or

(3) in the purchase of any other device that will enable the household to receive over-the-air digital television broadcast signals, but in an amount not in excess of the average per-household assistance provided under paragraphs (1) and (2).

(b) PROGRAM CRITERIA.—The Secretary shall ensure that the program established under subsection (a)—

(1) becomes publicly available no later than January 1, 2008;

(2) gives first priority to assisting lower income households (as determined by the Director of the Bureau of the Census for statistical reporting purposes) who rely exclusively on over-the-air television broadcasts;

(3) gives second priority to assisting other households who rely exclusively on over-the-air television broadcasts;

(4) is technologically neutral; and

(5) is conducted at the lowest feasible administrative cost.

SEC. 1069. FCC AUTHORITY TO REQUIRE LABEL REQUIREMENT FOR ANALOG TELEVISION SETS.

(a) IN GENERAL.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

1 "(z) If the Commission acts to set a hard deadline
2 for the return of analog spectrum pursuant to section
3 309(j)(14), it shall have the authority to require that any
4 apparatus described in paragraph (s) sold or offered for
5 sale in or affecting interstate commerce, that is incapable
6 of receiving and displaying a digital television broadcast
7 signal without the use of an external device that translates
8 digital television broadcast signals into analog television
9 broadcast signals have affixed to it and, if it is sold or
10 offered for sale in a container, affixed to that container,
11 a label that states that the apparatus will be incapable
12 of displaying over-the-air television broadcast signals re-
13 ceived after a date determined by the FCC, without the
14 purchase of additional equipment.".

15 (b) POINT OF SALE WARNING.—If the Commission
16 acts to set a hard deadline for the return of analog spec-
17 trum pursuant to section 309(j)(14), then the Commis-
18 sion, in consultation with the Federal Trade Commission,
19 shall have the authority to require the display at, or in
20 close proximity to, any commercial retail sales display of
21 television sets described in section 303(z) of the Commu-
22 nications Act of 1934 (47 U.S.C. 303(z)) sold or offered
23 for sale in or affecting interstate commerce after a date
24 determined by the Commission, of a printed notice that
25 clearly and conspicuously states that the sets will be in-

capable of displaying over-the-air television broadcast signals received after the hard deadline established by the Commission, without the purchase or lease of additional equipment.

SEC. 1070. REPORT ON CONSUMER EDUCATION PROGRAM REQUIREMENTS.

Within 1 year after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information, after consultation with the Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing recommendations with respect to—

(1) an effective program to educate consumers about the transition to digital television broadcast signals and the impact of that transition on consumers' choices of equipment to receive such signals;

(2) the need, if any, for Federal funding for such a program;

(3) the date of commencement and duration of such a program; and

(4) what department or agency should have the lead responsibility for conducting such a program.

SEC. 1071. FCC TO ISSUE DECISION IN CERTAIN PROCEEDINGS.

The Commission shall issue a final decision before—

(1) January 1, 2005, in the Matter of Carriage of Digital Television Broadcast Signals; Amendments to Part 76 of the Commission's Rules, CS Docket No. 98-120;

(2) January 1, 2005, in the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360; and

(3) January 1, 2006, in the Implementation of the Satellite Home Viewer Improvement Act of 1999; Local Broadcast Signal Carriage Issues, CS Docket No. 00-96.

SEC. 1072. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) FUND.—The term ''Fund'' means the Digital Transition Consumer Assistance Fund established by section 7.

(3) SECRETARY.—Except where otherwise expressly provided, the term ''Secretary'' means the Secretary of Commerce.

SEC. 1073. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

Subtitle G—Presidential Transition

SEC. 1081. 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 Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

"(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.".

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term ''major party'' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information

shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

TITLE XII—GENERAL PROVISIONS

SEC. 1101. 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''.

SEC. 1102. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an

electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of

interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Government Reform of the House of Representatives; and

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 1103. HOMELAND SECURITY GEOGRAPHIC INFORMATION.

(a) FINDINGS.—Congress finds that—

(1) geographic technologies and geographic data improve government capabilities to detect, plan, prepare, and respond to disasters in order to save lives and protect property;

(2) geographic data improves the ability of information technology applications and systems to enhance public security in a cost-effective manner; and

(3) geographic information preparedness in the United States, and specifically in the Department of Homeland Security, is insufficient because of—

(A) inadequate geographic data compatibility;

(B) insufficient geographic data sharing; and

(C) technology interoperability barriers.

(b) HOMELAND SECURITY GEOGRAPHIC INFORMATION.—Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Chief Information''; and

(2) by adding at the end the following:

''(b) GEOGRAPHIC INFORMATION FUNCTIONS.—

''(1) DEFINITION.—In this subsection, the term 'geographic information' means the information sys-

tems that involve locational data, such as maps or other geospatial information resources.

"(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

"(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

"(B) GEOSPATIAL INFORMATION OFFICER.—

"(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

"(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geographic information needs of the Department.

"(C) COORDINATION OF GEOGRAPHIC INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geographic information, which shall include—

"(i) providing such geographic information as may be necessary to implement the critical infrastructure protection programs;

"(ii) providing leadership and coordination in meeting the geographic information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

"(iii) coordinating with users of geographic information within the Department to assure interoperability and prevent unnecessary duplication.

"(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

"(i) coordinating the geographic information needs and activities of the Department;

"(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the

1 E-Government Act of 2002 (44 U.S.C.
2 3501 note), to facilitate the interoper-
3 ability of geographic information per-
4 taining to homeland security among all
5 users of such information within—
6 ''(I) the Department;
7 ''(II) State and local government;
8 and
9 ''(III) the private sector;
10 ''(iii) coordinating with the Federal
11 Geographic Data Committee and carrying
12 out the responsibilities of the Department
13 pursuant to Office of Management and
14 Budget Circular A–16 and Executive
15 Order 12906; and
16 ''(iv) making recommendations to the
17 Secretary and the Executive Director of
18 the Office for State and Local Government
19 Coordination and Preparedness on award-
20 ing grants to—
21 ''(I) fund the creation of geo-
22 graphic data; and
23 ''(II) execute information sharing
24 agreements regarding geographic data

with State, local, and tribal governments.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.".

SEC. 1104. URBAN AREA COMMUNICATIONS CAPABILITIES.

Section 510 of the Homeland Security Act of 2002, as added by this Act, is amended by inserting ", and shall have appropriate and timely access to the Information Sharing Network described in section 206(c) of the National Intelligence Reform Act of 2004" after "each other in the event of an emergency".

SEC. 1105. UNIFIED INCIDENT COMMAND CENTER.

The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

SEC. 1106. AVIATION AND TRANSPORTATION SECURITY ACT.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''more than'' and all that follows through ''after'' and inserting ''more than 48 months after''.

SEC. 1107. LIQUEFIED NATURAL GAS MARINE TERMINALS.

Congress finds that plans developed by the Department of Homeland Security to protect critical energy infrastructure should include risk assessments and protective measures for existing and proposed liquefied natural gas marine terminals.

SEC. 1108. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit a report to the Committee on Commerce, Science, and Transportation and the Committee on Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo

aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in classified and redacted form if the Secretary determines that it is appropriate or necessary.

SEC. 1109. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an applica-

tion to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SEC. 1110. TSA FIELD OFFICE INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS REPORT.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Congress, which may be transmitted in classified and redacted formats, setting forth—

(1) a descriptive list of each administrative and airport site of the Transportation Security Administration, including its location, staffing, and facilities;

(2) an analysis of the information technology and telecommunications capabilities, equipment, and support available at each such site, including—

(A) whether the site has access to broadband telecommunications;

(B) whether the site has the ability to access Transportation Security Administration databases directly;

(C) the means available to the site for communicating and sharing information and other data on a real time basis with the Transportation Security Administration's national, regional, and State offices as well as with other Transportation Security Administration sites;

(D) the means available to the site for communicating with other Federal, State, and local government sites with transportation security related responsibilities; and

(E) whether and to what extent computers in the site are linked through a local area network or otherwise, and whether the information technology resources available to the site are adequate to enable it to carry out its functions and purposes; and

(3) an assessment of current and future needs of the Transportation Security Administration to provide adequate information technology and telecommunications facilities, equipment, and support to its sites, and an estimate of the costs of meeting those needs.

SEC. 1111. INTELLIGENCE COMMUNITY USE OF NISAC CAPABILITIES.

The National Intelligence Director shall establish a formal relationship, including information sharing, between the intelligence community and the National Infrastructure Simulation and Analysis Center. Through this relationship, the intelligence community shall take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

SEC. 1112. NATIONWIDE INTEROPERABLE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Within one year of enactment, the Secretary of Homeland Security, in coordination with the Federal Communications Commission and the National Telecommunications and Information Administration, shall complete a study assessing potential technical and operational standards and protocols for a nationwide interoperable communications network (referred to in this section as the ''Network'') that may be used by Federal, State, and local governmental and non-governmental public safety, homeland security, and other first responder personnel. The assessment shall be consistent with the SAFECOM national strategy as developed by the public

safety community in cooperation with SAFECOM and the DHS Interoperability Office. The Secretary shall report the results of the study to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Governmental Affairs, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Select Committee on Homeland Security.

(b) CONSULTATION AND USE OF COMMERCIAL TECHNOLOGIES.—In assessing standards and protocols pursuant to paragraph (a), the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) consider use of commercial wireless technologies to the greatest extent practicable.

SEC. 1113. COMMUNICATIONS INTEROPERABILITY.

(a) DEFINITION.—As used in this section, the term ''equipment interoperability'' means the devices that support the ability of public safety service and support providers to talk with each other via voice and data on demand, in real time, when needed, and when authorized.

(b) NATIONAL GUIDELINES FOR EQUIPMENT INTEROPERABILITY.—Not later than one year after the date of

enactment of this Act, the Secretary of Homeland Security, after consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, and other appropriate representatives of Federal, State, and local government and first responders, shall adopt, by regulation, national goals and guidelines for equipment interoperability and related issues that—

(1) set short-term, mid-term, and long-term means and minimum equipment performance guidelines for Federal agencies, States, and local governments;

(2) recognize—

(A) the value, life cycle, and technical capabilities of existing communications infrastructure;

(B) the need for cross-border interoperability between States and nations;

(C) the unique needs of small, rural communities; and

(D) the interoperability needs for daily operations and catastrophic events.

(c) NATIONAL EQUIPMENT INTEROPERABILITY IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—Not later than 180 days of the completion of the development of goals and guidelines under subsection (b), the Secretary of Homeland Security shall develop an implementation plan that—

(A) outlines the responsibilities of the Department of Homeland Security; and

(B) focuses on providing technical and financial assistance to States and local governments for interoperability planning and implementation.

(2) EXECUTION.—The Secretary shall execute the plan developed under this subsection as soon as practicable.

(3) REPORTS.—

(A) INITIAL REPORT.—Upon the completion of the plan under subsection (c), the Secretary shall submit a report that describes such plan to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Environment and Public Works of the Senate;

(iii) the Committee on Commerce, Science, and Transportation of the Senate;

(iv) the Select Committee on Homeland Security of the House of Representatives; and

(v) the Committee on Energy and Commerce of the House of Representatives.

(B) ANNUAL REPORT.—Not later than 1 year after the submission of the report under subparagraph (A), and annually thereafter, the Secretary shall submit a report to the committees referred to in subparagraph (A) that describes the progress made in implementing the plan developed under this subsection.

(d) INTERNATIONAL INTEROPERABILITY.—Not later than 1 year after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009—

(1) such sums as may be necessary to carry out subsection (b);

(2) such sums as may be necessary to carry out subsection (c); and

(3) such sums as may be necessary to carry out subsection (d).

SEC. 1114. DEADLINE FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) STRATEGIC PLAN REPORTS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Congress—

(1) a report on the status of the National Maritime Transportation Security Plan required by section 70103(a) of title 46, United States Code, which may be submitted in classified and redacted format;

(2) a comprehensive program management plan that identifies specific tasks to be completed and deadlines for completion for the transportation security card program under section 70105 of title 46, United States Code that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(3) a report on the status of negotiations under section 103 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111 note);

(4) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(5) a report on the status of the development of the system and program mandated by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(b) OTHER REPORTS.—Within 90 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall transmit to the Congress—

(A) a report on the establishment of the National Maritime Security Advisory Committee appointed under section 70112 of title 46, United States Code; and

(B) a report on the status of the program established under section 70116 of title 46, United States Code, to evaluate and certify secure systems of international intermodal transportation;

(2) the Secretary of Transportation shall transmit to the Congress the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the

last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall transmit to Congress the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

SEC. 1115. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations;

(D) the effectiveness and efficiency of efforts to protect the critical infrastructure of the United States financial system, and ways to improve the effectiveness of financial institutions;

(E) ways to improve multilateral and international governmental cooperation on terrorist financing, including the adequacy of agency coordination within the United States related to participating in international cooperative efforts and implementing international treaties and compacts; and

(F) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, additional resources, or use of appropriated funds.

(b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

''(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

''(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution

1 holding company with continuing, broad respon-
2 sibility for the examination (or inspection) of
3 that depository institution or depository institu-
4 tion holding company on behalf of the relevant
5 agency or Federal reserve bank; and
6 ''(C) within 1 year after the termination
7 date of his or her service or employment with
8 such agency or entity, knowingly accepts com-
9 pensation as an employee, officer, director, or
10 consultant from—
11 ''(i) such depository institution, any
12 depository institution holding company
13 that controls such depository institution, or
14 any other company that controls such de-
15 pository institution; or
16 ''(ii) such depository institution hold-
17 ing company or any depository institution
18 that is controlled by such depository insti-
19 tution holding company.
20 ''(2) DEFINITIONS.—For purposes of this sub-
21 section—
22 ''(A) the term 'depository institution' in-
23 cludes an uninsured branch or agency of a for-
24 eign bank, if such branch or agency is located
25 in any State; and

"(B) the term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

"(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

"(4) REGULATIONS.—

"(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

"(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent pos-

sible, consistent and comparable and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

"(5) WAIVER.—

"(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

"(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

"(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

"(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

"(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

"(6) PENALTIES.—

"(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

"(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal banking agency

shall serve a written notice or order in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the intention of the agency—

"(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

"(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

"(ii) CIVIL MONETARY FINE.—The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Federal banking agency

under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court. Any administrative proceeding under this clause shall be conducted in accordance with section 8(i).

"(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

"(C) DEFINITIONS.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).".

(c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

"(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.—

"(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

"(A) was an officer or employee (including any special Government employee) of the Administration;

"(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) of that insured credit union on behalf of the Administration; and

"(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

"(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if

1 such person directly works on matters for, or on be-
2 half of, such insured credit union.
3 "(3) REGULATIONS.—
4 "(A) IN GENERAL.—The Board shall pre-
5 scribe rules or regulations to administer and
6 carry out this subsection, including rules, regu-
7 lations, or guidelines to define the scope of per-
8 sons referred to in paragraph (1)(B).
9 "(B) CONSULTATION.—In prescribing
10 rules or regulations under this paragraph, the
11 Board shall, to the extent it deems necessary,
12 consult with the Federal banking agencies (as
13 defined in section 3 of the Federal Deposit In-
14 surance Act) on regulations issued by such
15 agencies in carrying out section 10(k) of the
16 Federal Deposit Insurance Act.
17 "(4) WAIVER.—
18 "(A) AGENCY AUTHORITY.—The Board
19 may grant a waiver, on a case by case basis, of
20 the restriction imposed by this subsection to
21 any officer or employee (including any special
22 Government employee) of the Administration if
23 the Chairman certifies in writing that granting
24 the waiver would not affect the integrity of the
25 supervisory program of the Administration.

"(5) PENALTIES.—

"(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever the Board determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall impose upon such person one or more of the following penalties:

"(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Board shall serve a written notice or order in accordance with and subject to the provisions of subsection (g)(4) for written notices or orders under paragraphs (1) or (2) of subsection (g), upon such person of the intention of the Board—

"(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

"(II) to prohibit any further participation by such person, in any man-

ner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

"(ii) CIVIL MONETARY FINE.—The Board may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Board under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court. Any administrative proceeding under this clause shall be conducted in accordance with subsection (k).

"(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subparagraph (A)(i) shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).".

(d) EFFECTIVE DATE.—Notwithstanding section 341, subsection (a) shall become effective on the date of

enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

(e) REPEAL OF DUPLICATIVE PROVISION.—Section ____16(c) of this Act, entitled ''REPORT ON TERRORIST FINANCING'' is repealed, and shall have no force or effect, effective on the date of enactment of this Act.

SEC. 1116. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(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, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and

gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that ''Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security'' and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section 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 section.

(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 section.

(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 section.

(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 section, 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.

1 (D) USE OF INFORMATION.—

2 (i) IN GENERAL.—Upon receipt of the
3 criminal history record information from
4 the Attorney General by the State identi-
5 fication bureau, the information shall be
6 used only as provided in clause (ii).

7 (ii) TERMS.—In the case of—

8 (I) a participating State that has
9 no State standards for qualification to
10 be a private security officer, the State
11 shall notify an authorized employer as
12 to the fact of whether an employee
13 has been—

14 (aa) convicted of a felony,
15 an offense involving dishonesty or
16 a false statement if the convic-
17 tion occurred during the previous
18 10 years, or an offense involving
19 the use or attempted use of phys-
20 ical force against the person of
21 another if the conviction occurred
22 during the previous 10 years; or

23 (bb) charged with a criminal
24 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 section 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 section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemi-

nation, destruction of information and audits, and recordkeeping;

(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 section 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 section; 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 section 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 section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section 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 paragraph.

SEC. 1117. BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Biometric Visa Standard Distant Borders Act''.

(b) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

''(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

''(1) IN GENERAL.—Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

''(2) SAVINGS CLAUSE.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).''.

SEC. 1118. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(b) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (a) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

SEC. 1119. CONGRESSIONAL OVERSIGHT OF FBI USE OF TRANSLATORS.

Not later than 30 days after the date of enactment of this Act, and annually thereafter, the Attorney General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that

contains, with respect to each preceding 12-month period—

(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by the Federal, State, or local agencies on a full-time, part-time, or shared basis;

(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

(4) the status of any automated statistical reporting system, including implementation and future viability;

(5) the storage capabilities of the digital collection system or systems utilized;

(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation; and

(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures.

SEC. 1120. TERRORIST WATCH LISTS.

(a) CRITERIA FOR WATCH LIST.—The National Intelligence Director of the United States, in consultation with the Secretary of Homeland Security, the Secretary of State, and the Attorney General, shall report to Congress on the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including minimum standards for reliability and accuracy of identifying information, the degree of information certainty and the range of threat levels that the individual poses, and the range of applicable consequences that apply to the person if located. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the applicable lists as maintained by the Transportation Security Administration and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Department of Homeland Security Privacy Officer shall submit a report assessing

the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, the Committee on Transportation and Infrastructure, and the Select Committee on Homeland Security of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. In its analysis, the report shall also consider the effect these recommendations would have on the ability of such lists to protect the United States against terrorist attacks. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SEC. 1121. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Executive Director of the Office of State and Local Government Coordination and Preparedness and the Undersecretary for Science and Technology, shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of threat risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Defense shall provide assistance to the Secretary of Homeland Security, as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

SEC. 1122. BORDER SURVEILLANCE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the Southwest border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions.

(6) the equipment necessary to carry out the plan; and

(7) a recommendation regarding whether to expand the pilot program along the entire Southwestern border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

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

SEC. 1123. ENTERPRISE ARCHITECTURE.

(a) DEFINITION OF ENTERPRISE ARCHITECTURE.—In this section, the term ''enterprise architecture'' means a detailed outline or blueprint of the information technology of the Federal Bureau of Investigation that will satisfy the ongoing mission and goals of the Federal Bureau of Investigation and that sets forth specific and identifiable benchmarks.

(b) ENTERPRISE ARCHITECTURE.—The Federal Bureau of Investigation shall—

(1) continually maintain and update an enterprise architecture; and

(2) maintain a state of the art and up to date information technology infrastructure that is in compliance with the enterprise architecture of the Federal Bureau of Investigation.

(c) REPORT.—Subject to subsection (d), the Director of the Federal Bureau of Investigation shall report to the House and Senate Judiciary Committees, on an annual basis, on whether the major information technology investments of the Federal Bureau of Investigation are in compliance with the enterprise architecture of the Federal Bureau of Investigation and identify any inability or expectation of inability to meet the terms set forth in the enterprise architecture.

(d) FAILURE TO MEET TERMS.—If the Director of the Federal Bureau of Investigation identifies any inability or expectation of inability to meet the terms set forth in the enterprise architecture in a report under subsection (c), the report under subsection (c) shall—

(1) be twice a year until the inability is corrected;

(2) include a statement as to whether the inability or expectation of inability to meet the terms set forth in the enterprise architecture is substantially related to resources; and

(3) if the inability or expectation of inability is substantially related to resources, include a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

(e) FEDERAL BUREAU OF INVESTIGATION'S ENTERPRISE ARCHITECTURE, AGENCY PLANS AND REPORTS.—This section shall be carried out in compliance with the requirements set forth in section 206(f) and (l).

SEC. 1124. REPORT ON USE OF DATABASES.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—Beginning 1 year after the effective date of this section, the National Intelligence Director shall submit a report, public to the extent possible with a classified annex,

to Congress on all activities of the intelligence community to use or develop data-mining technology.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Com-

mittee on Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence and Committee on the Judiciary of the House of Representatives.

(3) TIME FOR REPORT.—The report required under paragraph (1) shall be submitted not later than September 30th of each year.

(4) EXPIRATION.—The requirements of this subsection shall expire 4 years after the date of enactment of this Act.

Passed the Senate October 6, 2004.

Attest:

Secretary.

108TH CONGRESS
2D SESSION

S. 2845

AN ACT

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

October 6, 2004

Ordered to be printed as passed