

PROVIDING FOR CONSIDERATION OF H.R. 10, 9/11
RECOMMENDATIONS IMPLEMENTATION ACT

OCTOBER 7 (legislative day, OCTOBER 6), 2004.—Referred to the House Calendar and
ordered to be printed

Mr. LINDER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 827]

The Committee on Rules, having had under consideration House Resolution 827, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 10, the 9/11 Recommendation Implementation Act, under a structured rule. The rule provides three hours and forty minutes of general debate on H.R. 10, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services, 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform, 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Select Committee on Homeland Security. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute consisting of the text of the Rules Committee Print dated October 4, 2004 shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute consisting of the text of the Rules Committee Print.

The rule makes in order only those further amendments printed in this report. The rule provides that the amendments printed in this report may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. The rule provides one motion to recommit with or without instructions.

Section 2 of the rule provides that upon passage of H.R. 10, and the Senate transmittal of S. 2845, the House shall be considered to have taken from the Speaker's table, S. 2845, stricken all after the enacting clause of such bill and inserted in lieu thereof the provisions of H.R. 10, as passed by the House. Section 2 further provides that the House shall be considered to have passed the Senate bill as so amended, and insisted on its amendment and requested a conference with the Senate thereon. The Speaker may appoint conferees on S. 2845 and the House amendment thereto at any time.

Finally, Section 3 of the rule provides that the motion to instruct conferees otherwise in order pending the appointment of conferees instead shall be in order only at a time designated by the Speaker in the legislative schedule within two additional legislative days after passage of H.R. 10.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 324

Date: October 7, 2004 (legislative day of October 6, 2004).

Measure: H.R. 10, 9/11 Recommendations Implementation Act.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Hyde which strikes sections 3006, 3007 and 3032. This amendment deletes provisions which amend the Immigration and Nationality Act regarding asylum, refugee, and torture issues.

Results: Defeated 2 to 7.

Vote by Members: Linder Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick Sessions—Nay; Reynolds—Nay; Putnam—Nay; Frost Slaughter McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by amendment sponsors.)

1. Menendez: Amendment in the nature of a substitute. Merges two bills endorsed by the 9/11 Commission: Collins/Lieberman (S. 2845) as reported from the Senate Government Affairs Committee, and McCain/Lieberman (S. 2774) as introduced on September 7. Establishes a National Intelligence Director and makes improvements in intelligence activities, modifies laws relating to intelligence community management, establishes diplomatic means and provides foreign aid to combat terrorism, provides an integrated screening system and improves counterterrorist travel intelligence, enhances transportation security, provides resources to improve national preparedness and assist local first responders, and establishes a Privacy and Civil Liberties Oversight Board. (60 minutes)

2. Simmons: Seeks to express the sense of Congress that the new National Intelligence Director (NID) should establish an Open Source Intelligence (OSINT) Center. Directs the NID to report to Congress whether or not an OSINT Center will be established and to justify the reasons for or against its establishment. (10 minutes)

3. Souder: Directs the Secretary of Homeland Security to ensure that all appropriate personnel engaged in security screening of individuals have access to law enforcement and intelligence information maintained by DHS. Provides Congress with an overview of all the agencies, databases, and other capabilities that exist within the Department involved in intelligence relating to terrorism, drug trafficking, illegal immigration, screening, investigations, and inspection of goods or individuals entering the United States. Requires the Secretary to submit a plan to Congress within 180 days on actions taken and plans in place to improve access and the flow of information. (10 minutes)

4. Kirk: Requires the President to submit a report to the congressional intelligence committees detailing how the Drug Enforcement Administration can be integrated into the intelligence community. Although DEA Agents are gathering intelligence on al Qaeda's involvement in narcoterrorism, currently they are not officially part of the intelligence community. (10 minutes)

5. Sessions: Establishes a "zero tolerance" policy towards the unlawful importation, possession, or transfer of shoulder fired guided missiles (MANPADS), atomic weapons, dirty bombs, and variola (smallpox) virus by making their unauthorized possession a federal crime carrying stiff mandatory penalties. (10 minutes)

6. Bonilla: Directs the Secretary of Homeland Security to increase Detention and Removal Operations (DRO) bed space for FY06 and FY07 by 2,500 beds each year. (10 minutes)

7. Capito: Revises, enhances and consolidates two Federal criminal law statutes into one comprehensive statute in order to deter, and more effectively punish, terrorist acts against railroad carriers and mass transportation providers. (10 minutes)

8. Carter: Amends the Federal criminal code to apply the death penalty or life imprisonment for a terrorist offense that results in the death of a person. (10 minutes)

9. Castle: Eliminates civil liability barriers to donations of surplus firefighting equipment by raising the liability standard for donors. (10 minutes)

10. Foley: Amends the Immigration and Nationality Act to provide for the inadmissibility and removability of aliens who have committed, ordered, assisted, incited, or otherwise participated in acts of torture or extrajudicial killings abroad. (10 minutes)

11. Goodlatte: Creates a rebuttable presumption that no amount of bail or other conditions would assure the appearance in court of a defendant when he is charged with a terrorist offense and there is probable cause that the defendant committed certain terrorist attacks. Helps to prevent further terrorist acts by giving judges the discretion to impose up to lifetime supervision of terrorists who have been convicted of terrorist offenses. (10 minutes)

12. Green (WI)/Hostettler: Strengthens immigration law in regard to the inadmissibility and deportability of alien terrorists and their supporters. Provides that all terrorist-related grounds of inadmissibility would also be grounds of deportability. Makes attending a terrorist training camp an inadmissible and deportable offense. Strengthens the grounds of inadmissibility and deportability regarding providing money or other material support to a terrorist organization. (10 minutes)

13. Hostettler: Modifies sections 3006, 3007, and 3032 of the bill. Modifies section 3006 by allowing any alien who is subject to expedited removal to ask for asylum. Modifies section 3007 to provide that aliens suspected of being terrorists by their home governments can receive asylum only if they can show that a central reason for the actions taken against them was animus on account of race, social group, sex, or political opinion. In order to protect the United States from aliens who threaten the national security or endanger the lives and safety of the American people, this amendment would replace section 3032 by substituting language providing that aliens who are barred from restriction on removal and who are ordered removed can be detained pending removal, in the Secretary of Homeland Security's nonreviewable discretion. In making this determination, the Secretary should consider the length of sentence and severity of the offense, the loss and injury to the victim and the future risk the alien poses to the community. The replacement language would also require the Secretary of State to ensure the protection of an alien barred from restriction on removal, who has been ordered removed but otherwise given protection under the immigration law, prior to that alien's removal. (10 minutes)

14. Smith (NJ): Strikes section 3006. Section 3006 requires expedited removal of aliens that have been present for less than 5 years without a hearing or future review. (10 minutes)

15. Smith (NJ): Strikes section 3007. Section 3007 diminishes asylum rights and refugee protections. (10 minutes)

16. Barton: Sense of Congress that the only way to make additional broadcast spectrum available promptly for critical public safety needs is to eliminate the "85 percent penetration" test and make December 31, 2006 the date certain for return of the spectrum. (10 minutes)

17. Ose: Expedites construction of two gaps in the 14 mile long barrier at the San Diego Border. (10 minutes)

18. Fossella/Stupak: Authorizes the Secretary of Homeland Security to issue three year letters of intent to commit future funding, as it becomes available from existing grant programs, for purposes of enhancing public safety interoperable communications pursuant to a five year interoperable communications plan. (10 minutes)

19. Weldon (PA)/Andrews: Requires the Secretary of Homeland Security to establish a program that identifies and catalogs existing mutual agreements, disseminates examples of best practices in the development of such agreements, and inventories Federal response capabilities that State and local officials may utilize during a terrorist attack or other emergency. (10 minutes)

20. Mica: Requires Immigration and Custom Enforcement (ICE) and Customs and Border Protection (CBP) to check international passenger names against the watch list prior to the flight taking off. Assists passengers who are incorrectly placed on the “no fly” list and terrorist watch lists. Authorizes the Secretary of Homeland Security to take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports. (10 minutes)

21. Barlett: Directs the Director of Homeland Security to establish an independent panel to assess the homeland security needs of the National Capital Region. Requires the panel to: (1) determine whether the definition of National Capital Region used by the Department of Homeland Security should be modified to include additional areas, including jurisdictions in Maryland and Virginia along Interstate Routes 270, 95, and 66; and (2) determine whether those jurisdictions should be taking actions to prepare for a terrorist attack in the Region, including the construction of necessary facilities, and if so, to make recommendations for appropriate funding. (10 minutes)

22. Shadegg: Requires the Secretary of Homeland Security, in consultation with the Attorney General, heads of other appropriate Federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, to conduct a pilot study under which the Secretary may issue public warnings regarding threats to homeland security using a warning system that is similar to the AMBER Alert communications network, and report back within nine months on findings and recommendations. (10 minutes)

23. Porter: Promotes the Special Assistant to the Secretary for the Private Sector to an Undersecretary of Homeland Security for the Private Sector and Tourism. Makes the Undersecretary for the Private Sector and Tourism liaise with the Commerce Department on ways to increase tourism to the United States. Requires the Office of State and Local Government in the Department of Homeland Security to keep the Undersecretary advised of any activities that impact the private sector. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE OFFERED BY REPRESENTATIVE MENENDEZ OF NEW JERSEY, OR HIS DESIGNEE, TO BE DEBATABLE FOR 60 MINUTES

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—NATIONAL INTELLIGENCE AUTHORITY**Subtitle A—National Intelligence Authority**

- Sec. 101. National Intelligence Authority.
- Sec. 102. National Intelligence Director.

Subtitle B—Responsibilities and Authorities of National Intelligence Director

- Sec. 111. Provision of national intelligence.
- Sec. 112. Responsibilities of National Intelligence Director.
- Sec. 113. Authorities of National Intelligence Director.
- Sec. 114. Enhanced personnel management.
- Sec. 115. Security clearances.
- Sec. 116. National Intelligence Reserve Corps.
- Sec. 117. Appointment and termination of certain officials responsible for intelligence-related activities.
- Sec. 118. Reserve for Contingencies of the National Intelligence Director.

Subtitle C—Office of the National Intelligence Director

- Sec. 121. Office of the National Intelligence Director.
- Sec. 122. Deputy national intelligence directors.
- Sec. 123. National Intelligence Council.
- Sec. 124. General Counsel of the National Intelligence Authority.
- Sec. 125. Intelligence Comptroller.
- Sec. 126. Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.
- Sec. 127. Privacy Officer of the National Intelligence Authority.
- Sec. 128. Chief Information Officer of the National Intelligence Authority.
- Sec. 129. Chief Human Capital Officer of the National Intelligence Authority.
- Sec. 130. Chief Financial Officer of the National Intelligence Authority.
- Sec. 131. National Counterintelligence Executive.

Subtitle D—Additional Elements of National Intelligence Authority

- Sec. 141. Inspector General of the National Intelligence Authority.
- Sec. 142. Ombudsman of the National Intelligence Authority.
- Sec. 143. National Counterterrorism Center.
- Sec. 144. National intelligence centers.

Subtitle E—Education and Training of Intelligence Community Personnel

- Sec. 151. Framework for cross-disciplinary education and training.
- Sec. 152. Intelligence Community Scholarship Program.

Subtitle F—Additional Authorities of National Intelligence Authority

- Sec. 161. Use of appropriated funds.
- Sec. 162. Acquisition and fiscal authorities.
- Sec. 163. Personnel matters.
- Sec. 164. Ethics matters.

TITLE II—OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES**Subtitle A—Improvements of Intelligence Activities**

- Sec. 201. Availability to public of certain intelligence funding information.
- Sec. 202. Merger of Homeland Security Council into National Security Council.
- Sec. 203. Joint Intelligence Community Council.
- Sec. 204. Improvement of intelligence capabilities of the Federal Bureau of Investigation.
- Sec. 205. Federal Bureau of Investigation Intelligence Career Service.
- Sec. 206. Information sharing.

Subtitle B—Privacy and Civil Liberties

- Sec. 211. Privacy and Civil Liberties Oversight Board.
 Sec. 212. Privacy and civil liberties officers.

Subtitle C—Independence of Intelligence Agencies

- Sec. 221. Independence of National Intelligence Director.
 Sec. 222. Independence of intelligence.
 Sec. 223. Independence of National Counterterrorism Center.
 Sec. 224. Access of congressional committees to national intelligence.
 Sec. 225. Communications with Congress.

TITLE III—MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE
 COMMUNITY MANAGEMENT

Subtitle A—Conforming and Other Amendments

- Sec. 301. Restatement and modification of basic authority on the Central Intelligence Agency.
 Sec. 302. Conforming amendments relating to roles of National Intelligence Director and Director of the Central Intelligence Agency.
 Sec. 303. Other conforming amendments
 Sec. 304. Modifications of foreign intelligence and counterintelligence under National Security Act of 1947.
 Sec. 305. Elements of intelligence community under National Security Act of 1947.
 Sec. 306. Redesignation of National Foreign Intelligence Program as National Intelligence Program.
 Sec. 307. Conforming amendment on coordination of budgets of elements of the intelligence community within the Department of Defense.
 Sec. 308. Repeal of superseded authorities.
 Sec. 309. Clerical amendments to National Security Act of 1947.
 Sec. 310. Modification of authorities relating to National Counterintelligence Executive.
 Sec. 311. Conforming amendment to Inspector General Act of 1978.
 Sec. 312. Conforming amendment relating to Chief Financial Officer of the National Intelligence Authority.

Subtitle B—Transfers and Terminations

- Sec. 321. Transfer of Office of Deputy Director of Central Intelligence for Community Management.
 Sec. 322. Transfer of National Counterterrorism Executive.
 Sec. 323. Transfer of Terrorist Threat Integration Center.
 Sec. 324. Termination of certain positions within the Central Intelligence Agency.

Subtitle C—Other Transition Matters

- Sec. 331. Executive Schedule matters.
 Sec. 332. Preservation of intelligence capabilities.
 Sec. 333. Reorganization.
 Sec. 334. National Intelligence Director report on implementation of intelligence community reform.
 Sec. 335. Comptroller General reports on implementation of intelligence community reform.
 Sec. 336. General references.

Subtitle D—Effective Date

- Sec. 341. Effective date.

Subtitle E—Other Matters

- Sec. 351. Severability.
 Sec. 352. Authorization of appropriations.

TITLE IV—INFORMATION SHARING

- Sec. 401. Information sharing.

TITLE V—CONGRESSIONAL REFORM

- Sec. 501. Findings.
 Sec. 502. Reorganization of congressional jurisdiction.

TITLE VI—PRESIDENTIAL TRANSITION

Sec. 601. Presidential transition.

TITLE VII—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY
IN THE WAR ON TERRORISM

- Sec. 701. Report on terrorist sanctuaries.
 Sec. 702. Role of Pakistan in countering terrorism.
 Sec. 703. Aid to Afghanistan.
 Sec. 704. The United States-Saudi Arabia relationship.
 Sec. 705. Efforts to combat Islamic terrorism by engaging in the struggle of ideas in the Islamic world.
 Sec. 706. United States policy toward dictatorships.
 Sec. 707. Promotion of United States values through broadcast media.
 Sec. 708. Use of United States scholarship and exchange programs in the Islamic world.
 Sec. 709. International Youth Opportunity Fund.
 Sec. 710. Report on the use of economic policies to combat terrorism.
 Sec. 711. Middle East Partnership Initiative.
 Sec. 712. Comprehensive coalition strategy for fighting terrorism.
 Sec. 713. Detention and humane treatment of captured terrorists.
 Sec. 714. Proliferation of weapons of mass destruction.
 Sec. 715. Financing of terrorism.

TITLE VIII—TERRORIST TRAVEL AND EFFECTIVE SCREENING

- Sec. 801. Counterterrorist travel intelligence.
 Sec. 802. Integrated screening system.
 Sec. 803. Biometric entry and exit data system.
 Sec. 804. Travel documents.
 Sec. 805. Exchange of terrorist information.
 Sec. 806. Minimum standards for identification-related documents.

TITLE IX—TRANSPORTATION SECURITY

- Sec. 901. Definitions.
 Sec. 902. National Strategy for Transportation Security.
 Sec. 903. Use of watchlists for passenger air transportation screening.
 Sec. 904. Enhanced passenger and cargo screening.

TITLE X—NATIONAL PREPAREDNESS

- Sec. 1001. Homeland security assistance.
 Sec. 1002. The incident command system.
 Sec. 1003. National Capital Region Mutual Aid.
 Sec. 1004. Assignment of spectrum for public safety.
 Sec. 1005. Urban area communications capabilities.
 Sec. 1006. Private sector preparedness.
 Sec. 1007. Critical infrastructure and readiness assessments.
 Sec. 1008. Report on Northern Command and defense of the United States homeland.

TITLE XI—PROTECTION OF CIVIL LIBERTIES

- Sec. 1101. Privacy and Civil Liberties Oversight Board.
 Sec. 1102. Privacy and Civil Liberties Officers.

SEC. 2. DEFINITIONS.

In this Act:

- (1) The term “intelligence” includes foreign intelligence and counterintelligence.
- (2) The term “foreign intelligence” means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.
- (3) The term “counterintelligence” means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements

thereof, foreign organizations, foreign persons, or international terrorists.

(4) The term “intelligence community” includes the following:

- (A) The National Intelligence Authority.
- (B) The Central Intelligence Agency.
- (C) The National Security Agency.
- (D) The Defense Intelligence Agency.
- (E) The National Geospatial-Intelligence Agency.
- (F) The National Reconnaissance Office.

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

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

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

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

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

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

(5) The terms “national intelligence” and “intelligence related to the national security”—

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the National Intelligence Director and the Attorney General, or otherwise as expressly provided for in this title.

(6) The term “National Intelligence Program”—

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

(ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security; and

(iii) includes any other program, project, or activity of a department, agency, or element of the United States Government relating to national intelligence unless the National Intelligence Director and the head of the depart-

ment, agency, or element concerned determine otherwise; but

(B) except as provided in subparagraph (A)(ii), does not refer to any program, project, or activity of the military departments, including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act, to acquire intelligence principally for the planning and conduct of joint or tactical military operations by the United States Armed Forces.

(7) The term “congressional intelligence committees” means—

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

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

TITLE I—NATIONAL INTELLIGENCE AUTHORITY

Subtitle A—National Intelligence Authority

SEC. 101. NATIONAL INTELLIGENCE AUTHORITY.

(a) **INDEPENDENT ESTABLISHMENT.**—There is hereby established as an independent establishment in the executive branch of government the National Intelligence Authority.

(b) **COMPOSITION.**—The National Intelligence Authority is composed of the following:

(1) The Office of the National Intelligence Director.

(2) The elements specified in subtitle D.

(3) Such other elements, offices, agencies, and activities as may be established by law or by the President or the National Intelligence Director.

(c) **PRIMARY MISSIONS.**—The primary missions of the National Intelligence Authority are as follows:

(1) To unify and strengthen the efforts of the intelligence community of the United States Government.

(2) To ensure the organization of the efforts of the intelligence community of the United States Government in a joint manner relating to intelligence missions rather than through intelligence collection disciplines.

(3) To provide for the operation of the National Counterterrorism Center and national intelligence centers under subtitle D.

(4) To eliminate barriers that impede coordination of the counterterrorism activities of the United States Government between foreign intelligence activities located abroad and foreign intelligence activities located domestically while ensuring the protection of civil liberties.

(5) To establish clear responsibility and accountability for counterterrorism and other intelligence matters relating to the national security of the United States.

(d) **SEAL.**—The National Intelligence Director shall have a seal for the National Intelligence Authority. The design of the seal is

subject to the approval of the President. Judicial notice shall be taken of the seal.

SEC. 102. NATIONAL INTELLIGENCE DIRECTOR.

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

(b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any individual nominated for appointment as National Intelligence Director shall have extensive national security expertise.

(c) PROHIBITION ON SIMULTANEOUS SERVICE IN OTHER CAPACITY IN INTELLIGENCE COMMUNITY.—The individual serving as National Intelligence Director may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as National Intelligence Director does so in an acting capacity.

(d) PRINCIPAL DUTIES AND RESPONSIBILITIES.—The National Intelligence Director shall—

(1) serve as head of the intelligence community in accordance with the provisions of this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), and other applicable provisions of law;

(2) act as a principal adviser to the President for intelligence related to the national security;

(3) serve as the head of the National Intelligence Authority; and

(4) direct and oversee the National Intelligence Program.

(e) GENERAL RESPONSIBILITIES AND AUTHORITIES.—In carrying out the duties and responsibilities set forth in subsection (c), the National Intelligence Director shall have the responsibilities set forth in section 112 and the authorities set forth in section 113 and other applicable provisions of law.

Subtitle B—Responsibilities and Authorities of National Intelligence Director

SEC. 111. PROVISION OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—The National Intelligence Director shall be responsible for providing national intelligence—

(1) to the President;

(2) to the heads of other departments and agencies of the executive branch;

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

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

(5) to such other persons or entities as the President shall direct.

(b) NATIONAL INTELLIGENCE.—Such national intelligence shall be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

SEC. 112. RESPONSIBILITIES OF NATIONAL INTELLIGENCE DIRECTOR.

(a) IN GENERAL.—The National Intelligence Director shall—

(1) determine the annual budget for the intelligence and intelligence-related activities of the United States by—

(A) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development the National Intelligence Program budget pertaining to such agencies or elements;

(B) developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments, under subparagraph (A);

(C) providing budget guidance to each element of the intelligence community that does not have one or more program, project, or activity within the National Intelligence Program regarding the intelligence and intelligence-related activities of such element; and

(D) participating in the development by the Secretary of Defense of the annual budgets for the military intelligence programs, projects, and activities not included in the National Intelligence Program;

(2) manage and oversee the National Intelligence Program, including—

(A) the execution of funds within the National Intelligence Program;

(B) the reprogramming of funds appropriated or otherwise made available to the National Intelligence Program; and

(C) the transfer of funds and personnel under the National Intelligence Program;

(3) establish the requirements and priorities to govern the collection, analysis, and dissemination of national intelligence by elements of the intelligence community;

(4) establish collection and analysis requirements for the intelligence community, determine collection and analysis priorities, issue and manage collection and analysis tasking, and resolve conflicts in the tasking of elements of the intelligence community within the National Intelligence Program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;

(5) provide advisory tasking on the collection of intelligence to elements of the United States Government having information collection capabilities that are not elements of the intelligence community;

(6) manage and oversee the National Counterterrorism Center under section 143, and establish, manage, and oversee national intelligence centers under section 144;

(7) establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used effi-

ciently and effectively for foreign intelligence purposes, except that the Director shall have no authority to direct, manage, or undertake electronic surveillance or physical search operations pursuant to that Act unless otherwise authorized by statute or Executive order;

(8) develop and implement, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(A) encourage and facilitate assignments and details of personnel to the National Counterterrorism Center under section 143, to national intelligence centers under section 144, and between elements of the intelligence community;

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

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

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

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

(F) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters;

(G) provide for the effective management of human capital within the intelligence community, including—

(i) the alignment of human resource policies and programs of the elements of the intelligence community with the missions, goals, and organizational objectives of such elements and of the intelligence community overall;

(ii) the assessment of workforce characteristics and future needs and the establishment of workforce development strategies to meet those needs based on relevant organizational missions and strategic plans;

(iii) the sustainment of a culture that encourages and allows for the development of a high performing workforce; and

(iv) the alignment of expectations for personnel performance with relevant organizational missions and strategic plans;

(H) are consistent with the public employment principles of merit and fitness set forth under section 2301 of title 5, United States Code; and

(I) include the enhancements required under section 114;

(9) promote and evaluate the utility of national intelligence to consumers within the United States Government;

(10) ensure that appropriate officials of the United States Government and other appropriate individuals have access to a variety of intelligence assessments and analytical views;

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

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

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

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

(15) develop, in consultation with the heads of appropriate departments and agencies of the United States Government, an integrated communications network that provides interoperable communications capabilities among all elements of the intelligence community and such other entities and persons as the Director considers appropriate;

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

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

(18) ensure compliance by elements of the intelligence community with the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States applicable to the intelligence and intelligence-related activities of the United States Government, including the provisions of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States applicable to the protection of the privacy and civil liberties of United States persons;

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

(20) perform such other functions as the President may direct.

(b) **UNIFORM PROCEDURES FOR SENSITIVE COMPARTMENTED INFORMATION.**—The President, acting through the National Intelligence Director, shall establish uniform standards and procedures for the grant to sensitive compartmented information in accordance with section 115.

(c) **PERFORMANCE OF COMMON SERVICES.**—(1) The National Intelligence Director shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, direct and coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the National Intelligence Director determines can be more efficiently accomplished in a consolidated manner.

(2) The services performed under paragraph (1) shall include research and development on technology for use in national intelligence missions.

(d) REGULATIONS.—The National Intelligence Director may prescribe regulations relating to the discharge and enforcement of the responsibilities of the Director under this section.

SEC. 113. AUTHORITIES OF NATIONAL INTELLIGENCE DIRECTOR.

(a) ACCESS TO INTELLIGENCE.—Unless otherwise directed by the President, the National Intelligence Director shall have access to all intelligence related to the national security which is collected by any department, agency, or other element of the United States Government.

(b) DETERMINATION OF BUDGETS FOR NIP AND OTHER INTELLIGENCE ACTIVITIES.—The National Intelligence Director shall determine the annual budget for the intelligence and intelligence-related activities of the United States Government under section 112(a)(1) by—

(1) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development the National Intelligence Program budget pertaining to such agencies or elements;

(2) developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments, under paragraph (1), including, in furtherance of such budget, the review, modification, and approval of budgets of the agencies or elements of the intelligence community with one or more programs, projects, or activities within the National Intelligence Program utilizing the budget authorities in subsection (c)(1);

(3) providing guidance on the development of annual budgets for each element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program utilizing the budget authorities in subsection (c)(2);

(4) participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(4) receiving the appropriations for the National Intelligence Program as specified in subsection (d) and allotting and allocating funds to agencies and elements of the intelligence community; and

(5) managing and overseeing the execution by the agencies or elements of the intelligence community, and, if necessary, the modification of the annual budget for the National Intelligence Program, including directing the reprogramming and transfer of funds, and the transfer of personnel, among and between elements of the intelligence community within the National Intelligence Program utilizing the authorities in subsections (f) and (g).

(c) BUDGET AUTHORITIES.—(1)(A) In developing and presenting an annual budget for the elements of the intelligence community within the National Intelligence Program under subsection (b)(1), the National Intelligence Director shall coordinate, prepare, and

present to the President the annual budgets of those elements, in consultation with the heads of those elements.

(B) If any portion of the budget for an element of the intelligence community within the National Intelligence Program is prepared outside the Office of the National Intelligence Director, the Director—

(i) shall approve such budget before submission to the President; and

(ii) may require modifications of such budget to meet the requirements and priorities of the Director before approving such budget under clause (i).

(C) The budget of an agency or element of the intelligence community with one or more programs, projects, or activities within the National Intelligence Program may not be provided to the President unless the Director has first approved such budget.

(2)(A) The Director shall provide guidance for the development of the annual budgets for each agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(B) The heads of the agencies or elements of the intelligence community, and the heads of their respective departments, referred to in subparagraph (A) shall coordinate closely with the Director in the development of the budgets of such agencies or elements, before the submission of their recommendations on such budgets to the President.

(d) JURISDICTION OF FUNDS UNDER NIP.—(1) Notwithstanding any other provision of law and consistent with section 504 of the National Security Act of 1947 (50 U.S.C. 414), any amounts appropriated or otherwise made available for the National Intelligence Program shall be appropriated to the National Intelligence Authority and, pursuant to subsection (e), under the direct jurisdiction of the National Intelligence Director.

(2) The Director shall manage and oversee the execution by each element of the intelligence community of any amounts appropriated or otherwise made available to such element under the National Intelligence Program.

(e) ACCOUNTS FOR ADMINISTRATION OF NIP FUNDS.—(1) The Secretary of the Treasury shall, in consultation with the National Intelligence Director, establish accounts for the funds under the jurisdiction of the Director under subsection (d) for purposes of carrying out the responsibilities and authorities of the Director under this Act with respect to the National Intelligence Program.

(2) The National Intelligence Director shall—

(A) control and manage the accounts established under paragraph (1); and

(B) with the concurrence of the Director of the Office of Management and Budget, establish procedures governing the use (including transfers and reprogrammings) of funds in such accounts.

(3)(A) To the extent authorized by law, a certifying official shall follow the procedures established under paragraph (2)(B) with regard to each account established under paragraph (1). Disbursements from any such account shall only be made against a valid obligation of such account.

(B) In this paragraph, the term “certifying official”, with respect to an element of the intelligence community, means an employee of the element who has responsibilities specified in section 3528(a) of title 31, United States Code.

(4) The National Intelligence Director shall allot funds deposited in an account established under paragraph (1) directly to the head of the elements of the intelligence community concerned in accordance with the procedures established under paragraph (2)(B).

(5) Each account established under paragraph (1) shall be subject to chapters 13 and 15 of title 31, United States Code, other than sections 1503 and 1556 of that title.

(6) Nothing in this subsection shall be construed to impair or otherwise affect the authority granted by subsection (g)(3) or by section 5 or 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403j).

(f) **ROLE IN REPROGRAMMING OR TRANSFER OF NIP FUNDS BY ELEMENTS OF INTELLIGENCE COMMUNITY.**—(1) No funds made available under the National Intelligence Program may be reprogrammed or transferred by any agency or element of the intelligence community without the prior approval of the National Intelligence Director except in accordance with procedures issued by the Director.

(2) The head of the department concerned shall consult with the Director before reprogramming or transferring funds appropriated or otherwise made available to an agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(3) The Director shall, before reprogramming funds appropriated or otherwise made available for an element of the intelligence community within the National Intelligence Program, consult with the head of the department or agency having jurisdiction over such element regarding such reprogramming.

(4)(A) The Director shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the National Intelligence Program.

(B) Any modification of procedures under subparagraph (A) shall include procedures for the notification of the appropriate committees of Congress of any objection raised by the head of a department or agency to a reprogramming proposed by the Director as a result of consultations under paragraph (3).

(g) **TRANSFER OR REPROGRAMMING OF FUNDS AND TRANSFER OF PERSONNEL WITHIN NIP.**—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget and after consultation with the heads of the departments containing agencies or elements within the intelligence community to the extent their subordinate agencies or elements are affected, with the heads of such subordinate agencies or elements, and with the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected, may—

(A) transfer or reprogram funds appropriated for a program within the National Intelligence Program to another such program;

(B) review, and approve or disapprove, any proposal to transfer or reprogram funds from appropriations that are not for the National Intelligence Program to appropriations for the National Intelligence Program;

(C) in accordance with procedures to be developed by the National Intelligence Director, transfer personnel of the intelligence community funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community; and

(D) in accordance with procedures to be developed by the National Intelligence Director and the heads of the departments and agencies concerned, transfer personnel of the intelligence community not funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community.

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

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

(B) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director; or

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

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

(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of October 24, 1992.

(5)(A) The National Intelligence Director shall promptly submit to the appropriate committees of Congress a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(B) In this paragraph, the term “appropriate committees of Congress” means—

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

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

(ii) in the case of a transfer of personnel to or from the Department of Defense—

(I) the committees and select committees referred to in clause (i);

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

- (III) the Committee on Armed Services of the House of Representatives;
 - (iii) in the case of a transfer of personnel to or from the Federal Bureau of Investigation—
 - (I) the committees and select committees referred to in clause (i);
 - (II) the Committee on the Judiciary of the Senate; and
 - (III) the Committee on the Judiciary of the House of Representatives; and
 - (iv) in the case of a transfer of personnel to or from the Department of Homeland Security—
 - (I) the committees and select committees referred to in clause (i);
 - (II) the Committee on Governmental Affairs of the Senate; and
 - (III) the Select Committee on Homeland Security of the House of Representatives.
- (h) INFORMATION TECHNOLOGY AND COMMUNICATIONS.—(1) In conforming with section 205, in carrying out section 112(a)(16), the National Intelligence Director shall—
- (A) establish standards for information technology and communications across the intelligence community;
 - (B) develop an integrated information technology network and enterprise architecture for the intelligence community, including interface standards for interoperability to enable automated information-sharing among elements of the intelligence community;
 - (C) maintain an inventory of critical information technology and communications systems, and eliminate unnecessary or duplicative systems;
 - (D) establish contingency plans for the intelligence community regarding information technology and communications; and
 - (E) establish policies, doctrine, training, and other measures necessary to ensure that the intelligence community develops an integrated information technology and communications network that ensures information-sharing.
- (2) Consistent with section 205, the Director shall take any action necessary, including the setting of standards for information technology and communications across the intelligence community, to develop an integrated information technology and communications network that ensures information-sharing across the intelligence community.
- (i) COORDINATION WITH FOREIGN GOVERNMENTS.—In a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the National Intelligence Director shall oversee and direct the Director of the Central Intelligence Agency in coordinating, under section 103(f) of the National Security Act of 1947, the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.
- (j) OPEN SOURCE INFORMATION COLLECTION.—The National Intelligence Director shall establish and maintain within the intel-

ligence community an effective and efficient open-source information collection capability.

(k) ACCESS TO INFORMATION.—Except as otherwise directed by the President, the head of each element of the intelligence community shall promptly provide the National Intelligence Director such information in the possession or under the control of such element as the Director may request in order to facilitate the exercise of the authorities and responsibilities of the Director under this Act.

SEC. 114. ENHANCED PERSONNEL MANAGEMENT.

(a) REWARDS FOR SERVICE IN CERTAIN POSITIONS.—(1) The National Intelligence Director shall prescribe regulations to provide incentives for service on the staff of the national intelligence centers, on the staff of the National Counterterrorism Center, and in other positions in support of the intelligence community management functions of the Director.

(2) Incentives under paragraph (1) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(b) ENHANCED PROMOTION FOR SERVICE UNDER NID.—Notwithstanding any other provision of law, the National Intelligence Director shall ensure that personnel of an element of the intelligence community who are assigned or detailed to service under the National Intelligence Director shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(c) JOINT CAREER MATTERS.—(1) In carrying out section 112(a)(8), the National Intelligence Director shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, and disciplines.

(2) The mechanisms prescribed under paragraph (1) may include the following:

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

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

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

(3) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate within the intelligence community the joint officer management policies established by the Goldwater–Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) and the amendments on joint officer management made by that Act.

SEC. 115. SECURITY CLEARANCES.

(a) IN GENERAL.—The President, in consultation with the National Intelligence Director, the department, agency, or element selected under (b), and other appropriate officials shall—

(1) establish uniform standards and procedures for the grant of access to classified information for employees and contractor personnel of the United States Government who require access to such information;

(2) ensure the consistent implementation of the standards and procedures established under paragraph (1) throughout the departments, agencies, and elements of the United States Government and under contracts entered into by such departments, agencies, and elements;

(3) ensure that an individual who is granted or continued eligibility for access to classified information is treated by each department, agency, or element of the executive branch as eligible for access to classified information at that level for all purposes of each such department, agency, or element, regardless of which department, agency, or element of the executive branch granted or continued the eligibility of such individual for access to classified information;

(4) establish uniform requirements and standards, including for security questionnaires, financial disclosure requirements, and standards for administering polygraph examinations, to be utilized for the performance of security clearance investigations, including by the contractors conducting such investigations; and

(5) ensure that the database established under subsection (b)(2)(B) meets the needs of the intelligence community.

(b) PERFORMANCE OF SECURITY CLEARANCE INVESTIGATIONS.—(1) Not later than 45 days after the date of the enactment of this Act, the President shall select a single department, agency, or element of the executive branch to conduct all security clearance investigations of employees and contractor personnel of the United States Government who require access to classified information and to provide and maintain all security clearances of such employees and contractor personnel.

(2) The department, agency, or element selected under paragraph (1) shall—

(A) take all necessary actions to carry out the requirements of this section, including entering into a memorandum of understanding with any agency carrying out responsibilities relating to security clearances or security clearance investigations before the date of the enactment of this Act;

(B) as soon as practicable, establish and maintain a single database for tracking security clearance applications, security clearance investigations, and determinations of eligibility for security clearances, which database shall incorporate applicable elements of similar databases in existence on the date of the enactment of this Act; and

(C) ensure that security clearance investigations are conducted in accordance with uniform standards and requirements established under subsection (a)(4), including uniform security questionnaires and financial disclosure requirements.

(c) ADJUDICATION AND GRANT OF SECURITY CLEARANCES.—(1) Each agency that adjudicates and grants security clearances as of the date of the enactment of this Act may continue to adjudicate and grant security clearances after that date.

(2) Each agency that adjudicates and grants security clearances shall specify to the department, agency, or element selected under subsection (b) the level of security clearance investigation required for an individual under its jurisdiction.

(3) Upon granting or continuing eligibility for access to classified information to an individual under its jurisdiction, an agency that adjudicates and grants security clearances shall submit to the department, agency, or element selected under subsection (b) notice of that action, including the level of access to classified information granted.

(d) UTILIZATION OF PERSONNEL.—There shall be transferred to the department, agency, or element selected under subsection (b) any personnel of any executive agency whose sole function as of the date of the enactment of this Act is the performance of security clearance investigations.

(e) TRANSITION.—The President shall take appropriate actions to ensure that the performance of security clearance investigations under this section commences not later than one year after the date of the enactment of this Act.

SEC. 116. NATIONAL INTELLIGENCE RESERVE CORPS.

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

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

(c) LIMITATION ON MEMBERSHIP.—The total number of individuals who are members of the National Intelligence Reserve Corps at any given time may not exceed 200 individuals.

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

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

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

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

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

SEC. 117. APPOINTMENT AND TERMINATION OF CERTAIN OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) **RECOMMENDATION OF NID IN CERTAIN APPOINTMENT.**—In the event of a vacancy in the position of Director of the Central Intelligence Agency, the National Intelligence Director shall recommend to the President an individual for nomination to fill the vacancy.

(b) **CONCURRENCE OF SECRETARY OF DEFENSE IN CERTAIN APPOINTMENTS RECOMMENDED BY NID.**—(1) In the event of a vacancy in a position referred to in paragraph (2), the National Intelligence Director shall obtain the concurrence of the Secretary of Defense before recommending to the President an individual for nomination to fill such vacancy. If the Secretary does not concur in the recommendation, the Director may make the recommendation to the President without the concurrence of the Secretary, but shall include in the recommendation a statement that the Secretary does not concur in the recommendation.

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

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

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

(c) **CONCURRENCE OF NID IN CERTAIN APPOINTMENTS.**—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in appointment or recommendation (as the case may be).

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

(A) The Under Secretary of Defense for Intelligence.

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

(C) The Director of the Defense Intelligence Agency.

(D) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(d) **RECOMMENDATION OF NID ON TERMINATION OF SERVICE.**—(1) The National Intelligence Director may recommend to the President or the head of the department or agency concerned the termination of service of any individual serving in any position covered by this section.

(2) In the event the Director intends to recommend to the President the termination of service of an individual under paragraph (1), the Director shall seek the concurrence of the head of the department or agency concerned. If the head of the department or agency concerned does not concur in the recommendation, the Director may make the recommendation to the President without the concurrence of the head of the department or agency concerned, but shall notify the President that the head of the department or agency concerned does not concur in the recommendation.

SEC. 118. RESERVE FOR CONTINGENCIES OF THE NATIONAL INTELLIGENCE DIRECTOR.

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

(b) ELEMENTS.—The Reserve shall consist of the following elements:

- (1) Amounts authorized to be appropriated to the Reserve.
- (2) Any amounts authorized to be transferred to or deposited in the Reserve by law.

(c) AVAILABILITY.—Amounts in the Reserve shall be available for such purposes as are provided by law.

(d) TRANSFER OF FUNDS OF RESERVE FOR CONTINGENCIES OF CIA.—There shall be transferred to the Reserve for Contingencies of the National Intelligence Director all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency as of the date of the enactment of this Act.

Subtitle C—Office of the National Intelligence Director

SEC. 121. OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR.

(a) OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—There is within the National Intelligence Authority an Office of the National Intelligence Director.

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

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

- (1) The Principal Deputy National Intelligence Director.
- (2) Any Deputy National Intelligence Director appointed under section 122(b).
- (3) The National Intelligence Council.
- (4) The General Counsel of the National Intelligence Authority.
- (5) The Intelligence Comptroller.
- (6) The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.
- (7) The Privacy Officer of the National Intelligence Authority.
- (8) The Chief Information Officer of the National Intelligence Authority.
- (9) The Chief Human Capital Officer of the National Intelligence Authority.
- (10) The Chief Financial Officer of the National Intelligence Authority.
- (11) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).
- (12) Such other offices and officials as may be established by law or the Director may establish or designate in the Office.

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

(2) The staff of the Office of the National Intelligence Director under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the National Intelligence Director under section 321.

(e) PROHIBITION ON CO-LOCATION WITH OTHER ELEMENTS OF INTELLIGENCE COMMUNITY.—Commencing as of October 1, 2006, the Office of the National Intelligence Director may not be co-located with any other element of the intelligence community.

SEC. 122. DEPUTY NATIONAL INTELLIGENCE DIRECTORS.

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

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

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

(4) The individual serving as Principal Deputy National Intelligence Director may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Principal Deputy National Intelligence Director is doing so in an acting capacity.

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

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

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

(2) In the event of a vacancy in any position of Deputy National Intelligence Director established under this subsection, the National Intelligence Director shall recommend to the President an individual for appointment to such position.

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

SEC. 123. NATIONAL INTELLIGENCE COUNCIL.

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

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

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

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

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

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

(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director under section 111.

(2) The National Intelligence Director shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence by ensuring that each national intelligence estimate under paragraph (1)—

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

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

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and

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

(d) SERVICE AS SENIOR INTELLIGENCE ADVISERS.—Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

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

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

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

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

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

SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) GENERAL COUNSEL OF NATIONAL INTELLIGENCE AUTHORITY.—There is a General Counsel of the National Intelligence Authority who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

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

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

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

SEC. 125. INTELLIGENCE COMPTROLLER.

(a) INTELLIGENCE COMPTROLLER.—There is an Intelligence Comptroller who shall be appointed from civilian life by the National Intelligence Director.

(b) SUPERVISION.—The Intelligence Comptroller shall report directly to the National Intelligence Director.

(c) DUTIES.—The Intelligence Comptroller shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(2) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

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

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

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in ensuring that the protection of civil rights and civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, is appropriately incorporated in—

(A) the policies and procedures developed for and implemented by the National Intelligence Authority;

(B) the policies and procedures regarding the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the policies and procedures regarding the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) oversee compliance by the Authority, and in the relationships described in paragraph (1), with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil rights and civil liberties;

(3) review, investigate, and assess complaints and other information indicating possible abuses of civil rights or civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, in the administration of the programs and operations of the Authority, and in the relationships described in paragraph (1), unless, in the determination of the Inspector General of the National Intelligence Authority, the review, investigation, or assessment of a particular complaint or information can better be conducted by the Inspector General;

(4) coordinate with the Privacy Officer of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

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

SEC. 127. PRIVACY OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) PRIVACY OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Privacy Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the National Intelligence Authority shall have primary responsibility for the privacy policy of the National Intelligence Authority (including in the relationships among the elements of the intelligence community within the National Intelligence Program and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community).

(2) In discharging the responsibility under paragraph (1), the Privacy Officer shall—

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

(B) assure that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

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

(D) coordinate with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner.

SEC. 128. CHIEF INFORMATION OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

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

(b) DUTIES.—The Chief Information Officer of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in implementing the responsibilities and executing the authorities related to information technology under paragraphs (15) and (16) of section 112(a) and section 113(h); and

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

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Human Capital Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the National Intelligence Authority shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the National Intelligence Authority; and

(2) advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community as a whole.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF FINANCIAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Financial Officer of the National Intelligence Authority who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the National Intelligence Authority shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) **AUTHORITIES AND FUNCTIONS.**—The Chief Financial Officer of the National Intelligence Authority shall have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) **COORDINATION WITH NIA COMPTROLLER.**—(1) The Chief Financial Officer of the National Intelligence Authority shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the National Intelligence Authority and the Comptroller of the National Intelligence Authority.

(e) **INTEGRATION OF FINANCIAL SYSTEMS.**—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the National Intelligence Authority shall take appropriate actions to ensure the timely and effective integration of the financial systems of the National Intelligence Authority (including any elements or components transferred to the Authority by this Act), and of the financial systems of the Authority with applicable portions of the financial systems of the other elements of the intelligence community, as soon as possible after the date of the enactment of this Act.

(f) **PROTECTION OF ANNUAL FINANCIAL STATEMENT FROM DISCLOSURE.**—The annual financial statement of the National Intelligence Authority required under section 3515 of title 31, United States Code—

- (1) shall be submitted in classified form; and
- (2) notwithstanding any other provision of law, shall be withheld from public disclosure.

SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) **NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, is a component of the Office of the National Intelligence Director.

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

Subtitle D—Additional Elements of National Intelligence Authority

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) **OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.**—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(C) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) solely on the basis of integrity, compliance with the security standards of the National Intelligence Authority, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(3) The Inspector General shall report directly to and be under the general supervision of the National Intelligence Director.

(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

(d) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the National Intelligence Authority—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing standards.

(e) LIMITATIONS ON ACTIVITIES.—(1) The National Intelligence Director may prohibit the Inspector General of the National Intelligence Authority from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

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

(3) The Director shall advise the Inspector General at the time a report under paragraph (1) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

(4) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

(f) AUTHORITIES.—(1) The Inspector General of the National Intelligence Authority shall have direct and prompt access to the National Intelligence Director when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program, whose testimony is needed for the performance of the duties of the Inspector General.

(B) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.

(C) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (B).

(D) Failure on the part of any employee or contractor of the National Intelligence Authority to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, including loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Federal government—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the National Intelligence Authority designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for or on behalf of any other element or component of the Authority.

(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

(g) STAFF AND OTHER SUPPORT.—(1) The Inspector General of the National Intelligence Authority shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(2)(A) Subject to applicable law and the policies of the National Intelligence Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out the functions of the Inspector General.

(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the National Intelligence Authority a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

(3)(A) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(h) REPORTS.—(1)(A) The Inspector General of the National Intelligence Authority shall, not later than January 31 and July 31 of each year, prepare and submit to the National Intelligence Director a classified semiannual report summarizing the activities of the Office of the Inspector General of the National Intelligence Authority during the immediately preceding six-month periods ending December 31 (of the preceding year) and June 30, respectively.

(B) Each report under this paragraph shall include, at a minimum, the following:

(i) A list of the title or subject of each investigation, inspection, or audit conducted during the period covered by such report.

(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the National Intelligence Authority identified by the Inspector General during the period covered by such report.

(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

(iv) A statement whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

(v) An assessment of the effectiveness of all measures in place in the Authority for the protection of civil liberties and privacy of United States persons.

(vi) A certification whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

(vii) A description of the exercise of the subpoena authority under subsection (f)(5) by the Inspector General during the period covered by such report.

(viii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Authority, and to detect and eliminate fraud and abuse in such programs and operations.

(C) Not later than the 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate.

(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations of the Authority, a relationship between the elements of the intelligence community within the National Intelligence Program, or a relationship between an element of the intelligence community within the National Intelligence Program and another element of the intelligence community.

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

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Authority official who holds or held a position in the Authority that is subject to appointment by the President, by and with the advice and consent of the Senate, including such a position held on an acting basis;

(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit, the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

(4) Pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

(5)(A) An employee of the Authority, an employee of an entity other than the Authority who is assigned or detailed to the Authority, or an employee of a contractor to the Authority who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within seven calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee's official capacity as a member or employee of such committee.

(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than three days after any such action is taken.

(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(G) In this paragraph, the term “urgent concern” means any of the following:

(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee’s reporting an urgent concern in accordance with this paragraph.

(H) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105–272; 5 U.S.C. App. 8H note).

(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Authority, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

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

SEC. 142. OMBUDSMAN OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) **OMBUDSMAN OF NATIONAL INTELLIGENCE AUTHORITY.**—There is within the National Intelligence Authority an Ombudsman of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) **DUTIES.**—The Ombudsman of the National Intelligence Authority shall—

(1) counsel, arbitrate, or offer recommendations on, and have the authority to initiate inquiries into, real or perceived problems of politicization, biased reporting, or lack of objective analysis within the National Intelligence Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community;

(2) monitor the effectiveness of measures taken to deal with real or perceived politicization, biased reporting, or lack of objective analysis within the Authority, or any element of the intelligence community within the National Intelligence Pro-

gram, or regarding any analysis of national intelligence by any element of the intelligence community; and

(3) conduct reviews of the analytic product or products of the Authority, or any element of the intelligence community within the National Intelligence Program, or of any analysis of national intelligence by any element of the intelligence community, with such reviews to be conducted so as to ensure that analysis is timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

(c) ANALYTIC REVIEW UNIT.—(1) There is within the Office of the Ombudsman of the National Intelligence Authority an Analytic Review Unit.

(2) The Analytic Review Unit shall assist the Ombudsman of the National Intelligence Authority in performing the duties and responsibilities of the Ombudsman set forth in subsection (b)(3).

(3) The Ombudsman shall provide the Analytic Review Unit a staff who possess expertise in intelligence analysis that is appropriate for the function of the Unit.

(4) In assisting the Ombudsman, the Analytic Review Unit shall, subject to the direction and control of the Ombudsman, conduct detailed evaluations of intelligence analysis by the following:

(A) The National Intelligence Council.

(B) The elements of the intelligence community within the National Intelligence Program.

(C) To the extent involving the analysis of national intelligence, other elements of the intelligence community.

(D) The divisions, offices, programs, officers, and employees of the elements specified in subparagraphs (B) and (C).

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

(d) ACCESS TO INFORMATION.—In order to carry out the duties specified in subsection (c), the Ombudsman of the National Intelligence Authority shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community, and to any reports or other material of an Inspector General, that might be pertinent to a matter under consideration by the Ombudsman.

(e) ANNUAL REPORTS.—The Ombudsman of the National Intelligence Authority shall submit to the National Intelligence Director and the congressional intelligence committees on an annual basis a report that includes—

(1) the assessment of the Ombudsman of the current level of politicization, biased reporting, or lack of objective analysis within the National Intelligence Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community;

(2) such recommendations for remedial measures as the Ombudsman considers appropriate; and

(3) an assessment of the effectiveness of remedial measures previously taken within the intelligence community on matters addressed by the Ombudsman.

(f) REFERRAL OF CERTAIN MATTERS FOR INVESTIGATION.—In addition to carrying out activities under this section, the Ombudsman of the National Intelligence Authority may refer serious cases of misconduct related to politicization of intelligence information, biased reporting, or lack of objective analysis within the intelligence community to the Inspector General of the National Intelligence Authority for investigation.

SEC. 143. NATIONAL COUNTERTERRORISM CENTER.

(a) NATIONAL COUNTERTERRORISM CENTER.—There is within the National Intelligence Authority a National Counterterrorism Center.

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

(2) Any individual nominated for appointment as the Director of the National Counterterrorism Center shall have significant expertise in matters relating to the national security of the United States and matters relating to terrorism that threatens the national security of the United States.

(3) The individual serving as the Director of the National Counterterrorism Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterterrorism Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterterrorism Center shall report to the National Intelligence Director on—

(A) the budget and programs of the National Counterterrorism Center; and

(B) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (g).

(2) The Director of the National Counterterrorism Center shall report to the President and the National Intelligence Director on the planning and progress of joint counterterrorism operations.

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

(1) To develop and unify strategy for the civilian and military counterterrorism efforts of the United States Government.

(2) To integrate counterterrorism intelligence activities of the United States Government, both inside and outside the United States.

(3) To develop interagency counterterrorism plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of departmental or agency responsibilities.

(4) To ensure that the collection of counterterrorism intelligence, and the conduct of counterterrorism operations, by the

United States Government are informed by the analysis of all-source intelligence.

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

(1) serve as the principal adviser to the President and the National Intelligence Director on joint operations relating to counterterrorism;

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

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

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the operating entities of the United States Government with principal missions relating to counterterrorism; and

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

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterterrorism Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

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

(A) The Director of the Central Intelligence Agency's Counterterrorist Center.

(B) The Assistant Director of the Federal Bureau of Investigation in charge of the Counterterrorism Division.

(C) The Coordinator for Counterterrorism of the Department of State.

(D) The head of such other operating entities of the United States Government having principal missions relating to counterterrorism as the President may designate for purposes of this subsection.

(3) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (2)(D) not later than 30 days after the date of such designation.

(g) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence.

(2) The Directorate shall utilize the capabilities of the Terrorist Threat Integration Center (TTIC) transferred to the Directorate by section 323 and such other capabilities as the Director of the National Counterterrorism Center considers appropriate.

(3) The Directorate shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations from all sources of intelligence, whether collected inside or outside the United States.

(4) The Directorate shall—

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

(B) propose intelligence collection requirements for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities and countermeasures; and

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

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

(2) The Directorate shall have primary responsibility for developing interagency counterterrorism plans, as described in subsection (d)(3).

(3) The Directorate shall—

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

(B) develop interagency plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterterrorism;

(C) assign responsibilities for counterterrorism operations to the departments and agencies of the United States Government (including the Department of Defense, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the compliance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

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

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterterrorism Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterterrorism Center in fulfilling the duties and responsibilities of the Director of the National Counterterrorism Center under this section, the National Intelligence Director shall employ in the National Counterterrorism Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterterrorism Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterterrorism Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterterrorism Center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterterrorism Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterterrorism Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterterrorism Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterterrorism Center may, with the approval of the National Intelligence Direc-

tor, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterterrorism Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterterrorism Center has access to all databases maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterterrorism Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterterrorism Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

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

(C) reports, upon request, to the Director of the National Counterterrorism Center on the progress of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterterrorism Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterterrorism Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

SEC. 144. NATIONAL INTELLIGENCE CENTERS.

(a) NATIONAL INTELLIGENCE CENTERS.—(1) The National Intelligence Director may establish within the National Intelligence Authority one or more centers (to be known as “national intelligence centers”) to address intelligence priorities established by the National Security Council.

(2) Each national intelligence center established under this section shall be assigned an area of intelligence responsibility.

(3) National intelligence centers shall be established at the direction of the President, as prescribed by law, or upon the initiative of the National Intelligence Director.

(b) ESTABLISHMENT OF CENTERS.—(1) In establishing a national intelligence center, the National Intelligence Director shall assign lead responsibility for administrative support for such center to an element of the intelligence community selected by the Director for that purpose.

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

(3) The Director shall notify Congress of the establishment of each national intelligence center before the date of the establishment of such center.

(c) DIRECTORS OF CENTERS.—(1) Each national intelligence center shall have as its head a Director who shall be appointed by the National Intelligence Director for that purpose.

(2) The Director of a national intelligence center shall serve as the principal adviser to the National Intelligence Director on intelligence matters with respect to the area of intelligence responsibility assigned to the center.

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

(A) manage the operations of the center;

(B) coordinate the provision of administration and support by the element of the intelligence community with lead responsibility for the center under subsection (b)(1);

(C) submit budget and personnel requests for the center to the National Intelligence Director;

(D) seek such assistance from other departments, agencies, and elements of the United States Government as is needed to fulfill the mission of the center; and

(E) advise the National Intelligence Director of the information technology, personnel, and other requirements of the center for the performance of its mission.

(4) The National Intelligence Director shall ensure that the Director of a national intelligence center has sufficient authority, direction, and control to effectively accomplish the mission of the center.

(d) MISSION OF CENTERS.—Pursuant to the direction of the National Intelligence Director, each national intelligence center shall, in the area of intelligence responsibility assigned to the center by the Director pursuant to intelligence priorities established by the National Security Council—

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

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

(3) have primary responsibility for net assessments and warnings;

(4) ensure that appropriate officials of the United States Government and other appropriate officials have access to a variety of intelligence assessments and analytical views; and

(5) perform such other duties as the National Intelligence Director shall specify.

(e) INFORMATION SHARING.—(1) The National Intelligence Director shall ensure that the Directors of the national intelligence cen-

ters and the other elements of the intelligence community undertake appropriate sharing of intelligence analysis and plans for operations in order to facilitate the activities of the centers.

(2) In order to facilitate information sharing under paragraph (1), the Directors of the national intelligence centers shall—

(A) report directly to the National Intelligence Director regarding their activities under this section; and

(B) coordinate with the Principal Deputy National Intelligence Director regarding such activities.

(f) STAFF.—(1) In providing for a professional staff for a national intelligence center, the National Intelligence Director may establish as positions in the excepted service such positions in the center as the National Intelligence Director considers appropriate.

(2)(A) The National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to a national intelligence center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(3) Personnel employed in or assigned or detailed to a national intelligence center under this subsection shall be under the authority, direction, and control of the Director of the center on all matters for which the center has been assigned responsibility and for all matters related to the accomplishment of the mission of the center.

(4) Performance evaluations of personnel assigned or detailed to a national intelligence center under this subsection shall be undertaken by the supervisors of such personnel at the center.

(5) The supervisors of the staff of a national center may, with the approval of the National Intelligence Director, reward the staff of the center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(6) The National Intelligence Director may delegate to the Director of a national intelligence center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (6).

(7) The Director of a national intelligence center may recommend to the National Intelligence Director the reassignment to the home element concerned of any personnel previously assigned or detailed to the center from another element of the intelligence community.

(g) **TERMINATION.**—(1) The National Intelligence Director may terminate a national intelligence center if the National Intelligence Director determines that the center is no longer required to meet an intelligence priority established by the National Security Council.

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

Subtitle E—Education and Training of Intelligence Community Personnel

SEC. 151. FRAMEWORK FOR CROSS-DISCIPLINARY EDUCATION AND TRAINING.

The National Intelligence Director shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.

SEC. 152. INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM.

(a) **DEFINITIONS.**—In this section:

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

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

(3) **PROGRAM.**—The term “Program” means the Intelligence Community Scholarship Program established under subsection (b).

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The National Intelligence Director, in consultation with the head of each agency, shall establish a scholarship program (to be known as the “Intelligence Community Scholarship Program”) to award scholarships to individuals that is designed to recruit and prepare students for civilian careers in the intelligence community to meet the critical needs of the intelligence community agencies.

(2) **SELECTION OF RECIPIENTS.**—

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

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

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

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

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

(2) be a United States citizen; and

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

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

(e) PROGRAMS AND FIELDS OF STUDY.—The National Intelligence Director shall—

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

(2) update the list as necessary.

(f) SCHOLARSHIPS.—

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

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

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

(4) AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the National Intelligence Director, but shall in no case exceed the cost of tuition, fees, and other authorized expenses as established by the Director.

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

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

(g) SPECIAL CONSIDERATION FOR CURRENT EMPLOYEES.—

(1) SET ASIDE OF SCHOLARSHIPS.—Notwithstanding paragraphs (1) and (3) of subsection (c), 10 percent of the scholarships awarded under this section shall be set aside for individuals who are employees of agencies on the date of enactment

of this section to enhance the education of such employees in areas of critical needs of agencies.

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

(h) EMPLOYEE SERVICE.—

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

(2) BEGINNING OF SERVICE.—

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

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

(i) REPAYMENT.—

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

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

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

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

(j) CANCELLATION, WAIVER, OR SUSPENSION OF OBLIGATION.—

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

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

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

Subtitle F—Additional Authorities of National Intelligence Authority

SEC. 161. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—(1) If specifically authorized to dispose of real property of the National Intelligence Authority under any law enacted after the date of the enactment of this Act, the National Intelligence Director shall, subject to paragraph (2), exercise such authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code.

(2) The Director shall deposit the proceeds of any disposal of property of the National Intelligence Authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the National Intelligence Authority may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

SEC. 162. ACQUISITION AND FISCAL AUTHORITIES.

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

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria;

(B) subject to paragraph (4), serve as the exclusive milestone decision authority; and

(C) periodically—

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

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

(2) The National Intelligence Director shall prescribe guidance for the development and implementation of program management plans under this subsection. In prescribing such guidance, the Di-

rector shall review Department of Defense guidance on program management plans for Department of Defense programs for the acquisition of major systems and, to the extent feasible, incorporate the principles of the Department of Defense guidance into the Director's guidance under this subsection.

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

(4)(A) The authority conferred by paragraph (1)(B) shall not apply to Department of Defense programs until the National Intelligence Director, in consultation with the Secretary of Defense, determines that the National Intelligence Authority has the personnel and capability to fully and effectively carry out such authority.

(B) The National Intelligence Director may assign any authority under this subsection to the Secretary of Defense. The assignment of such authority shall be made pursuant to a memorandum of understanding between the Director and the Secretary.

(5) In this subsection:

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

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

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

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

(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law (other than the provisions of this Act), sums appropriated or otherwise made available to the National Intelligence Authority may be expended for purposes necessary to carry out its functions, including any function performed by the National Intelligence Authority that is described in section 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(a)).

(c) RELATIONSHIP OF DIRECTOR'S AUTHORITY TO OTHER LAWS ON ACQUISITION AND MANAGEMENT OF PROPERTY AND SERVICES.—Section 113(e) of title 40, United States Code, is amended—

(A) by striking "or" at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting "; or"; and

(C) by adding at the end the following new paragraph:
 "(20) the National Intelligence Director."

(d) NATIONAL INTELLIGENCE DIRECTOR REPORT ON ENHANCEMENT OF NSA AND NGIA ACQUISITION AUTHORITIES.—Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall—

(1) review—

(A) the acquisition authority of the Director of the National Security Agency; and

(B) the acquisition authority of the Director of the National Geospatial-Intelligence Agency; and

(2) submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the

House of Representatives a report setting forth any recommended enhancements of the acquisition authorities of the Director of the National Security Agency and the Director of the National Geospatial-Intelligence Agency that the National Intelligence Director considers necessary.

(e) **COMPTROLLER GENERAL REPORT ON ACQUISITION POLICIES AND PROCEDURES.**—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the extent to which the policies and procedures adopted for managing the acquisition of major systems for national intelligence purposes, as identified by the National Intelligence Director, are likely to result in successful cost, schedule, and performance outcomes.

SEC. 163. PERSONNEL MATTERS.

(a) **IN GENERAL.**—In addition to the authorities provided in section 114, the National Intelligence Director may exercise with respect to the personnel of the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this Act to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(b) **RIGHTS AND PROTECTIONS OF EMPLOYEES AND APPLICANTS.**—Employees and applicants for employment of the National Intelligence Authority shall have the same rights and protections under the Authority as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this Act.

SEC. 164. ETHICS MATTERS.

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

- (1) in subclause (XII), by striking “or” at the end; and
- (2) by inserting after subclause (XIII) the following new subclause:

“(XIV) the National Intelligence Authority; or”.

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

- (1) by inserting “(A)” after “(4)”;
- (2) in subparagraph (A), as so designated, by striking “the Director of Central Intelligence” and inserting “the Director of the Central Intelligence Agency”; and
- (3) by adding at the end the following new subparagraph:

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

(c) **EXEMPTION FROM FINANCIAL DISCLOSURES.**—Section 105(a)(1) of the Ethics in Government Act (5 U.S.C. App.) is amended by in-

serting “the National Intelligence Authority,” before “the Central Intelligence Agency”.

TITLE II—OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

Subtitle A—Improvements of Intelligence Activities

SEC. 201. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

(a) **AMOUNTS REQUESTED EACH FISCAL YEAR.**—The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested in the budget of the President for such fiscal year for the National Intelligence Program.

(b) **AMOUNTS AUTHORIZED AND APPROPRIATED EACH FISCAL YEAR.**—Congress shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for such fiscal year for the National Intelligence Program.

(c) **STUDY OF DISCLOSURE OF ADDITIONAL INFORMATION.**—(1) The National Intelligence Director shall conduct a study to assess the advisability of disclosing to the public amounts as follows:

(A) The aggregate amount of appropriations requested in the budget of the President for each fiscal year for each element of the intelligence community.

(B) The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

(2) The study under paragraph (1) shall—

(A) address whether or not the disclosure to the public of the information referred to in that paragraph would harm the national security of the United States; and

(B) take into specific account concerns relating to the disclosure of such information for each element of the intelligence community.

(3) Not later than 180 days after the effective date of this section, the Director shall submit to Congress a report on the study under paragraph (1).

SEC. 202. MERGER OF HOMELAND SECURITY COUNCIL INTO NATIONAL SECURITY COUNCIL.

(a) **MERGER OF HOMELAND SECURITY COUNCIL INTO NATIONAL SECURITY COUNCIL.**—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) in the fourth undesignated paragraph of subsection (a), by striking clauses (5) and (6) and inserting the following new clauses:

“(5) the Attorney General;

“(6) the Secretary of Homeland Security;” and

(2) in subsection (b)—

- (A) in paragraph (1), by striking “and” at the end;
- (B) in paragraph (2), by striking the period at the end and inserting a semicolon; and
- (C) by adding at the end the following new paragraphs:
 - “(3) assess the objectives, commitments, and risks of the United States in the interests of homeland security and make recommendations to the President based on such assessments;
 - “(4) oversee and review the homeland security policies of the Federal Government and make recommendations to the President based on such oversight and review; and
 - “(5) perform such other functions as the President may direct.”.

(c) REPEAL OF SUPERSEDED AUTHORITY.—(1) Title IX of the Homeland Security Act of 2002 (6 U.S.C. 491 et seq.) is repealed.

(2) The table of contents for that Act is amended by striking the items relating to title IX.

SEC. 203. JOINT INTELLIGENCE COMMUNITY COUNCIL.

Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 101 the following new section:

“JOINT INTELLIGENCE COMMUNITY COUNCIL

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

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

- “(1) The National Intelligence Director, who shall chair the Council.
- “(2) The Secretary of State.
- “(3) The Secretary of the Treasury.
- “(4) The Secretary of Defense.
- “(5) The Attorney General.
- “(6) The Secretary of Energy.
- “(7) The Secretary of Homeland Security.
- “(8) Such other officers of the United States Government as the President may designate from time to time.

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

- “(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and
- “(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

“(d) MEETINGS.—The Joint Intelligence Community Council shall meet upon the request of the National Intelligence Director.”.

SEC. 204. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

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

- (1) The National Commission on Terrorist Attacks Upon the United States in its final report stated that, under Director

Robert Mueller, the Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

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

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

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

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

(3) Each agent employed by the Bureau after the date of the enactment of this Act shall, to the maximum extent practicable, be given the opportunity to undergo, during such agent's early service with the Bureau, meaningful assignments in criminal justice matters and in national intelligence matters.

(4) The Director shall—

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

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

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

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

(7) Commencing as soon as practicable after the date of the enactment of this Act, each direct supervisor of a Field Intelligence Group, and each Bureau Operational Manager at the Section Chief and Assistant Special Agent in Charge (ASAC) level and above, shall be a certified intelligence officer.

(8) The Director shall, to the maximum extent practicable, ensure that the successful discharge of advanced training courses, and of one or more assignments to another element of the intel-

ligence community, is a precondition to advancement to higher level intelligence assignments within the Bureau.

(d) **FIELD OFFICE MATTERS.**—(1) In improving the intelligence capabilities of the Federal Bureau of Investigation under subsection (b), the Director of the Federal Bureau of Investigation shall ensure that each Field Intelligence Group reports directly to a field office senior manager responsible for intelligence matters.

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

(3) The Director shall require that each Field Intelligence Group manager ensures the integration of analysts, agents, linguists, and surveillance personnel in the field.

(e) **BUDGET MATTERS.**—The Director of the Federal Bureau of Investigation shall, in consultation with the Director of the Office of Management and Budget, modify the budget structure of the Federal Bureau of Investigation in order to organize the budget according to the four principal missions of the Bureau as follows:

- (1) Intelligence.
- (2) Counterterrorism and counterintelligence.
- (3) Criminal Enterprises/Federal Crimes.
- (4) Criminal justice services.

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

(2) The Director shall include in each annual program review of the Federal Bureau of Investigation that is submitted to Congress a report on the progress made by each field office of the Bureau during the period covered by such review in addressing Bureau and national program priorities.

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

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

SEC. 205. FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.

(a) **SHORT TITLE.**—This section may be cited as the “Federal Bureau of Investigation Intelligence Career Service Authorization Act of 2005”.

(b) **ESTABLISHMENT OF FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.**—

(1) **IN GENERAL.**—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management—

(A) may establish positions for intelligence analysts, without regard to chapter 51 of title 5, United States Code;

(B) shall prescribe standards and procedures for establishing and classifying such positions; and

(C) may fix the rate of basic pay for such positions, without regard to subchapter III of chapter 53 of title 5, United States Code, if the rate of pay is not greater than the rate of basic pay payable for level IV of the Executive Schedule.

(2) LEVELS OF PERFORMANCE.—Any performance management system established for intelligence analysts shall have at least 1 level of performance above a retention standard.

(c) REPORTING REQUIREMENT.—Not less than 60 days before the date of the implementation of authorities authorized under this section, the Director of the Federal Bureau of Investigation shall submit an operating plan describing the Director’s intended use of the authorities under this section to—

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

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Government Reform of the House of Representatives;

(4) the congressional intelligence committees; and

(5) the Committees on the Judiciary of the Senate and the House of Representatives.

(d) ANNUAL REPORT.—Not later than December 31, 2005, and annually thereafter for 4 years, the Director of the Federal Bureau of Investigation shall submit an annual report of the use of the permanent authorities provided under this section during the preceding fiscal year to—

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

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Government Reform of the House of Representatives;

(4) the congressional intelligence committees; and

(5) the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 206. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term “Advisory Board” means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term “Executive Council” means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term “homeland security information” means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

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

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

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

or

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

(4) NETWORK.—The term “Network” means the Information Sharing Network described under subsection (c).

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

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of “connecting the dots”, is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

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

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency’s incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated “need to know” before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current “need-to-know” culture of information protection needs to be replaced with a “need-to-share” culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new “trusted information network” is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environ-

ment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

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

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

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

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

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

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Manage-

ment and Budget, in consultation with the Executive Council, shall—

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

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

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

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

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

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and

Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

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

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

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

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

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

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

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

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

(g) DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.—

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

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

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

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

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

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

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

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

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

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

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

(2) APPOINTMENT OF PRINCIPAL OFFICER.—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(h) EXECUTIVE COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Executive Council on Information Sharing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) MEMBERSHIP.—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

- (F) the Director of the Federal Bureau of Investigation or his designee;
 - (G) the National Intelligence Director or his designee;
 - (H) such other Federal officials as the President shall designate;
 - (I) representatives of State, tribal, and local governments, to be appointed by the President; and
 - (J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.
- (3) RESPONSIBILITIES.—The Executive Council shall assist the Director of Management and Budget in—
- (A) implementing and managing the Network;
 - (B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;
 - (C) ensuring there is coordination among departments and agencies participating in the Network in the development and implementation of the Network;
 - (D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;
 - (E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and
 - (F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).
- (4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).
- (5) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—
- (A) a description of the activities and accomplishments of the Council in the preceding year; and
 - (B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.
- (6) INFORMING THE PUBLIC.—The Executive Council shall—
- (A) make its reports to Congress available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and
 - (B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.
- (i) ADVISORY BOARD ON INFORMATION SHARING.—
- (1) ESTABLISHMENT.—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.
 - (2) RESPONSIBILITIES.—The Advisory Board shall advise the Executive Council on policy, technical, and management issues

related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) MEMBERSHIP AND QUALIFICATIONS.—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) CHAIR.—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

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

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

(B) objective systemwide performance goals for the following year;

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

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

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

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

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

(i) are participating in the Network;

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

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

(iv) are using the Network to communicate with each other;

(J) the extent to which—

(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

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

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

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

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise partici-

pates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

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

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

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

(m) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) INFORMATION AVAILABLE TO THE COMPTROLLER GENERAL.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses intel-

ligence or homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network’s requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

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

(1) \$50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

Subtitle B—Privacy and Civil Liberties

SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this subtitle as the “Board”).

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

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

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g);

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

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

(i) that the power actually materially enhances security;

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

(iii) that there are adequate guidelines and oversight to properly confine its use.

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

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

(A) review and assess reports and other information from privacy officers and civil liberties officers described in section 212;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant inter-agency matters.

(4) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers described in section 212; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

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

(f) INFORMING THE PUBLIC.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

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

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

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

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

(D) require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(3) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

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

(4) TERM.—Each member of the Board shall serve a term of six years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

(C) the members initially appointed under this subsection shall serve terms of two, three, four, five, and six years, respectively, from the effective date of this Act, with the term of each such member to be designated by the President.

(5) QUORUM AND MEETINGS.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

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

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

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

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

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

(k) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

SEC. 212. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) DESIGNATION AND FUNCTIONS.—The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the National Intelligence Director, the Director of the Central Intelligence Agency, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board to

be appropriate for coverage under this section shall designate not less than 1 senior officer to—

(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has explained—

(i) that the power actually enhances security;

(ii) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(b) EXCEPTION TO DESIGNATION AUTHORITY.—

(1) PRIVACY OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) CIVIL LIBERTIES OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) SUPERVISION AND COORDINATION.—Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

(1) report directly to the head of the department, agency, or element concerned; and

(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

(d) AGENCY COOPERATION.—The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

(1) has the information, material, and resources necessary to fulfill the functions of such officer;

(2) is advised of proposed policy changes;

(3) is consulted by decision makers; and

(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

(e) REPRISAL FOR MAKING COMPLAINT.—No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) PERIODIC REPORTS.—

(1) IN GENERAL.—The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than quarterly, submit a report on the activities of such officers—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

(ii) to the head of such department, agency, or element; and

(iii) to the Privacy and Civil Liberties Oversight Board; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

(A) information on the number and types of reviews undertaken;

(B) the type of advice provided and the response given to such advice;

(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

(g) INFORMING THE PUBLIC.—Each privacy officer and civil liberties officer shall—

(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(h) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

Subtitle C—Independence of Intelligence Agencies

SEC. 221. INDEPENDENCE OF NATIONAL INTELLIGENCE DIRECTOR.

(a) LOCATION OUTSIDE EXECUTIVE OFFICE OF THE PRESIDENT.—The National Intelligence Director shall not be located within the Executive Office of the President.

(b) PROVISION OF NATIONAL INTELLIGENCE.—The National Intelligence Director shall provide to the President and Congress national intelligence that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

SEC. 222. INDEPENDENCE OF INTELLIGENCE.

(a) DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—The Director of the National Counterterrorism Center shall provide to the President, Congress, and the National Intelligence Director national intelligence related to counterterrorism that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

(b) DIRECTORS OF NATIONAL INTELLIGENCE CENTERS.—Each Director of a national intelligence center established under section 144 shall provide to the President, Congress, and the National Intelligence Director intelligence information that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

(c) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—The Director of the Central Intelligence Agency shall ensure that intelligence produced by the Central Intelligence Agency is objective and independent of political considerations, and has not been shaped to serve policy goals.

(d) NATIONAL INTELLIGENCE COUNCIL.—The National Intelligence Council shall produce national intelligence estimates for the United States Government that are timely, objective, and independent of political considerations, and have not been shaped to serve policy goals.

SEC. 223. INDEPENDENCE OF NATIONAL COUNTERTERRORISM CENTER.

No officer, department, agency, or element of the executive branch shall have any authority to require the Director of the National Counterterrorism Center—

- (1) to receive permission to testify before Congress; or
- (2) to submit testimony, legislative recommendations, or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to Congress if such recommendations, testimony, or comments include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the Administration.

SEC. 224. ACCESS OF CONGRESSIONAL COMMITTEES TO NATIONAL INTELLIGENCE.

(a) DOCUMENTS REQUIRED TO BE PROVIDED TO CONGRESSIONAL COMMITTEES.—The National Intelligence Director, the Director of the National Counterterrorism Center, and the Director of a national intelligence center shall provide to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and any other committee of Congress with jurisdiction over the subject matter to which the information relates, all intelligence assessments, intelligence estimates, sense of intelligence community memoranda, and daily senior executive intelligence briefs, other than the Presidential Daily Brief and those reports prepared exclusively for the President.

(b) RESPONSE TO REQUESTS FROM CONGRESS REQUIRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), in addition to providing material under subsection (a), the National Intelligence Director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center shall, not later than 15 days after receiving a request for any intelligence assessment, report, or estimate or other intelligence information from the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, or any other committee of Congress with jurisdiction over the subject matter to which the information relates, make available to such committee such intelligence assessment, report, or estimate or other intelligence information.

(2) CERTAIN MEMBERS.—In addition to requests described in paragraph (1), the National Intelligence Director shall respond to requests from the Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate and the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives. Upon making a request covered by this paragraph, the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request.

(3) ASSERTIONS OF PRIVILEGE.—In response to requests described under paragraph (1) or (2), the National Intelligence Director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center shall provide information, unless the President certifies that such information is not being provided because the President is asserting a privilege pursuant to the United States Constitution.

SEC. 225. COMMUNICATIONS WITH CONGRESS.

(a) DISCLOSURE OF CERTAIN INFORMATION AUTHORIZED.—

(1) IN GENERAL.—Employees of covered agencies and employees of contractors carrying out activities under classified contracts with covered agencies may disclose information described in paragraph (2) to the individuals referred to in paragraph (3) without first reporting such information to the appropriate Inspector General.

(2) COVERED INFORMATION.—Paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of a false or inaccurate statement to Congress contained in, or withheld from Congress, any intelligence information material to, any intelligence assessment, report, or estimate, but does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

(3) COVERED INDIVIDUALS.—

(A) IN GENERAL.—The individuals to whom information in paragraph (2) may be disclosed are—

- (i) a Member of a committee of Congress having primary responsibility for oversight of a department, agency, or element of the United States Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;
- (ii) any other Member of Congress who is authorized to receive information of the type disclosed; and
- (iii) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.

(B) PRESUMPTION OF NEED FOR INFORMATION.—An individual described in subparagraph (A) to whom information is disclosed under paragraph (2) shall be presumed to have a need to know such information.

(b) CONSTRUCTION WITH OTHER REPORTING REQUIREMENTS.—Nothing in this section may be construed to modify, alter, or otherwise affect—

- (1) any reporting requirement relating to intelligence activities that arises under this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), or any other provision of law; or
- (2) the right of any employee of the United States Government to disclose to Congress in accordance with applicable law information not described in this section.

(c) COVERED AGENCIES DEFINED.—In this section, the term “covered agencies” means the following:

- (1) The National Intelligence Authority, including the National Counterterrorism Center.
- (2) The Central Intelligence Agency.
- (3) The Defense Intelligence Agency.
- (4) The National Geospatial-Intelligence Agency.
- (5) The National Security Agency.
- (6) The Federal Bureau of Investigation.
- (7) Any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

TITLE III—MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE COM- MUNITY MANAGEMENT

Subtitle A—Conforming and Other Amendments

SEC. 301. RESTATEMENT AND MODIFICATION OF BASIC AUTHORITY ON THE CENTRAL INTELLIGENCE AGENCY.

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

“CENTRAL INTELLIGENCE AGENCY

“SEC. 102. (a) CENTRAL INTELLIGENCE AGENCY.—There is a Central Intelligence Agency.

“(b) FUNCTION.—The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 103(d).

“DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

“SEC. 103. (a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

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

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

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

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

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

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

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

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

“(4) perform such other functions and duties pertaining to intelligence relating to the national security as the President or the National Intelligence Director may direct.

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

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

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

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

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

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

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

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

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

(c) REPORTS.—(1) Not later than 180 days after the effective date of this section, and annually thereafter, the Director of the Central Intelligence Agency shall submit to the National Intelligence Director and the congressional intelligence committees a report setting forth the following:

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

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

(i) the recruitment, training, equipping, and deployment of personnel required to address the current and projected threats to the national security of the United States during each of the 2-year, 5-year, and 10-year periods beginning on the date of such report, including personnel with

the backgrounds, education, and experience necessary for ensuring a human intelligence capability adequate for such projected threats;

(ii) the achievement of a proper balance between unilateral operations and liaison operations;

(iii) the development of language capabilities (including the achievement of high standards in such capabilities by the use of financial incentives and other mechanisms);

(iv) the sound financial management of the Directorate of Operations; and

(v) the identification of other capabilities required to address the current and projected threats to the national security of the United States during each of the 2-year, 5-year, and 10-year periods beginning on the date of such report.

(C) In conjunction with the Director of the National Security Agency, a strategy for achieving integration between signals and human intelligence capabilities, and the progress in implementing the strategy.

(D) Metrics and milestones for measuring progress in the implementation of each such strategy.

(2)(A) The information in each report under paragraph (1) on the element of the strategy referred to in paragraph (1)(B)(i) shall identify the number and types of personnel required to implement the strategy during each period addressed in such report, include a plan for the recruitment, training, equipping, and deployment of such personnel, 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)(11) of the National Intelligence Reform Act of 2004”.

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

(4) Section 504(a)(2) of that Act (50 U.S.C. 414(a)(2)) is amended by striking “Reserve for Contingencies of the Central Intelligence Agency” and inserting “Reserve for Contingencies of the National Intelligence Director”.

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

(6) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking “or the Office of the Director of Central Intelligence” and inserting “the Office of the Director of the Central Intelligence Agency, or the Office of the National Intelligence Director”.

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

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))” and inserting “section 112(a)(11) of the National Intelligence Reform Act of 2004”.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking “paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Central Intelligence” and inserting “section 112(a)(11) of the National Intelligence Reform Act of 2004 that the National Intelligence Director”.

(d) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 107–306.—Section 343(c) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is amended by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3((c)(6))” and inserting “section 112(a)(11) of the National Intelligence Reform Act of 2004”.

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

(A) in subsection (g), by striking “Assistant Director of Central Intelligence for Analysis and Production” and in-

serting “Principal Deputy National Intelligence Director”; and

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

SEC. 304. MODIFICATIONS OF FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

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

(1) in paragraph (2), by striking “or foreign persons, or international terrorist activities” and inserting “foreign persons, or international terrorists”; and

(2) in paragraph (3), by striking “or foreign persons, or international terrorist activities” and inserting “foreign persons, or international terrorists”.

SEC. 305. ELEMENTS OF INTELLIGENCE COMMUNITY UNDER NATIONAL SECURITY ACT OF 1947.

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

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

“(A) The National Intelligence Authority.

“(B) The Central Intelligence Agency.

“(C) The National Security Agency.

“(D) The Defense Intelligence Agency.

“(E) The National Geospatial-Intelligence Agency.

“(F) The National Reconnaissance Office.

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

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

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

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

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

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

SEC. 306. REDESIGNATION OF NATIONAL FOREIGN INTELLIGENCE PROGRAM AS NATIONAL INTELLIGENCE PROGRAM.

(a) REDESIGNATION.—Section 3 of the National Security Act of 1947 (50 U.S.C. 401a), as amended by this Act, is further amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraph (7) as paragraph (6).

(b) CONFORMING AMENDMENTS.—(1) The National Security Act of 1947, as amended by this Act, is further amended by striking “Na-

tional Foreign Intelligence Program” each place it appears in the following provisions and inserting “National Intelligence Program”:

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

(B) Section 105(a)(3) (50 U.S.C. 403–5(a)(3)).

(C) Section 506(a) (50 U.S.C. 415a(a)).

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

(c) **HEADING AMENDMENTS.**—(1) The heading of section 105 of that Act is amended to read as follows:

“RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO
THE NATIONAL INTELLIGENCE PROGRAM”.

(2) The heading of section 506 of that Act is amended to read as follows:

“SPECIFICITY OF NATIONAL INTELLIGENCE PROGRAM BUDGET
AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION,
COUNTERNARCOTICS, AND COUNTERINTELLIGENCE”.

SEC. 307. CONFORMING AMENDMENT ON COORDINATION OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY WITHIN THE DEPARTMENT OF DEFENSE.

Section 105(a)(1) of the National Security Act of 1947 (50 U.S.C. 403–5(a)(1)) is amended by striking “ensure” and inserting “assist the Director in ensuring”.

SEC. 308. REPEAL OF SUPERSEDED AUTHORITIES.

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

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

SEC. 309. CLERICAL AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.

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

(1) by inserting after the item relating to section 101 the following new item:

“Sec. 101A. Joint Intelligence Community Council.”;

(2) by striking the items relating to sections 102 through 104 and inserting the following new items:

“Sec. 102. Central Intelligence Agency.

“Sec. 103. Director of the Central Intelligence Agency.”;

(3) by striking the item relating to section 105 and inserting the following new item:

“Sec 105. Responsibilities of the Secretary of Defense pertaining to the National Intelligence Program.”;

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

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

and

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

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

SEC. 310. MODIFICATION OF AUTHORITIES RELATING TO NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Subsection (a)(2) of section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 116 Stat. 2432; 50 U.S.C. 402b) is amended by striking “Director of Central Intelligence” and inserting “National Intelligence Director, and Director of the Central Intelligence Agency”.

(b) COMPONENT OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—Such section is further amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

“(b) COMPONENT OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—The National Counterintelligence Executive is a component of the Office of the National Intelligence Director under subtitle C of the National Intelligence Reform Act of 2004.”.

(c) DUTIES.—Subsection (d) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following new paragraph:

“(5) To perform such other duties as may be provided under section 131(b) of the National Intelligence Reform Act of 2004.”.

(d) OFFICE OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 904 of the Counterintelligence Enhancement Act of 2002 (116 Stat. 2434; 50 U.S.C. 402c) is amended—

(1) by striking “Office of the Director of Central Intelligence” each place it appears in subsections (c) and (l)(1) and inserting “Office of the National Intelligence Director”;

(2) by striking “Director of Central Intelligence” each place it appears in subsections (e)(4), (e)(5), (h)(1), and (h)(2) and inserting “National Intelligence Director”; and

(3) in subsection (m), by striking “Director of Central Intelligence” and inserting “National Intelligence Director, the Director of the Central Intelligence Agency”.

SEC. 311. CONFORMING AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.

Section 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new subparagraph:

“(D) An employee of the National Intelligence Authority, an employee of an entity other than the Authority who is assigned or detailed to the Authority, or of a contractor of the Authority, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the National Intelligence Authority in accordance with section 141(h)(5) of the National Intelligence Reform Act of 2004.”.

SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

“(Q) The National Intelligence Authority.”.

Subtitle B—Transfers and Terminations

SEC. 321. TRANSFER OF OFFICE OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.

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

(b) **ADMINISTRATION.**—The National Intelligence Director shall administer the staff of the Office of the Deputy Director of Central Intelligence for Community Management after the date of the enactment of this Act as a component of the Office of the National Intelligence Director under section 121(d).

SEC. 322. TRANSFER OF NATIONAL COUNTERTERRORISM EXECUTIVE.

(a) **TRANSFER.**—There shall be transferred to the Office of the National Intelligence Director the National Counterintelligence Executive and the Office of the National Counterintelligence Executive under the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, including all functions and activities discharged by the National Counterintelligence Executive and the Office of the National Counterintelligence Executive as of the date of the enactment of this Act.

(b) **ADMINISTRATION.**—The National Intelligence Director shall treat the National Counterintelligence Executive, and administer the Office of the National Counterintelligence Executive, after the date of the enactment of this Act as components of the Office of the National Intelligence Director under section 121(c).

SEC. 323. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

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

(b) **ADMINISTRATION.**—The Director of the National Counterterrorism Center shall administer the Terrorist Threat Integration Center after the date of the enactment of this Act as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 143(g)(2).

SEC. 324. TERMINATION OF CERTAIN POSITIONS WITHIN THE CENTRAL INTELLIGENCE AGENCY.

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

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

- (1) The Deputy Director of Central Intelligence for Community Management.
- (2) The Assistant Director of Central Intelligence for Collection.
- (3) The Assistant Director of Central Intelligence for Analysis and Production.
- (4) The Assistant Director of Central Intelligence for Administration.

Subtitle C—Other Transition Matters

SEC. 331. EXECUTIVE SCHEDULE MATTERS.

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

“National Intelligence Director.”.

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended—

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

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

“Deputy National Intelligence Directors (5).

“Director of the National Counterterrorism Center.”.

(c) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence and inserting the following new item:

“Director of the Central Intelligence Agency.”.

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

SEC. 332. PRESERVATION OF INTELLIGENCE CAPABILITIES.

The National Intelligence Director, the Director of the Central Intelligence Agency, and the Secretary of Defense shall jointly take such actions as are appropriate to preserve the intelligence capabilities of the United States during the establishment of the National Intelligence Authority under this Act.

SEC. 333. REORGANIZATION.

(a) REORGANIZATION.—The National Intelligence Director may, with the approval of the President and after consultation with the department, agency, or element concerned, allocate or reallocate functions among the officers of the National Intelligence Program, and may establish, consolidate, alter, or discontinue organizational units within the Program, but only after providing notice of such action to Congress, which shall include an explanation of the rationale for the action.

(b) LIMITATION.—The authority under subsection (a) does not extend to any action inconsistent with law.

(c) CONGRESSIONAL REVIEW.—An action may be taken under the authority under subsection (a) only with the approval of the following:

- (1) Each of the congressional intelligence committees.

(2) Each of the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

SEC. 334. NATIONAL INTELLIGENCE DIRECTOR REPORT ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the progress made in the implementation of this Act, including the amendments made by this Act. The report shall include a comprehensive description of the progress made, and may include such recommendations for additional legislative or administrative action as the Director considers appropriate.

SEC. 335. COMPTROLLER GENERAL REPORTS ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

(a) REPORTS.—(1) Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a comprehensive report on the implementation of this Act and the amendments made by this Act.

(2) The Comptroller General may submit to Congress at any time during the two-year period beginning on the date of the enactment of this Act, such reports on the progress made in the implementation of this Act and the amendments made by this Act as the Comptroller General considers appropriate.

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

(1) The assessment of the Comptroller General of the progress made in the implementation of this Act (and the amendments made by this Act) as of the date of such report.

(2) A description of any delays or other shortfalls in the implementation of this Act that have been identified by the Comptroller General.

(3) Any recommendations for additional legislative or administrative action that the Comptroller General considers appropriate.

(c) AGENCY COOPERATION.—Each department, agency, and element of the United States Government shall cooperate with the Comptroller General in the assessment of the implementation of this Act, and shall provide the Comptroller General timely and complete access to relevant documents in accordance with section 716 of title 31, United States Code.

SEC. 336. GENERAL REFERENCES.

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

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

(c) OFFICE OF THE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.—Any reference to the Office of the Deputy Director of Central Intelligence for Community Management in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of such office within the Office of the National Intelligence Director under section 121.

Subtitle D—Effective Date

SEC. 341. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall take effect 180 days after the date of the enactment of this Act.

(b) EARLIER EFFECTIVE DATE.—In order to ensure the rapid implementation of this Act while simultaneously ensuring a smooth transition that will safeguard the national security of the United States, the President may provide that this Act (including the amendments made by this Act), or one or more particular provisions of this Act (including the amendments made by such provision or provisions), shall take effect on such date that is earlier than the date otherwise provided under subsection (a) as the President shall specify.

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

- (1) notify Congress of the exercise of such authority; and
- (2) publish in the Federal Register notice of the earlier effective date or dates involved, including each provision (and amendment) covered by such earlier effective date.

Subtitle E—Other Matters

SEC. 351. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which such provision is held invalid, shall not be affected thereby.

SEC. 352. AUTHORIZATION OF APPROPRIATIONS.

There are specifically authorized to be appropriated for fiscal year 2005 such sums as may be necessary to carry out this Act and the amendments made by this Act.

TITLE IV—INFORMATION SHARING

SEC. 401. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

- (1) NETWORK.—The term “Network” means the Information Sharing Network described in subsection (c).
- (2) TERRORISM INFORMATION.—The term “terrorism information” means all information, whether collected, produced, or

distributed by intelligence, law enforcement, military, homeland security, or other activities, relating to—

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

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

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

or

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

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

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of “connecting the dots”, is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. But the United States Government has a weak system for processing and using the information it has.

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

(4) Current security requirements nurture overclassification and excessive compartmentalization of information among agencies. Each agency’s incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated “need to know” before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current “need-to-know” culture of information protection needs to be replaced with a “need-to-share” culture of integration.

(6) A new approach to the sharing of terrorism information is urgently needed. An important conceptual model for a new “trusted information network” is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the

Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish an information sharing network to promote the sharing of terrorism information, in a manner consistent with national security and the protection of privacy and civil liberties.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information horizontally across agencies, vertically between levels of government, and, as appropriate, with the private sector;

(B) building on existing systems capabilities at relevant agencies;

(C) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(D) employing an information rights management approach that controls access to data rather than to whole networks;

(E) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(F) providing directory services for locating people and information;

(G) incorporating protections for individuals' privacy and civil liberties;

(H) incorporating mechanisms for information security; and

(I) access controls, authentication and authorization, audits, and other strong mechanisms for information security and privacy guideline enforcement across all levels of security, in order to enhance accountability and facilitate oversight.

(d) IMMEDIATE STEPS.—Not later than 90 days after the date of enactment of this Act, the President, through the Director of Management and Budget and in consultation with the National Intelligence Director, the Attorney General, the Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, and such other Federal officials as the President shall designate, shall—

(1) establish electronic directory services to assist in locating in the Federal Government terrorism information and people with relevant knowledge about terrorism information; and

(2) conduct a review of relevant current Federal agency capabilities, including a baseline inventory of current Federal systems that contain terrorism information, the money currently spent to maintain those systems, and identification of other information that should be included in the Network.

(e) GUIDELINES.—As soon as possible, but in no event later than 180 days after the date of enactment of this Act, the President shall—

(1) in consultation with the National Intelligence Director and the Advisory Council on Information Sharing established in subsection (g), issue guidelines for acquiring, accessing, sharing, and using terrorism information, including guidelines to ensure such information is provided in its most shareable form, such as by separating out data from the sources and methods by which they are obtained;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 901, issue guidelines that—

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

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

(3) establish objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network; and

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

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) SYSTEM DESIGN AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of enactment of this Act, the President shall submit to Congress a system design and implementation plan for the Network. The plan shall be prepared by the President through the Director of Management and Budget and in consultation with the National Intelligence Director, the Attorney General, the Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, and such other Federal officials as the President shall designate, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a description of the technological, legal, and policy issues presented by the creation of the Network described in sub-

section (c), and the ways in which these issues will be addressed;

(3)(A) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including—

(i) identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network); and

(ii) identification of any agency that will operate and manage the Network (as distinct from the individual agency components that are to be part of the Network);

(B) a provision that the delineation of roles under subparagraph (A) shall—

(i) be consistent with the authority of the National Intelligence Director, under this Act, to set standards for information sharing and information technology throughout the intelligence community; and

(ii) recognize the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(4) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

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

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

(7) proposals for any legislation that the President believes necessary to implement the Network.

(g) ADVISORY COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Council on Information Sharing (in this subsection referred to as the “Council”).

(2) MEMBERSHIP.—No more than 25 individuals may serve as members of the Council, which shall include—

(A) the National Intelligence Director, who shall serve as Chairman of the Council;

(B) the Secretary of Homeland Security;

(C) the Secretary of Defense;

(D) the Attorney General;

(E) the Secretary of State;

(F) the Director of the Central Intelligence Agency;

(G) the Director of the Federal Bureau of Investigation;

(H) the Director of Management and Budget;

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

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

(K) individuals from outside government with expertise in relevant technology, security and privacy concepts, to be appointed by the President; and

- (L) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.
- (3) RESPONSIBILITIES.—The Council shall—
- (A) advise the President and the heads of relevant Federal departments and agencies on the implementation of the Network;
 - (B) ensure that there is coordination among participants in the Network in the development and implementation of the Network;
 - (C) review, on an ongoing basis, policy, legal and technology issues related to the implementation of the Network; and
 - (D) establish a dispute resolution process to resolve disagreements among departments and agencies about whether particular terrorism information should be shared and in what manner.
- (4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).
- (5) INFORMING THE PUBLIC.—The Council shall hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.
- (6) COUNCIL REPORTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the National Intelligence Director, in the capacity of Chairman of the Council, shall submit a report to Congress that shall include—
- (A) a description of the activities and accomplishments of the Council in the preceding year; and
 - (B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.
- (h) PRESIDENTIAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and semiannually thereafter, the President shall submit a report to Congress on the state of the Network. The report shall include—
- (1) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the governmentwide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;
 - (2) objective systemwide performance goals for the following year;
 - (3) an accounting of how much was spent on the Network in the preceding year;
 - (4) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;
 - (5) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(6) the extent to which unnecessary roadblocks or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(7) the extent to which positive incentives for information sharing have been implemented;

(8) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

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

(A) are participating in the Network;

(B) have systems which have become integrated into the Network;

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

(D) are using the Network to communicate with each other;

(10) the extent to which—

(A) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(B) the private sector is both providing and receiving information;

(11) where private sector data has been used by the Government or has been incorporated into the Network—

(A) the measures taken to protect sensitive business information; and

(B) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(12) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(13) an assessment of the Network's privacy protections, including actions taken in the preceding year to implement or enforce privacy protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(14) an assessment of the security protections of the Network.

(i) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses terrorism information or that otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget and to Congress—

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

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department's or agency's information sharing efforts; and

(C) budgetary requirements to integrate the department or agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the reports; and

(2) annually thereafter, reports including—

(A) an assessment of the department's or agency's progress in complying with the Network's requirements, including how well the department or agency has performed on the objective measures developed under paragraph (1);

(B) the department's or agency's expenditures to implement and comply with the Network's requirements in the preceding year;

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

(j) PERIODIC ASSESSMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and periodically thereafter, the Government Accountability Office shall review and evaluate the implementation of the Network, both generally and, at its discretion, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on its findings.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses terrorism information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

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

(1) \$50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network system design and implementation plan required by subsection (f).

TITLE V—CONGRESSIONAL REFORM

SEC. 501. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The American people are not served well by current congressional rules and resolutions governing intelligence and homeland security oversight.

(2) A unified Executive Branch effort on fighting terrorism will not be effective unless it is matched by a unified effort in Congress, specifically a strong, stable, and capable congress-

sional committee structure to give the intelligence agencies and Department of Homeland Security sound oversight, support, and leadership.

(3) The intelligence committees of the Senate and the House of Representatives are not organized to provide strong leadership and oversight for intelligence and counterterrorism.

(4) Jurisdiction over the Department of Homeland Security, which is scattered among many committees in each chamber, does not allow for the clear authority and responsibility needed for effective congressional oversight.

(5) Congress should either create a new, joint Senate-House intelligence authorizing committee modeled on the former Joint Committee on Atomic Energy, or establish new intelligence committees in each chamber with combined authorization and appropriations authority.

(6) Congress should establish a single, principal point of oversight and review in each chamber for the Department of Homeland Security and the report of the National Commission on Terrorist Attacks Upon the United States stated that “Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties.”.

(7) In August 2004, the joint Senate leadership created a bipartisan working group to examine how best to implement the Commission’s recommendations with respect to reform of the Senate’s oversight of intelligence and homeland security, and directed the working group to begin its work immediately and to present its findings and recommendations to Senate leadership as expeditiously as possible.

SEC. 502. REORGANIZATION OF CONGRESSIONAL JURISDICTION.

The 108th Congress shall not adjourn until each House of Congress has adopted the necessary changes to its rules such that, effective the start of the 109th Congress—

(1) jurisdiction over proposed legislation, messages, petitions, memorials, and other matters relating to the Department of Homeland Security shall be consolidated in a single committee in each House and such committee shall have a nonpartisan staff; and

(2) jurisdiction over proposed legislation, messages, petitions, memorials, and other matters related to intelligence shall reside in—

(A) either a joint Senate-House authorizing committee modeled on the former Joint Committee on Atomic Energy, or a committee in each chamber with combined authorization and appropriations authority; and

(B) regardless of which committee structure is selected, the intelligence committee or committees shall have—

(i) not more than 9 members in each House, who shall serve without term limits and of which at least 1 each shall also serve on a committee on Armed Services, Judiciary, and Foreign Affairs and at least 1 on a Defense Appropriations subcommittee;

(ii) authority to issue subpoenas;

(iii) majority party representation that does not exceed minority party representation by more than 1 member in each House, and a nonpartisan staff; and

(iv) a subcommittee devoted solely to oversight.

TITLE VI—PRESIDENTIAL TRANSITION

SEC. 601. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

“(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.”;

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

“(f)(1) The President-elect should submit to the agency designated by the President under section 601(d) of the 9/11 Commission Report Implementation Act of 2004 the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

“(2) The Federal Bureau of Investigation, and any other appropriate agency, shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.”.

(b) SENSE OF CONGRESS REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of Congress that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term “major party” shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President, except a candidate who is the incumbent President, may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect’s transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) CONSOLIDATION OF RESPONSIBILITY FOR PERSONNEL SECURITY INVESTIGATIONS.—

(1) CONSOLIDATION.—

(A) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the President shall select a single Federal agency to provide and maintain all security clearances for Federal employees and Federal contractor personnel who require access to classified information, including conducting all investigation functions.

(B) CONSIDERATIONS.—In selecting an agency under this paragraph, the President shall fully consider requiring the transfer of investigation functions to the Office of Personnel Management as described under section 906 of the National Defense Authorization Act for Fiscal Year 2004 (5 U.S.C. 1101 note).

(C) COORDINATION AND CONSOLIDATION OF RESPONSIBILITIES.—The Federal agency selected under this paragraph shall—

(i) take all necessary actions to carry out the responsibilities under this subsection, including entering into a memorandum of understanding with any agency carrying out such responsibilities before the date of enactment of this Act; and

(ii) identify any legislative actions necessary to further implement this subsection.

(D) DATABASE.—The agency selected shall, as soon as practicable, establish and maintain a single database for tracking security clearance applications, investigations and eligibility determinations and ensure that security clearance investigations are conducted according to uniform standards, including uniform security questionnaires and financial disclosure requirements.

(E) POLYGRAPHS.—The President shall direct the agency selected under this paragraph to administer any polygraph examinations on behalf of agencies that require them.

(2) ACCESS.—The President, acting through the National Intelligence Director, shall—

(A) establish uniform standards and procedures for the grant of access to classified information to any officer or employee of any agency or department of the United

States and to employees of contractors of those agencies and departments;

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

(C) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by such elements.

TITLE VII—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. 701. REPORT ON TERRORIST SANCTUARIES.

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

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001 and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the twenty-first century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

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

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

(c) **STRATEGY ON TERRORIST SANCTUARIES.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report that describes a strategy for addressing and, where possible, eliminating terrorist sanctuaries.

(2) **CONTENT.**—The report required under this section shall include the following:

(A) A description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries.

(B) An outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries.

(C) A description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries.

(D) A description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

SEC. 702. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

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

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a government advocating “enlightened moderation” in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

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

(1) the United States should make a long-term commitment to assisting in ensuring a promising, stable, and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and implementing a strategy of “enlightened moderation”;

(2) the United States aid to Pakistan should be fulsome and, at a minimum, sustained at the fiscal year 2004 levels;

(3) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education; and

(4) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan.

(c) **REPORT ON SUPPORT FOR PAKISTAN.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the United States Gov-

ernment to support Pakistan and encourage moderation in that country.

(2) **CONTENT.**—The report required under this section shall include the following:

(A) An examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan.

(B) Recommendations on the funding necessary to provide various levels of educational support.

(C) An examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate.

(D) An examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

SEC. 703. AID TO AFGHANISTAN.

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

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) **POLICY.**—It shall be the policy of the United States to take the following actions with respect to Afghanistan:

(1) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(2) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Trea-

ty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(3) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) FISCAL YEAR 2005.—There are authorized to be appropriated to the President for fiscal year 2005 for assistance for Afghanistan, in addition to any amounts otherwise available for the following purposes, the following amounts:

(A) For Development Assistance to carry out the provisions of sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d), \$400,000,000.

(B) For the Child Survival and Health Program Fund to carry out the provisions of section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b), \$100,000,000.

(C) For the Economic Support Fund to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), \$550,000,000.

(D) For International Narcotics and Law Enforcement to carry out the provisions of section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291), \$360,000,000.

(E) For Nonproliferation, Anti-Terrorism, Demining, and Related Programs, \$50,000,000.

(F) For International Military Education and Training to carry out the provisions of section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347), \$2,000,000.

(G) For Foreign Military Financing Program grants to carry out the provision of section 23 of the Arms Export Control Act (22 U.S.C. 2763), \$880,000,000.

(H) For Peacekeeping Operations to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348), \$60,000,000.

(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated to the President for each of fiscal years 2006 through 2009 such sums as may be necessary for financial and other assistance to Afghanistan.

(3) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the “Securing Afghanistan’s Future” document published by the Government of Afghanistan.

(d) SENSE OF CONGRESS.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(e) STRATEGY AND SUPPORT REGARDING UNITED STATES AID TO AFGHANISTAN.—

(1) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a 5-year strategy for providing aid to Afghanistan.

(2) CONTENT.—The strategy required under paragraph (1) shall describe the resources that will be needed during the next 5 years to achieve specific objectives in Afghanistan, including in the following areas:

- (A) Fostering economic development.
- (B) Curtailing the cultivation of opium.
- (C) Achieving internal security and stability.
- (D) Eliminating terrorist sanctuaries.
- (E) Increasing governmental capabilities.
- (F) Improving essential infrastructure and public services.
- (G) Improving public health services.
- (H) Establishing a broad-based educational system.
- (I) Promoting democracy and the rule of law.
- (J) Building national police and military forces.

(3) UPDATES.—Beginning not later than 1 year after the strategy is submitted to Congress under paragraph (1), the President shall submit to Congress an annual report—

- (A) updating the progress made toward achieving the goals outlined in the strategy under this subsection; and
- (B) identifying shortfalls in meeting those goals and the resources needed to fully achieve them.

SEC. 704. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

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

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamic extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism.

(4) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003.

(5) The Government of Saudi Arabia is now aggressively pursuing al Qaeda and appears to be acting to build a domestic consensus for some internal reforms.

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

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia; and

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a strategy for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States.

(2) SCOPE.—As part of this strategy, the President shall consider the utility of undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the 2 governments and to identify areas and mechanisms for cooperation.

(3) CONTENT.—The strategy under this subsection shall encompass—

(A) intelligence and security cooperation in the fight against Islamist terrorism;

(B) ways to advance the Middle East peace process;

(C) political and economic reform in Saudi Arabia and throughout the Middle East; and

(D) the promotion of greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East.

SEC. 705. EFFORTS TO COMBAT ISLAMIC TERRORISM BY ENGAGING IN THE STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.

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

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

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

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous and caring to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational

and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

(c) **REPORT ON THE STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—**

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report that contains a cohesive long-term strategy for the United States Government to help win the struggle of ideas in the Islamic world.

(2) **CONTENT.**—The report required under this section shall include the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish these goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of these goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intra-regional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

SEC. 706. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) **FINDING.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with the world's most repressive and brutal governments are too often outweighed by long-term setbacks for the stature and interests of the United States.

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

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including

those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. 707. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

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

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

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

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) **REPORT ON OUTREACH STRATEGY.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the strategy of the United States Government for expanding its outreach to foreign Muslim audiences through broadcast media.

(2) **CONTENT.**—The report shall include the following:

(A) The initiatives of the Broadcasting Board of Governors and the public diplomacy activities of the Department of State with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances

by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(d) **AUTHORIZATIONS OF APPROPRIATIONS.**—There are authorized to be appropriated to the President to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, the following amounts:

(1) **INTERNATIONAL BROADCASTING OPERATIONS.**—For International Broadcasting Operations—

(A) \$717,160,000 for fiscal year 2005; and

(B) such sums as may be necessary for each of the fiscal years 2006 through 2009.

(2) **BROADCASTING CAPITAL IMPROVEMENTS.**—For Broadcasting Capital Improvements—

(A) \$11,040,000 for fiscal year 2005; and

(B) such sums as may be necessary for each of the fiscal years 2006 through 2009.

SEC. 708. USE OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

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

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE COUNTRY.**—The term “eligible country” means a country or entity in Africa, the Middle East, Central Asia, South Asia, or Southeast Asia that—

(A) has a sizable Muslim population; and

(B) is designated by the Secretary of State as eligible to participate in programs under this section.

(2) **SECRETARY.**—Except as otherwise specifically provided, the term “Secretary” means the Secretary of State.

(3) UNITED STATES ENTITY.—The term “United States entity” means an entity that is organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, or any other territory or possession of the United States.

(4) UNITED STATES SPONSORING ORGANIZATION.—The term “United States sponsoring organization” means a nongovernmental organization that is—

(A) based in the United States; and

(B) controlled by a citizen of the United States or a United States entity that is designated by the Secretary, pursuant to regulations, to carry out a program authorized by subsection (e).

(d) EXPANSION OF EDUCATIONAL AND CULTURAL EXCHANGES.—

(1) PURPOSE.—The purpose of this subsection is to provide for the expansion of international educational and cultural exchange programs between the United States and eligible countries.

(2) SPECIFIC PROGRAMS.—In carrying out this subsection, the Secretary is authorized to conduct or initiate programs in eligible countries as follows:

(A) FULBRIGHT EXCHANGE PROGRAM.—

(i) INCREASED NUMBER OF AWARDS.—The Secretary is authorized to substantially increase the number of awards under the J. William Fulbright Educational Exchange Program.

(ii) INTERNATIONAL SUPPORT FOR FULBRIGHT PROGRAM.—The Secretary shall work to increase support for the J. William Fulbright Educational Exchange Program in eligible countries in order to enhance academic and scholarly exchanges with those countries.

(B) HUBERT H. HUMPHREY FELLOWSHIPS.—The Secretary is authorized to substantially increase the number of Hubert H. Humphrey Fellowships awarded to candidates from eligible countries.

(C) SISTER INSTITUTIONS PROGRAMS.—The Secretary is authorized to facilitate the establishment of sister institution programs between cities and municipalities and other institutions in the United States and in eligible countries in order to enhance mutual understanding at the community level.

(D) LIBRARY TRAINING EXCHANGES.—The Secretary is authorized to develop a demonstration program, including training in the library sciences, to assist governments in eligible countries to establish or upgrade the public library systems of such countries for the purpose of improving literacy.

(E) INTERNATIONAL VISITORS PROGRAM.—The Secretary is authorized to expand the number of participants from eligible countries in the International Visitors Program.

(F) YOUTH AMBASSADORS.—

(i) IN GENERAL.—The Secretary is authorized to establish a youth ambassadors program for visits by

middle and secondary school students from eligible countries to the United States to participate in activities, including cultural and educational activities, that are designed to familiarize participating students with United States society and values.

(ii) VISITS.—The visits of students who are participating in the youth ambassador program under clause (i) shall be scheduled during the school holidays in the home countries of the students and may not exceed 4 weeks.

(iii) CRITERIA.—Students selected to participate in the youth ambassador program shall reflect the economic and geographic diversity of eligible countries.

(G) EDUCATION REFORM.—The Secretary is authorized—

(i) to expand programs that seek to improve the quality of primary and secondary school systems in eligible countries; and

(ii) in order to foster understanding of the United States, to promote civic education through teacher exchanges, teacher training, textbook modernization, and other efforts.

(H) PROMOTION OF RELIGIOUS FREEDOM.—The Secretary is authorized to establish a program to promote dialogue and exchange among leaders and scholars of all faiths from the United States and eligible countries.

(I) BRIDGING THE DIGITAL DIVIDE.—The Secretary is authorized to establish a program to help foster access to information technology among underserved populations and by civil society groups in eligible countries.

(J) PEOPLE-TO-PEOPLE DIPLOMACY.—The Secretary is authorized to expand efforts to promote United States public diplomacy interests in eligible countries through cultural, arts, entertainment, sports and other exchanges.

(K) COLLEGE SCHOLARSHIPS.—

(i) IN GENERAL.—The Secretary is authorized to establish a program to offer scholarships to permit individuals to attend eligible colleges and universities.

(ii) ELIGIBILITY FOR PROGRAM.—To be eligible for the scholarship program, an individual shall be a citizen or resident of an eligible country who has graduated from a secondary school in an eligible country.

(iii) ELIGIBLE COLLEGE OR UNIVERSITY DEFINED.—In this subparagraph, the term “eligible college or university” means a college or university that is organized under the laws of the United States, a State, or the District of Columbia, accredited by an accrediting agency recognized by the Secretary of Education, and primarily located in, but not controlled by, an eligible country.

(L) LANGUAGE TRAINING PROGRAM.—The Secretary is authorized to provide travel and subsistence funding for students who are United States citizens to travel to eligible countries to participate in immersion training programs in languages used in such countries and to develop regulations governing the provision of such funding.

(e) SECONDARY SCHOOL EXCHANGE PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to establish an international exchange visitor program, modeled on the Future Leaders Exchange Program established under the FREEDOM Support Act (22 U.S.C. 5801 et seq.), for eligible students to—

- (A) attend public secondary school in the United States;
- (B) live with a host family in the United States; and
- (C) participate in activities designed to promote a greater understanding of United States and Islamic values and culture.

(2) ELIGIBLE STUDENT DEFINED.—In this subsection, the term “eligible student” means an individual who—

- (A) is a national of an eligible country;
- (B) is at least 15 years of age but not more than 18 years and 6 months of age at the time of enrollment in the program;
- (C) is enrolled in a secondary school in an eligible country;
- (D) has completed not more than 11 years of primary and secondary education, exclusive of kindergarten;
- (E) demonstrates maturity, good character, and scholastic aptitude, and has the proficiency in the English language necessary to participate in the program;
- (F) has not previously participated in an exchange program in the United States sponsored by the Government of the United States; and
- (G) is not prohibited from entering the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other provision of law related to immigration and nationality.

(3) COMPLIANCE WITH VISA REQUIREMENTS.—An eligible student may not participate in the exchange visitor program authorized by paragraph (1) unless the eligible student has the status of nonimmigrant under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)).

(4) BROAD PARTICIPATION.—Whenever appropriate, the Secretary shall make special provisions to ensure the broadest possible participation in the exchange visitor program authorized by paragraph (1), particularly among females and less advantaged citizens of eligible countries.

(5) DESIGNATED EXCHANGE VISITOR PROGRAM.—The exchange visitor program authorized by paragraph (1) shall be a designated exchange visitor program for the purposes of section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(6) REGULAR REPORTING TO THE SECRETARY.—If the Secretary utilizes a United States sponsoring organization to carry out the exchange visitor program authorized by paragraph (1), such United States sponsoring organization shall report regularly to the Secretary on the progress it has made to implement such program.

(f) REPORT ON EXPEDITING VISAS FOR PARTICIPANTS IN EXCHANGE, SCHOLARSHIP, AND VISITORS PROGRAMS.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Secretary of

Homeland Security shall submit to Congress a report on expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program authorized in subsection (d) or (e) without compromising the security of the United States.

(2) RECOMMENDATIONS.—The report required by paragraph (1) shall include—

(A) the recommendations of the Secretary and the Secretary of Homeland Security, if any, for methods to expedite the processing of requests for such visas; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs for fiscal year 2005, there is authorized to be appropriated to the Department of State \$60,000,000 to carry out programs under this section.

SEC. 709. INTERNATIONAL YOUTH OPPORTUNITY FUND.

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

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, the effort to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall establish an International Youth Opportunity Fund (hereafter in this section referred to as the “Fund”).

(B) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(2) PURPOSE.—The purpose of the Fund shall be to provide financial assistance for the improvement of public education in the Middle East, including assistance for the construction and

operation of primary and secondary schools in countries that have a sizable Muslim population and that commit to sensibly investing their own financial resources in public education.

(3) ELIGIBILITY FOR ASSISTANCE.—

(A) DETERMINATION.—The Secretary of State, in coordination with the Administrator of the United States Agency for International Development, shall determine which countries are eligible for assistance through the Fund.

(B) CRITERIA.—In determining whether a country is eligible for assistance, the Secretary shall consider whether the government of that country is sensibly investing financial resources in public education and is committed to promoting a system of education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs.

(4) USE OF FUNDS.—Financial assistance provided through the Fund shall be used for expanding literacy programs, providing textbooks, reducing the digital divide, expanding vocational and business education, constructing and operating public schools, establishing local libraries, training teachers in modern education techniques, and promoting public education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Administrator of the United States Agency for International Development shall jointly prepare and submit to Congress a report on the improvement of education in the Middle East.

(2) CONTENT.—Reports submitted under this subsection shall include the following:

(A) A general strategy for working with eligible host governments in the Middle East toward establishing the International Youth Opportunity Fund and related programs.

(B) A listing of countries that are eligible for assistance under such programs.

(C) A description of the specific programs initiated in each eligible country and the amount expended in support of such programs.

(D) A description of activities undertaken to close the digital divide and expand vocational and business skills in eligible countries.

(E) A listing of activities that could be undertaken if additional funding were provided and the amount of funding that would be necessary to carry out such activities.

(F) A strategy for garnering programmatic and financial support from international organizations and other countries in support of the Fund and activities related to the improvement of public education in eligible countries.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, \$40,000,000 for fiscal year 2005

and such sums as may be necessary for fiscal years 2006 through 2009.

SEC. 710. REPORT ON THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

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

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

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

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) 1 element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals.

(2) **CONTENT.**—The report required under this subsection shall describe—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with other governments in the Middle East, can take to promote intra-regional trade and the rule of law in the region.

SEC. 711. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for fiscal year 2005 \$200,000,000 for the Middle East Partnership Initiative.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. 712. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

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

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) **INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.**—

(1) **SENSE OF CONGRESS.**—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) **AUTHORITY.**—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. 713. DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.

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

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that is adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) **DEFINITIONS.**—In this section:

(1) **CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.**—The term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(2) **GENEVA CONVENTIONS.**—The term “Geneva Conventions” means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(3) **PRISONER.**—The term “prisoner” means a foreign individual captured, detained, interned, or otherwise held in the custody of the United States.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Defense.

(5) **TORTURE.**—The term “torture” has the meaning given that term in section 2340 of title 18, United States Code.

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

(1) the United States should engage countries that are participating in the coalition to fight terrorism to develop a common approach toward the detention and humane treatment of captured international terrorists; and

(2) an approach toward the detention and humane treatment of captured international terrorists developed by the countries

participating in the coalition to fight terrorism could draw upon Article 3 of the Convention Relative to the Treatment of Prisoners of War, the principles of which are commonly accepted as minimum basic standards for humane treatment of captured individuals.

(d) POLICY.—It is the policy of the United States—

(1) to treat any prisoner humanely and in accordance with standards that the Government of the United States would determine to be consistent with international law if such standards were applied to personnel of the United States captured by an enemy in the war on terrorism;

(2) if there is any doubt as to whether a prisoner is entitled to the protections afforded by the Geneva Conventions, to provide the prisoner such protections until the status of the prisoner is determined under the procedures authorized by paragraph 1–6 of Army Regulation 190–8 (1997); and

(3) to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of such prisoners.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by the members of the Armed Forces of the United States and by any person providing services to the Department of Defense on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORT ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary shall submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by a member of the Armed Forces of the United States or by a person providing services to the Department of Defense on a contract basis.

(2) **FORM OF REPORT.**—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) **REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

SEC. 714. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

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

(1) Al Qaeda has tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has redoubled its international commitments to supporting the programs for Cooperative Threat Reduction and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the United States Government's commitment and approach to securing the weapons of mass destruction and related highly dangerous materials that are still scattered among Russia and other countries of the former Soviet Union.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related dangerous materials is greatly outweighed by the potentially catastrophic cost to the United States of use of weapons of mass destruction or related dangerous materials by the terrorists who are so eager to acquire them.

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

(1) maximum effort to prevent the proliferation of weapons of mass destruction, wherever such proliferation may occur, is warranted; and

(2) the programs of the United States Government to prevent or counter the proliferation of weapons of mass destruction, including the Proliferation Security Initiative, the programs for Cooperative Threat Reduction, and other nonproliferation assistance programs, should be expanded, improved, and better funded to address the global dimensions of the proliferation threat.

(c) **REQUIREMENT FOR STRATEGY.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(1) a strategy for expanding and strengthening the Proliferation Security Initiative, the programs for Cooperative Threat

Reduction, and other nonproliferation assistance programs; and

(2) an estimate of the funding necessary to execute that strategy.

(d) **REPORT ON REFORMING THE COOPERATIVE THREAT REDUCTION PROGRAM AND OTHER NON-PROLIFERATION ASSISTANCE PROGRAMS.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating whether the United States could more effectively address the global threat of nuclear proliferation by—

(1) establishing a central coordinator for the programs for Cooperative Threat Reduction;

(2) eliminating the requirement that the President spend no more than \$50,000,000 annually on programs for Cooperative Threat Reduction and other non-proliferation assistance programs carried out outside the former Soviet Union; or

(3) repealing the provisions of the Soviet Nuclear Threat Reduction Act of 1991 (22 U.S.C. 2551 note) that place conditions on assistance to the former Soviet Union unrelated to bilateral cooperation on weapons dismantlement.

SEC. 715. FINANCING OF TERRORISM.

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

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

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

(1) the primary weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) **REPORT ON TERRORIST FINANCING.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) **CONTENTS.**—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to track terrorist financing;

(B) ways to improve international governmental cooperation in this effort;

(C) ways to improve performance of financial institutions in this effort;

(D) the adequacy of agency coordination in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

TITLE VIII—TERRORIST TRAVEL AND EFFECTIVE SCREENING

SEC. 801. COUNTERTERRORIST TRAVEL INTELLIGENCE.

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

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in Government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) **STRATEGY.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress unclassified and classified versions of a

strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy.

(2) ACCOUNTABILITY.—The strategy submitted under paragraph (1) shall—

(A) describe a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods; and

(B) outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy.

(3) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies, including—

(A) the National Counterterrorism Center;

(B) the Department of Transportation;

(C) the Department of State;

(D) the Department of the Treasury;

(E) the Department of Justice;

(F) the Department of Defense;

(G) the Federal Bureau of Investigation;

(H) the Drug Enforcement Agency; and

(I) the agencies that comprise the intelligence community.

(4) CONTENTS.—The strategy shall address—

(A) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel practices and trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(B) the initial and ongoing training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(C) the new procedures required and actions to be taken to integrate existing counterterrorist travel and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(D) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(E) the additional assistance to be given to the inter-agency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(F) the additional resources to be given to the Directorate of Information and Analysis and Infrastructure Protection to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security and classified and unclassified sources of

counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(G) the development and implementation of procedures to enable the Human Smuggling and Trafficking Center to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(H) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(I) the development of a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(J) the feasibility of digitally transmitting passport information to a central cadre of specialists until such time as experts described under subparagraph (I) are available at consular, port of entry, and immigration benefits offices; and

(K) granting consular officers the security clearances necessary to access law enforcement sensitive databases.

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

(1) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.— Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(2) CONTENTS OF PLAN.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport submitted for identification purposes to a United States consular, border, or immigration official.

(3) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall develop and implement an initial and annual training program for consular, border, and immigration officials to teach such officials how to effectively detect and disrupt terrorist travel. The Secretary may assist State, local, and tribal governments, and private industry, in establishing training programs related to terrorist travel intelligence.

(B) TRAINING TOPICS.—The training developed under this paragraph shall include training in—

- (i) methods for identifying fraudulent documents;
- (ii) detecting terrorist indicators on travel documents;
- (iii) recognizing travel patterns, tactics, and behaviors exhibited by terrorists;
- (iv) the use of information contained in available databases and data systems and procedures to maintain the accuracy and integrity of such systems; and
- (v) other topics determined necessary by the Secretary of Homeland Security and the Secretary of State.

(C) CERTIFICATION.—Not later than 1 year after the date of enactment of this Act—

- (i) the Secretary of Homeland Security shall certify to Congress that all border and immigration officials have received training under this paragraph; and
- (ii) the Secretary of State shall certify to Congress that all consular officers have received training under this paragraph.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out the provisions of this subsection.

(d) ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.—

(1) IN GENERAL.—The National Intelligence Director shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

SEC. 802. INTEGRATED SCREENING SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security shall develop a plan for a comprehensive integrated screening system.

(b) DESIGN.—The system planned under subsection (a) shall be designed to—

(1) encompass an integrated network of screening points that includes the Nation's border security system, transportation system, and critical infrastructure or facilities that the Secretary determines need to be protected against terrorist attack;

(2) build upon existing border enforcement and security activities, and to the extent practicable, private sector security initiatives, in a manner that will enable the utilization of a range of security check points in a continuous and consistent manner throughout the Nation's screening system;

(3) allow access to government databases to detect terrorists; and

(4) utilize biometric identifiers that the Secretary determines to be appropriate and feasible.

(c) STANDARDS FOR SCREENING PROCEDURES.—

(1) AUTHORIZATION.—The Secretary may promulgate standards for screening procedures for—

(A) entering and leaving the United States;

(B) accessing Federal facilities that the Secretary determines need to be protected against terrorist attack;

(C) accessing critical infrastructure that the Secretary determines need to be protected against terrorist attack; and

(D) accessing modes of transportation that the Secretary determines need to be protected against terrorist attack.

(2) SCOPE.—Standards prescribed under this subsection may address a range of factors, including technologies required to be used in screening and requirements for secure identification.

(3) REQUIREMENTS.—In promulgating standards for screening procedures, the Secretary shall—

(A) consider and incorporate appropriate civil liberties and privacy protections;

(B) comply with the Administrative Procedure Act; and

(C) consult with other Federal, State, local, and tribal governments, and other interested parties, as appropriate.

(4) LIMITATION.—This section does not confer to the Secretary new statutory authority, or alter existing authorities, over systems, critical infrastructure, and facilities.

(5) NOTIFICATION.—If the Secretary determines that additional regulatory authority is needed to fully implement the plan for an integrated screening system, the Secretary shall immediately notify Congress.

(d) COMPLIANCE.—The Secretary may issue regulations to ensure compliance with the standards promulgated under this section.

(e) CONSULTATION.—For those systems, critical infrastructure, and facilities that the Secretary determines need to be protected against terrorist attack, the Secretary shall consult with other Federal agencies, State, local, and tribal governments, and the private sector to ensure the development of consistent standards and consistent implementation of the integrated screening system.

(f) BIOMETRIC IDENTIFIERS.—In carrying out this section, the Secretary shall continue to review biometric technologies and existing Federal and State programs using biometric identifiers. Such review shall consider the accuracy rate of available technologies.

(g) IMPLEMENTATION.—

(1) PHASE I.—The Secretary shall—

(A) issue standards for driver's licenses, personal identification cards, and birth certificates, as required under section 806;

(B) develop plans for, and begin implementation of, a single program for registered travelers to expedite travel across the border, as required under section 803(e);

(C) continue the implementation of a biometric exit and entry data system that links to relevant databases and data systems, as required by subsections (b) and (c) of section 803 and other existing authorities;

(D) centralize the “no-fly” and “automatic-selectee” lists, making use of improved terrorists watch lists, as required by section 903;

- (E) develop plans, in consultation with other relevant agencies, for the sharing of terrorist information with trusted governments, as required by section 805;
 - (F) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and
 - (G) report to Congress on the implementation of phase I, including—
 - (i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and
 - (ii) plans for the development and implementation of phases II and III.
- (2) PHASE II.—The Secretary shall—
- (A) complete the implementation of a single program for registered travelers to expedite travel across the border, as required by section 803(e);
 - (B) complete the implementation of a biometric entry and exit data system that links to relevant databases and data systems, as required by subsections (b) and (c) of section 803, and other existing authorities;
 - (C) in cooperation with other relevant agencies, engage in dialogue with foreign governments to develop plans for the use of common screening standards;
 - (D) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and
 - (E) report to Congress on the implementation of phase II, including—
 - (i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and
 - (ii) the plans for the development and implementation of phase III.
- (3) PHASE III.—The Secretary shall—
- (A) finalize and deploy the integrated screening system required by subsection (a);
 - (B) in cooperation with other relevant agencies, promote the implementation of common screening standards by foreign governments; and
 - (C) report to Congress on the implementation of Phase III, including—
 - (i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and
 - (ii) the plans for the ongoing operation of the integrated screening system.
- (h) REPORT.—After phase III has been implemented, the Secretary shall submit a report to Congress every 3 years that describes the ongoing operation of the integrated screening system, including its effectiveness, efficient use of resources, compliance

with statutory provisions, and safeguards for privacy and civil liberties.

(i) **AUTHORIZATIONS.**—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 803. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) **PLAN AND REPORT.**—

(1) **DEVELOPMENT OF PLAN.**—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system required by applicable sections of—

(A) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(B) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(C) the Visa Waiver Permanent Program Act (Public Law 106–396);

(D) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(E) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(2) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the automated entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the entry and exit data system; and

(D) a description of plans for improved or added interoperability with any other databases or data systems.

(c) INTEGRATION REQUIREMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall integrate the biometric entry and exit data system with all databases and data systems maintained by the United States Citizenship and Immigration Services that process or contain information on aliens.

(d) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary, in consultation with other appropriate agencies, shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system, and databases and data systems linked to the entry and exit data system, that ensure the accuracy and integrity of the data.

(2) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under paragraph (1) shall—

(A) incorporate a simple and timely method for—

(i) correcting errors; and

(ii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to seek corrections of data contained in the data systems.

(e) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the border can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—The term “registered traveler program” means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PLAN.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a plan to expedite the processing of registered travelers who enter and exit the United States through a single registered traveler program.

(B) INTEGRATION.—The registered traveler program developed under this paragraph shall be integrated into the automated biometric entry and exit data system described in this section.

(C) REVIEW AND EVALUATION.—In developing the program under this paragraph, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs; and

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department’s progress on the development and implementation of the plan required by this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 804. TRAVEL DOCUMENTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification;

(2) the planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities; and

(3) additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) BIOMETRIC PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require biometric passports or other identification deemed by the Secretary to be at least as secure as a biometric passport, for

all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(2) **REQUIREMENT TO PRODUCE DOCUMENTATION.**—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—After the complete implementation of the plan described in subsection (b)—

(1) the Secretary of State and the Attorney General may no longer exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may no longer exercise discretion under section 215(b) of such Act to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States, unless the Secretary of State determines that the alternative documentation that is the basis for the waiver of the documentary requirement is at least as secure as a biometric passport.

(d) **TRANSIT WITHOUT VISA PROGRAM.**—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. 805. EXCHANGE OF TERRORIST INFORMATION.

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) the exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits; and

(2) the further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

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

(1) the United States Government should exchange terrorist information with trusted allies;

(2) the United States Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable the United States Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the United States Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the United States Government should work with other countries to improve passport standards and provide foreign

assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other agencies, should implement the initiatives called for in this subsection.

(c) **REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other agencies, shall submit to the appropriate committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) **CONTENTS.**—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

SEC. 806. MINIMUM STANDARDS FOR IDENTIFICATION-RELATED DOCUMENTS.

(a) **IN GENERAL.**—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following:

“SEC. 890A. MINIMUM STANDARDS FOR BIRTH CERTIFICATES.

“(a) **DEFINITION.**—In this section, the term ‘birth certificate’ means a certificate of birth—

“(1) for an individual (regardless of where born)—

“(A) who is a citizen or national of the United States at birth; and

“(B) whose birth is registered in the United States; and

“(2) that—

“(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

“(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

“(b) **STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.**—

“(1) **IN GENERAL.**—Beginning 2 years after the promulgation of minimum standards under paragraph (2), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

“(2) **MINIMUM STANDARDS.**—Within 1 year after the date of enactment of this section, the Secretary shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

“(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of

record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

“(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

“(C) may not require a single design to which birth certificates issued by all States must conform; and

“(D) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

“(3) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required by paragraph (2), the Secretary shall consult with State vital statistics offices and appropriate Federal agencies.

“(4) EXTENSION OF EFFECTIVE DATE.—The Secretary may extend the 2-year date under paragraph (1) by up to 2 additional years for birth certificates issued before that 2-year date if the Secretary determines that the States are unable to comply with such date after making reasonable efforts to do so.

“(c) GRANTS TO STATES.—

“(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

“(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary shall make grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

“(B) ALLOCATION OF GRANTS.—The Secretary shall make grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

“(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

“(A) IN GENERAL.—The Secretary, in coordination with other appropriate Federal agencies, shall make grants to States to assist them in—

“(i) computerizing their birth and death records;

“(ii) developing the capability to match birth and death records within each State and among the States; and

“(iii) noting the fact of death on the birth certificates of deceased persons.

“(B) ALLOCATION OF GRANTS.—The Secretary shall make grants to States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005

through 2009 such sums as may be necessary to carry out this section.

“SEC. 890B. DRIVER’S LICENSES AND PERSONAL IDENTIFICATION CARDS.

“(a) DEFINITIONS.—In this section:

“(1) DRIVER’S LICENSE.—The term ‘driver’s license’ means a motor vehicle operator’s license as defined in section 30301(5) of title 49, United States Code.

“(2) PERSONAL IDENTIFICATION CARD.—The term ‘personal identification card’ means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

“(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

“(1) IN GENERAL.—

“(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver’s license or personal identification card issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver’s license or personal identification card conforms to such minimum standards.

“(B) DATE FOR CONFORMANCE.—The Secretary shall establish a date after which no driver’s license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver’s license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

“(2) MINIMUM STANDARDS.—Within 1 year after the date of enactment of this section, the Secretary shall by regulation establish minimum standards for driver’s licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

“(A) standards for documentation required as proof of identity of an applicant for a driver’s license or identification card;

“(B) standards for third-party verification of the authenticity of documents used to obtain a driver’s license or identification card;

“(C) standards for the processing of applications for driver’s licenses and identification cards to prevent fraud;

“(D) security standards to ensure that driver’s licenses and identification cards are—

“(i) resistant to tampering, alteration, or counterfeiting; and

“(ii) capable of accommodating a digital photograph or other unique identifier; and

“(E) a requirement that a State confiscate a driver’s license or identification card if any component or security feature of the license or identification card is compromised.

“(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

“(A) shall facilitate communication between the chief driver licensing official of a State and an appropriate official of a Federal agency to verify the authenticity of docu-

ments issued by such Federal agency and presented to prove the identity of an individual;

“(B) may not directly or indirectly infringe on a State’s power to set eligibility criteria for obtaining a driver’s license or identification card from that State; and

“(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of such eligibility criteria by the State.

“(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required by paragraph (2), the Secretary shall consult with the Department of Transportation, the chief driver licensing official of each State, any other State organization that issues personal identification cards, and any organization, determined appropriate by the Secretary, that represents the interests of the States.

“(c) GRANTS TO STATES.—

“(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary shall make grants to States to assist them in conforming to the minimum standards for driver’s licenses and personal identification cards set forth in the regulation.

“(2) ALLOCATION OF GRANTS.—The Secretary shall make grants to States under this subsection based on the proportion that the estimated average annual number of driver’s licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

“SEC. 890C. SOCIAL SECURITY CARDS.

“(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

“(1) within 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

“(2) within 1 year after the date of enactment of this section, require independent verification of all records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

“(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

“(b) INTERAGENCY SECURITY TASK FORCE.—The Secretary and the Commissioner of Social Security shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Within 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

“(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

“(2) requirements for verifying documents submitted for the issuance of replacement cards; and

“(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

(2) Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 890 the following:

“Sec. 890A. Minimum standards for birth certificates.

“Sec. 890B. Driver’s licenses and personal identification cards.

“Sec. 890C. Social security cards.”.

TITLE IX—TRANSPORTATION SECURITY

SEC. 901. DEFINITIONS.

In this title, the terms “air carrier”, “air transportation”, “aircraft”, “airport”, “cargo”, “foreign air carrier”, and “intrastate air transportation” have the meanings given such terms in section 40102 of title 49, United States Code.

SEC. 902. NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.

(a) REQUIREMENT FOR STRATEGY.—

(1) RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall—

(A) develop and implement a National Strategy for Transportation Security; and

(B) revise such strategy whenever necessary to improve or to maintain the currency of the strategy or whenever the Secretary otherwise considers it appropriate to do so.

(2) CONSULTATION WITH SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall consult with the Secretary of Transportation in developing and revising the National Strategy for Transportation Security under this section.

(b) CONTENT.—The National Strategy for Transportation Security shall include the following matters:

(1) An identification and evaluation of the transportation assets within the United States that, in the interests of national security, must be protected from attack or disruption by terrorist or other hostile forces, including aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, urban mass transit, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(2) The development of the risk-based priorities, and realistic deadlines, for addressing security needs associated with those assets.

(3) The most practical and cost-effective means of defending those assets against threats to their security.

(4) A forward-looking strategic plan that assigns transportation security roles and missions to departments and agencies of the Federal Government (including the Armed Forces), State governments (including the Army National Guard and Air National Guard), local governments, and public utilities, and establishes mechanisms for encouraging private sector cooperation and participation in the implementation of such plan.

(5) A comprehensive delineation of response and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States.

(6) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital assets.

(7) A budget and recommendations for appropriate levels and sources of funding to meet the objectives set forth in the strategy.

(c) SUBMISSIONS TO CONGRESS.—

(1) THE NATIONAL STRATEGY.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security developed under this section to Congress not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including any revisions, to Congress not less frequently than April 1 of each even-numbered year.

(2) PERIODIC PROGRESS REPORT.—

(A) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to Congress an assessment of the progress made on implementing the National Strategy for Transportation Security.

(B) CONTENT.—Each progress report under this paragraph shall include, at a minimum, the following matters:

(i) An assessment of the adequacy of the resources committed to meeting the objectives of the National Strategy for Transportation Security.

(ii) Any recommendations for improving and implementing that strategy that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.

(3) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

(d) PRIORITY STATUS.—

(1) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(2) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(A) the current National Maritime Transportation Security Plan under section 70103 of title 46, United States Code;

(B) the report of the Secretary of Transportation under section 44938 of title 49, United States Code; and

(C) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

SEC. 903. USE OF WATCHLISTS FOR PASSENGER AIR TRANSPORTATION SCREENING.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Transportation Security Administration, as soon as practicable after the date of the enactment of this Act but in no event later than 90 days after that date, shall—

(1) implement a procedure under which the Transportation Security Administration compares information about passengers who are to be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation for flights and flight segments originating in the United States with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such flights or flight segments or to subject them to specific additional security scrutiny, through the use of “no fly” and “automatic selectee” lists or other means.

(b) AIR CARRIER COOPERATION.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall by order require air carriers to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE “NO FLY” AND “AUTOMATIC SELECTEE” LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the database.

(2) ACCURACY OF ENTRIES.—In developing the “no fly” and “automatic selectee” lists under subsection (a)(2), the Secretary of Homeland Security shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide individuals whose names are confused with, or similar to, names in the database with a means of demonstrating that they are not a person named in the database.

SEC. 904. ENHANCED PASSENGER AND CARGO SCREENING.**(a) AIRCRAFT PASSENGER SCREENING AT CHECKPOINTS.—****(1) DETECTION OF EXPLOSIVES.—**

(A) IMPROVEMENT OF CAPABILITIES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Homeland Security shall take such action as is necessary to improve the capabilities at passenger screening checkpoints, especially at commercial airports, to detect explosives carried aboard aircraft by passengers or placed aboard aircraft by passengers.

(B) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Secretary shall take immediate measures to require Transportation Security Administration or other screeners to screen for explosives any individual identified for additional screening before that individual may board an aircraft.

(2) IMPLEMENTATION REPORT.—

(A) REQUIREMENT FOR REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transmit to the Senate and the House of Representatives a report on how the Secretary intends to achieve the objectives of the actions required under paragraph (1). The report shall include an implementation schedule.

(B) CLASSIFIED INFORMATION.—The Secretary may submit separately in classified form any information in the report under subparagraph (A) that involves information that is properly classified under criteria established by Executive order.

(b) ACCELERATION OF RESEARCH AND DEVELOPMENT ON, AND DEPLOYMENT OF, DETECTION OF EXPLOSIVES.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall take such action as may be necessary to accelerate research and development and deployment of technology for screening aircraft passengers for explosives during or before the aircraft boarding process.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for each of fiscal years 2005 through 2009.

(c) IMPROVEMENT OF SCREENER JOB PERFORMANCE.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security shall take such action as may be necessary to improve the job performance of airport screening personnel.

(2) HUMAN FACTORS STUDY.—In carrying out this subsection, the Secretary shall, not later than 180 days after the date of the enactment of this Act, conduct a human factors study in order better to understand problems in screener performance and to set attainable objectives for individual screeners and screening checkpoints.

(d) CHECKED BAGGAGE AND CARGO.—

(1) IN-LINE BAGGAGE SCREENING.—The Secretary of Homeland Security shall take such action as may be necessary to ex-

pedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

(2) **CARGO SECURITY.**—The Secretary shall take such action as may be necessary to ensure that the Transportation Security Administration increases and improves its efforts to screen potentially dangerous cargo.

(3) **HARDENED CONTAINERS.**—The Secretary, in consultation with the Secretary of Transportation, shall require air carriers to deploy at least 1 hardened container for containing baggage or cargo items in each passenger aircraft that also carries cargo.

(e) **COST-SHARING.**—Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the Senate and the House of Representatives—

(1) a proposed formula for cost-sharing, for the advanced in-line baggage screening equipment required by this title, between and among the Federal Government, State and local governments, and the private sector that reflects proportionate national security benefits and private sector benefits for such enhancement; and

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the advanced in-line baggage screening equipment required by this title, which may be based on the formula proposed under paragraph (1).

TITLE X—NATIONAL PREPAREDNESS

SEC. 1001. HOMELAND SECURITY ASSISTANCE.

(a) **DEFINITIONS.**—In this section:

(1) **COMMUNITY.**—The term “community” means a State, local government, or region.

(2) **HOMELAND SECURITY ASSISTANCE.**—The term “homeland security assistance” means grants or other financial assistance provided by the Department of Homeland Security under the State Homeland Security Grants Program, the Urban Areas Security Initiative, or the Law Enforcement Terrorism Prevention Program.

(3) **LOCAL GOVERNMENT.**—The term “local government” has the meaning given that term in section 2(10) of the Homeland Security Act of 2002 (6 U.S.C. 101(10)).

(4) **REGION.**—The term “region” means any intrastate or interstate consortium of local governments.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(6) **STATE.**—The term “State” has the meaning given that term in section 2(14) of the Homeland Security Act of 2002 (6 U.S.C. 101(14)).

(7) **UNDER SECRETARY.**—The term “Under Secretary” means the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(b) IN GENERAL.—The Secretary shall allocate homeland security assistance to communities based on—

(1) the level of threat faced by a community, as determined by the Secretary through the Under Secretary, in consultation with the National Intelligence Director;

(2) the critical infrastructure in the community, and the risks to and vulnerability of that infrastructure, as identified and assessed by the Secretary through the Under Secretary;

(3) the community's population and population density;

(4) such other indicia of a community's risk and vulnerability as the Secretary determines is appropriate;

(5) the benchmarks developed under subsection (d)(4)(A); and

(6) the goal of achieving and enhancing essential emergency preparedness and response capabilities throughout the Nation.

(c) REALLOCATION OF ASSISTANCE.—A State receiving homeland security assistance may reallocate such assistance, in whole or in part, among local governments or other entities, only if such reallocation is made on the basis of an assessment of threats, risks, and vulnerabilities of the local governments or other entities that is consistent with the criteria set forth in subsection (b).

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall establish an advisory panel to assist the Secretary in determining how to allocate homeland security assistance funds most effectively among communities, consistent with the criteria set out in subsection (b).

(2) SELECTION OF MEMBERS.—The Secretary shall appoint no fewer than 10 individuals to serve on the advisory panel. The individuals shall—

(A) be chosen on the basis of their knowledge, achievements, and experience;

(B) be from diverse geographic and professional backgrounds; and

(C) have demonstrated expertise in homeland security or emergency preparedness and response.

(3) TERM.—Each member of the advisory panel appointed by the Secretary shall serve a term the length of which is to be determined by the Secretary, but which shall not exceed 5 years.

(4) RESPONSIBILITIES.—The advisory panel shall—

(A) develop benchmarks by which the needs and capabilities of diverse communities throughout the Nation with respect to potential terrorist attacks may be assessed, and review and revise those benchmarks as appropriate; and

(B) advise the Secretary on means of establishing appropriate priorities for the allocation of funding among applicants for homeland security assistance.

(5) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the advisory panel shall provide the Secretary and Congress with a report on the benchmarks it has developed under paragraph (4)(A), including any revisions or modifications to such benchmarks.

(6) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory panel.

(7) **ADMINISTRATIVE SUPPORT SERVICES.**—The Secretary shall provide administrative support services to the advisory panel.

(e) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 1014(c) of the USA PATRIOT ACT of 2001 (42 U.S.C. 3714(c)) is amended by striking paragraph (3).

SEC. 1002. THE INCIDENT COMMAND SYSTEM.

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

(1) The attacks on September 11, 2001, demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough.

(2) Teamwork, collaboration, and cooperation at an incident site are critical to a successful response to a terrorist attack.

(3) Key decision makers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety.

(4) Regular joint training at all levels is essential to ensuring close coordination during an actual incident.

(5) Beginning with fiscal year 2005, the Department of Homeland Security is requiring that entities adopt the Incident Command System and other concepts of the National Incident Management System in order to qualify for funds distributed by the Office of State and Local Government Coordination and Preparedness.

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

(1) emergency response agencies nationwide should adopt the Incident Command System;

(2) when multiple agencies or multiple jurisdictions are involved, they should follow a unified command system; and

(3) the Secretary of Homeland Security should require, as a further condition of receiving homeland security preparedness funds from the Office of State and Local Government Coordination and Preparedness, that grant applicants document measures taken to fully and aggressively implement the Incident Command System and unified command procedures.

SEC. 1003. NATIONAL CAPITAL REGION MUTUAL AID.

(a) **DEFINITIONS.**—In this section:

(1) **AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.**—The term “authorized representative of the Federal Government” means any individual or individuals designated by the President with respect to the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a Mutual Aid Agreement for an emergency or public service event.

(2) **CHIEF OPERATING OFFICER.**—The term “chief operating officer” means the official designated by law to declare an emergency in and for the locality of that chief operating officer.

(3) **EMERGENCY.**—The term “emergency” means a major disaster or emergency declared by the President, or a state of emergency declared by the Mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a Mutual Aid Agreement.

(4) **EMPLOYEE.**—The term “employee” means the employees of the party, including its agents or authorized volunteers, who are committed in a Mutual Aid Agreement to prepare for or who respond to an emergency or public service event.

(5) **LOCALITY.**—The term “locality” means a county, city, or town within the State of Maryland or the Commonwealth of Virginia and within the National Capital Region.

(6) **MUTUAL AID AGREEMENT.**—The term “Mutual Aid Agreement” means an agreement, authorized under subsection (b) for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or pre-planned training event.

(7) **NATIONAL CAPITAL REGION OR REGION.**—The term “National Capital Region” or “Region” means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

(8) **PARTY.**—The term “party” means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

(9) **PUBLIC SERVICE EVENT.**—The term “public service event”—

(A) means any undeclared emergency, incident or situation in preparation for or response to which the Mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

(10) **STATE.**—The term “State” means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(11) **TRAINING.**—The term “training” means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service

events, such actions occurring outside actual emergency or public service event periods.

(b) MUTUAL AID AUTHORIZED.—

(1) IN GENERAL.—The Mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, subject to State law, enter into, request or provide assistance under Mutual Aid Agreements with localities, the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority for—

(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

(C) training for any of the activities described under subparagraphs (A) and (B).

(2) FACILITATING LOCALITIES.—The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate Mutual Aid Agreements in the National Capital Region under this section.

(3) APPLICATION AND EFFECT.—This section—

(A) does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;

(B) does not diminish any authorities, express or implied, of Federal agencies to enter into Mutual Aid Agreements in furtherance of their Federal missions; and

(C) does not—

(i) preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or

(ii) affect any other agreement in effect before the date of enactment of this Act among the States and localities, including the Emergency Management Assistance Compact.

(4) RIGHTS DESCRIBED.—Other than as described in this section, the rights and responsibilities of the parties to a Mutual Aid Agreement entered into under this section shall be as described in the Mutual Aid Agreement.

(c) DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a Mutual Aid Agreement authorized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

(d) LIABILITY AND ACTIONS AT LAW.—

(1) IN GENERAL.—Any responding party or its officers or employees rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement authorized under this section, and any party or its officers or employees engaged in training activities with another party under such a Mutual Aid Agreement, shall be liable on account of any act or omission of its officers or employees while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.

(2) ACTIONS.—Any action brought against a party or its officers or employees on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

(3) GOOD FAITH EXCEPTION.—

(A) DEFINITION.—In this paragraph, the term “good faith” shall not include willful misconduct, gross negligence, or recklessness.

(B) EXCEPTION.—No State or locality, or its officers or employees, rendering aid to another party, or engaging in training, under a Mutual Aid Agreement shall be liable under Federal law on account of any act or omission performed in good faith while so engaged, or on account of the maintenance or use of any related equipment, facilities, or supplies performed in good faith.

(4) IMMUNITIES.—This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.

(d) WORKERS COMPENSATION.—

(1) COMPENSATION.—Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement, or engaged in training activities under a Mutual Aid Agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

(2) OTHER STATE LAW.—No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of 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.

(e) **LICENSES AND PERMITS.**—If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events.

SEC. 1004. ASSIGNMENT OF SPECTRUM FOR PUBLIC SAFETY.

Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended by adding at the end the following:

“(E) **EXTENSIONS NOT PERMITTED FOR CHANNELS (63, 64, 68 AND 69) REASSIGNED FOR PUBLIC SAFETY SERVICES.**—Notwithstanding subparagraph (B), the Commission shall not grant any extension under such subparagraph from the limitation of subparagraph (A) with respect to the frequencies assigned, under section 337(a)(1), for public safety services. The Commission shall take all actions necessary to complete assignment of the electromagnetic spectrum between 764 and 776 megahertz, inclusive, and between 794 and 806 megahertz, inclusive, for public safety services and to permit operations by public safety services on those frequencies commencing not later than January 1, 2007.”.

SEC. 1005. URBAN AREA COMMUNICATIONS CAPABILITIES.

(a) **IN GENERAL.**—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

“SEC. 510. HIGH RISK URBAN AREA COMMUNICATIONS CAPABILITIES.

“The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local government officials, shall encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in urban areas determined by the Secretary to be at consistently high levels of risk from terrorist attack. Such communications capabilities shall ensure the ability of all levels of government agencies, including military authorities, and of first responders, hospitals, and other organizations with emergency response capabilities to communicate with each other in the event of an emergency. Additionally, the Secretary, in conjunction with the Secretary of Defense, shall develop plans to provide back-up and additional communications support in the event of an emergency.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 1(b) of that Act is amended by inserting after the item relating to section 509 the following:

“Sec. 510. High risk urban area communications capabilities.”.

SEC. 1006. PRIVATE SECTOR PREPAREDNESS.

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

(1) Private sector organizations own 85 percent of the Nation's critical infrastructure and employ the vast majority of the Nation's workers.

(2) Unless a terrorist attack targets a military or other secure government facility, the first people called upon to respond will likely be civilians.

(3) Despite the exemplary efforts of some private entities, the private sector remains largely unprepared for a terrorist attack, due in part to the lack of a widely accepted standard for private sector preparedness.

(4) Preparedness in the private sector and public sector for rescue, restart and recovery of operations should include—

- (A) a plan for evacuation;
- (B) adequate communications capabilities; and
- (C) a plan for continuity of operations.

(5) The American National Standards Institute recommends a voluntary national preparedness standard for the private sector based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), with appropriate modifications. This standard would establish a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs.

(6) The mandate of the Department of Homeland Security extends to working with the private sector, as well as government entities.

(b) PRIVATE SECTOR PREPAREDNESS PROGRAM.—

(1) **IN GENERAL.**—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 1005, is amended by adding at the end the following:

“SEC. 511. PRIVATE SECTOR PREPAREDNESS PROGRAM.

“The Secretary shall establish a program to promote private sector preparedness for terrorism and other emergencies, including promoting the adoption of a voluntary national preparedness standard such as the private sector preparedness standard developed by the American National Standards Institute and based on the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.”

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 1(b) of that Act, as amended by section 1005, is amended by inserting after the item relating to section 510 the following:

“Sec. 511. Private sector preparedness program.”

(c) **SENSE OF CONGRESS.**—It is the sense of Congress that insurance and credit-rating industries should consider compliance with the voluntary national preparedness standard, the adoption of which is promoted by the Secretary of Homeland Security under section 511 of the Homeland Security Act of 2002, as added by subsection (b), in assessing insurability and credit worthiness.

SEC. 1007. CRITICAL INFRASTRUCTURE AND READINESS ASSESSMENTS.

(a) FINDINGS.—Congress finds the following:

(1) Under section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121), the Department of Homeland Security, through the Under Secretary for Information Analysis and Infrastructure Protection, has the responsibility—

(A) to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;

(B) to identify priorities for protective and supportive measures; and

(C) to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(2) Under Homeland Security Presidential Directive 7, issued on December 17, 2003, the Secretary of Homeland Security was given 1 year to develop a comprehensive plan to identify, prioritize, and coordinate the protection of critical infrastructure and key resources.

(3) Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, the Secretary of Homeland Security should—

(A) identify those elements of the United States' transportation, energy, communications, financial, and other institutions that need to be protected;

(B) develop plans to protect that infrastructure; and

(C) exercise mechanisms to enhance preparedness.

(b) REPORTS ON RISK ASSESSMENT AND READINESS.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary of Homeland Security shall submit a report to Congress on—

(1) the Department of Homeland Security's progress in completing vulnerability and risk assessments of the Nation's critical infrastructure;

(2) the adequacy of the Government's plans to protect such infrastructure; and

(3) the readiness of the Government to respond to threats against the United States.

SEC. 1008. REPORT ON NORTHERN COMMAND AND DEFENSE OF THE UNITED STATES HOMELAND.

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

(1) The primary responsibility for national defense is with the Department of Defense and the secondary responsibility for national defense is with the Department of Homeland Security, and the 2 departments must have clear delineations of responsibility.

(2) Before September 11, 2001, the North American Aerospace Defense Command (hereafter in this section referred to as "NORAD"), which had responsibility for defending United States airspace on September 11, 2001—

- (A) focused on threats coming from outside the borders of the United States; and
- (B) had not increased its focus on terrorism within the United States, even though the intelligence community had gathered intelligence on the possibility that terrorists might turn to hijacking and even the use of airplanes as missiles within the United States.
- (3) The United States Northern Command has been established to assume responsibility for defense within the United States.
- (b) SENSE OF CONGRESS.—It is the sense of Congress that—
- (1) the Secretary of Defense should regularly assess the adequacy of United States Northern Command’s plans and strategies with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States; and
- (2) the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives should periodically review and assess the adequacy of such plans and strategies.
- (c) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the United States Northern Command’s plans and strategies to defend the United States against military and paramilitary threats within the United States.

TITLE XI—PROTECTION OF CIVIL LIBERTIES

SEC. 1011. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this title as the “Board”).

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

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

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the Executive Branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 401(e);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 401(e);

(C) advise the President and Federal executive departments and agencies to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

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

(i) that the power actually materially enhances security; and

(ii) that there is adequate supervision of the executive's use of the power to ensure protection of civil liberties.

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

(A) the regulations, policies, and procedures and the implementation of the regulations, policies, procedures, and related laws of Federal executive departments and agencies to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of Federal executive departments and agencies to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines promulgated under section 401(e) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the Executive Branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall review and assess the activities of privacy and civil liberties officers described in section 1012 and, where appropriate, shall coordinate their activities.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy and civil liberties officers described in section 1012; and

(B) periodically submit, not less than semiannually, reports to Congress and the President.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the relevant period; and

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

(f) INFORMING THE PUBLIC.—The Board shall hold public hearings, release public reports, and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board may—

(A) secure directly from any Federal executive department or agency, or any Federal officer or employee, all relevant records, reports, audits, reviews, documents, papers, or recommendations, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any Federal executive department or agency or any Federal officer or employee;

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

(D) require, by subpoena, persons other than Federal executive departments and agencies to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, and relevant experience, and without regard to political affiliation.

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

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which the chairman is engaged in the actual performance of the duties of the Board.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level IV

of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

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

(j) STAFF.—

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

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

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

(k) SECURITY CLEARANCES.—The appropriate Federal executive departments and agencies shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

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

SEC. 1012. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) DESIGNATION AND FUNCTIONS.—The Attorney General, Secretary of Defense, Secretary of Homeland Security, Secretary of State, Secretary of the Treasury, Secretary of Health and Human Services, National Intelligence Director, Director of the Central Intelligence Agency, and the head of any other executive department

or agency designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage under this section shall designate not less than 1 senior officer to—

(1) assist the department or agency head and other department or agency officials in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

(2) periodically investigate and review department or agency actions, policies, procedures, guidelines, and related laws and their implementation to ensure that the department or agency is adequately considering privacy and civil liberties in its actions;

(3) ensure that the department or agency has adequate procedures to receive, investigate, and respond to complaints from individuals who allege the department or agency has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether the department or agency has explained—

(i) that the power actually materially enhances security; and

(ii) that there is adequate supervision of the department's or agency's use of the power to ensure protection of civil liberties.

(b) EXCEPTION TO DESIGNATION AUTHORITY.—

(1) PRIVACY OFFICERS.—In any department or agency referenced in subsection (a) or designated by the Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) CIVIL LIBERTIES OFFICERS.—In any department or agency referenced in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) SUPERVISION AND COORDINATION.—Each privacy or civil liberties officer described in subsection (a) or (b) shall—

(1) report directly to the department or agency head; and

(2) coordinate their activities with the Inspector General of the agency to avoid duplication of effort.

(d) AGENCY COOPERATION.—Each department or agency head shall ensure that each privacy and civil liberties officer—

(1) has the information and material necessary to fulfill the officer's functions;

(2) is advised of proposed policy changes;

(3) is consulted by decision makers; and

(4) is given access to material and personnel the officer determines to be necessary to carry out the officer's functions.

(e) PERIODIC REPORTS.—

(1) IN GENERAL.—The privacy and civil liberties officers of each department or agency referenced or designated under subsection (a) shall periodically, but not less than quarterly, submit a report on the officers' activities to Congress, the de-

partment or agency head, and the Privacy and Civil Liberties Oversight Board.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the officer's functions, including—

(A) information on the number and types of reviews undertaken;

(B) the type of advice provided and the response given to such advice;

(C) the number and nature of the complaints received by the agency for alleged violations; and

(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the officer's activities.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SIMMONS OF CONNECTICUT, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 101, after line 3 add the following new section:

SEC. 1065. SENSE OF CONGRESS AND REPORT REGARDING OPEN SOURCE INTELLIGENCE.

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

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

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

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

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

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SOUDER OF INDIANA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of subtitle C of title V (page 493, after the item after line 21) add the following:

SEC. ____ . INTEGRATING SECURITY SCREENING SYSTEMS AND ENHANCING INFORMATION SHARING BY DEPARTMENT OF HOMELAND SECURITY.

(a) IMMEDIATE ACTIONS.—The Secretary of Homeland Security shall ensure—

(1)(A) that appropriate personnel of the Department of Homeland Security who are engaged in the security-related screening of individuals and entities interacting with the United States border and transportation systems, have the appropriate security clearances, and need access to the information in the context of their job responsibilities, can promptly access or receive law enforcement and intelligence information contained in all databases utilized by the Department, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Secretary;

(B) any Federal official who receives information pursuant to subparagraph (A) may use that information only as necessary in the conduct of that person's official duties and subject to any limitations on the unauthorized disclosure of such information;

(2) the coordination and, where appropriate, consolidation or elimination of duplicative targeting and screening centers or systems used by the Department for security screening purposes;

(3) the timely sharing of law enforcement and intelligence information between entities of the Directorate of Border and Transportation Security and the Directorate for Information Analysis and Infrastructure Protection, and any other entities of the Federal Government prescribed by the Secretary in consultation with the Director of the Office of Management and Budget; and

(4) that all actions taken under this section are consistent with the Secretary's Department-wide efforts to ensure the compatibility of information systems and databases pursuant to section 102(b)(3) of the Homeland Security Act of 2002 (6 U.S.C. 112(b)(3)).

(b) REPORT.—

(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress that includes the following:

(A) A description of each center, office, task force, or other coordinating organization that the Department of Homeland Security administers, maintains, or participates in, and that is involved in collecting, analyzing, or sharing information or intelligence related to—

(i) individuals or organizations involved in terrorism, drug trafficking, illegal immigration, or any other criminal activity; or

(ii) the screening, investigation, inspection, or examination of persons or goods entering the United States.

(B) A description of each database or other electronic system that the Department of Homeland Security administers or utilizes for the purpose of tracking or sharing of information or intelligence related to—

(i) individuals or organizations involved in terrorism, drug trafficking, illegal immigration, or any other criminal activity; or

(ii) the screening, investigation, inspection, or examination of persons or goods entering the United States.

(C) For each description provided under subparagraph (A) or (B)—

(i) information on the purpose and scope of operations of the center, office, task force, or other coordinating organization, or database or other electronic system, respectively; and

(ii) an identification of each subdivision of the Department, and each governmental agency (whether Federal, State, or local) that participates in or utilizes such organization or system on a routine basis.

(D) A description of the nature and extent of any overlap between, or duplication of effort by, the centers, offices, task forces, and other coordinating organizations, or databases and electronic systems, described under subparagraph (A) or (B).

(2) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the report that involves information classified under criteria established by an Executive order, or the public disclosure of which, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to the Congress separately from the rest of the report.

(c) REQUIREMENT TO SUBMIT PLAN.—Within 270 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Congress a plan describing the actions taken, and those that will be taken, to implement subsection (a). Such plan shall include an analysis of the feasibility of integrating all security screening centers or systems utilized by the Department of Homeland Security into a single, comprehensive system, and actions that can be taken to further coordinate such system with other Federal and private screening efforts at critical infrastructure and facilities.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KIRK OF ILLINOIS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 60, after line 9, insert the following new section:

SEC. 1018. REPORT ON INTEGRATION OF DRUG ENFORCEMENT AGENCY INTO THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report on the practicality of integrating the Drug Enforcement Administration into the intelligence community.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

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

(2) the Committees on the Judiciary of the House of Representatives and the Senate.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SESSIONS OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title II of the bill (page 235, after line 21), insert the following new subtitle:

Subtitle J—Prevention of Terrorist Access to Destructive Weapons Act of 2004

SECTION 2211. SHORT TITLE.

This subtitle may be cited as the “Prevention of Terrorist Access to Destructive Weapons Act of 2004”.

SEC. 2212. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The criminal use of man-portable air defense systems (MANPADS) presents a serious threat to civil aviation worldwide, especially in the hands of terrorists or foreign states that harbor them.

(2) Atomic weapons or weapons designed to release radiation (“dirty bombs”) could be used by terrorists to inflict enormous loss of life and damage to property and the environment.

(3) Variola virus is the causative agent of smallpox, an extremely serious, contagious, and sometimes fatal disease. Variola virus is classified as a Category A agent by the Centers for Disease Control and Prevention, meaning that it is believed to pose the greatest potential threat for adverse public health impact and has a moderate to high potential for large-scale dissemination. The last case of smallpox in the United States was in 1949. The last naturally occurring case in the world was in Somalia in 1977. Although smallpox has been officially eradicated after a successful worldwide vaccination program, there remain two official repositories of the variola virus for research purposes. Because it is so dangerous, the variola virus may appeal to terrorists.

(4) The use, or even the threatened use, of MANPADS, atomic or radiological weapons, or the variola virus, against the United States, its allies, or its people, poses a grave risk to the security, foreign policy, economy, and environment of the United States. Accordingly, the United States has a compelling national security interest in preventing unlawful activities that lead to the proliferation or spread of such items, including their unauthorized production, construction, acquisition, transfer, possession, import, or export. All of these activities markedly increase the chances that such items will be obtained by terrorist organizations or rogue states, which could use them to attack the United States, its allies, or United States nationals or corporations.

(5) There is no legitimate reason for a private individual or company, absent explicit government authorization, to produce, construct, otherwise acquire, transfer, receive, possess, import, export, or use MANPADS, atomic or radiological weapons, or the variola virus.

(b) PURPOSE.—The purpose of this subtitle is to combat the potential use of weapons that have the ability to cause widespread

harm to United States persons and the United States economy (and that have no legitimate private use) and to threaten or harm the national security or foreign relations of the United States.

SEC. 2213. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

Chapter 113B of title 18, United States Code, is amended by adding after section 2332f the following:

“§ 2332g. Missile systems designed to destroy aircraft

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

“(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

“(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

“(ii) otherwise direct or guide the rocket or missile to an aircraft;

“(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

“(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

“(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

“(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

“(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) **CRIMINAL PENALTIES.**—

“(1) **IN GENERAL.**—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

“(2) **LIFE IMPRISONMENT.**—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for life.

“(3) **DEATH PENALTY.**—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.

“(d) **DEFINITION.**—As used in this section, the term ‘aircraft’ has the definition set forth in section 40102(a)(6) of title 49, United States Code.”.

SEC. 2214. ATOMIC WEAPONS.

(a) **PROHIBITIONS.**—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

- (1) inserting at the beginning “a.” before “It”;
- (2) inserting “knowingly” after “for any person to”;
- (3) striking “or” before “export”;
- (4) striking “transfer or receive in interstate or foreign commerce,” before “manufacture”;
- (5) inserting “receive,” after “acquire,”;
- (6) inserting “, or use, or possess and threaten to use,” before “any atomic weapon”;
- (7) inserting at the end the following:

“b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

“(2) the offense is committed against a national of the United States while the national is outside the United States;

“(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.”.

(b) **VIOLATIONS.**—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

- (1) inserting at the beginning “a.” before “Whoever”;
- (2) striking “, 92,”; and
- (3) inserting at the end the following:

“b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than \$2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens

to use, any atomic weapon shall be fined not more than \$2,000,000 and imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life."

SEC. 2215. RADIOLOGICAL DISPERSAL DEVICES.

Chapter 113B of title 18, United States Code, is amended by adding after section 2332g the following:

"§ 2332h. Radiological dispersal devices

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

"(B) or any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

"(2) EXCEPTION.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for life.

“(3) DEATH PENALTY.—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.”.

SEC. 2216. VARIOLA VIRUS.

Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

“§ 175c. Variola virus

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

“(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

“(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for life.

“(3) DEATH PENALTY.—If the death of another results from a person’s violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by death or imprisoned for life.

“(d) DEFINITION.—As used in this section, the term ‘variola virus’ means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.”.

SEC. 2217. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

- (1) in paragraph (a), by inserting “2122 and” after “sections”;
- (2) in paragraph (c), by inserting “section 175c (relating to variola virus),” after “section 175 (relating to biological weapons),”; and
- (3) in paragraph (q), by inserting “2332g, 2332h,” after “2332f.”

SEC. 2218. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

- (1) in clause (i)—
 - (A) by inserting before “2339 (relating to harboring terrorists)” the following: “2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices),”; and
 - (B) by inserting “175c (relating to variola virus),” after “175 or 175b (relating to biological weapons),”; and
- (2) in clause (ii)—
 - (A) by striking “section” and inserting “sections 92 (relating to prohibitions governing atomic weapons) or”; and
 - (B) by inserting “2122 or” before “2284”.

SEC. 2219. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

- (1) by inserting after “section 152 (relating to concealment of assets; false oaths and claims; bribery),” the following: “section 175c (relating to the variola virus),”; and
- (2) by inserting after “section 2332(b) (relating to international terrorist acts transcending national boundaries),” the following: “section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices),”; and
- (3) striking “or” after “any felony violation of the Foreign Agents Registration Act of 1938,” and after “any felony violation of the Foreign Corrupt Practices Act”, striking “,” and inserting “; or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)”.

SEC. 2220. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

- (1) by striking “or” before “(xi)”; and
- (2) by inserting after clause (xi) the following: “or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b),”.

SEC. 2221. CLERICAL AMENDMENTS.

(a) CHAPTER 113B.—The table of sections for chapter 113B of title 18, United States Code, is amended by inserting the following after the item for section 2332f:

“2332g. Missile systems designed to destroy aircraft.

“2332h. Radiological dispersal devices.”.

(b) CHAPTER 10.—The table of sections for chapter 10 of title 18, United States Code, is amended by inserting the following item after the item for section 175b:

“175c. Variola virus.”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BONILLA OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the appropriate place in the bill, insert the following (and redesignate provisions and amend the table of contents accordingly):

SECTION ____ . INCREASE IN DETENTION BED SPACE.

Subject to the availability of appropriated funds, the Secretary of Homeland Security shall increase by not less than 2,500, in each of fiscal years 2006 and 2007, the number of beds available for immigration detention and removal operations of the Department of Homeland Security above the number for which funds were allotted for the preceding fiscal year.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAPTIO OF WEST VIRGINIA, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title II add the following:

Subtitle J—Railroad Carriers and Mass Transportation Protection Act of 2004

SEC. 2111. SHORT TITLE.

This subtitle may be cited as the “Railroad Carriers and Mass Transportation Protection Act of 2004”.

SEC. 2112. ATTACKS AGAINST RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

“§ 1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

“(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

“(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

“(2) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, and without the authorization of the railroad carrier or mass transportation provider—

“(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle; or

“(B) releases a hazardous material or a biological agent or toxin on or near any property described in subparagraph (A) or (B) of paragraph (3);

“(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

“(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without the authorization of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

“(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without the authorization of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

“(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the railroad carrier or mass transportation provider;

“(5) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment or a mass transportation vehicle;

“(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (3), except that this subparagraph shall not apply to rail police officers in acting the course of their law enforcement duties under section 28101 of title 49, United States Code;

“(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

“(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

“(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

“(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

“(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

“(3) the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

“(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

“(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

“(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2) of this subsection, the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4) of this subsection, the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

“(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

“(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider or railroad carrier engaged in or affecting interstate or foreign commerce.

“(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

“(d) DEFINITIONS.—In this section—

“(1) the term ‘biological agent’ has the meaning given to that term in section 178(1);

“(2) the term ‘dangerous weapon’ means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

“(3) the term ‘destructive device’ has the meaning given to that term in section 921(a)(4);

“(4) the term ‘destructive substance’ means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term ‘radioactive device’ does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

“(5) the term ‘hazardous material’ has the meaning given to that term in chapter 51 of title 49;

“(6) the term ‘high-level radioactive waste’ has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

“(7) the term ‘mass transportation’ has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

“(8) the term ‘on-track equipment’ means a carriage or other contrivance that runs on rails or electromagnetic guideways;

“(9) the term ‘railroad on-track equipment’ means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

“(10) the term ‘railroad’ has the meaning given to that term in chapter 201 of title 49;

“(11) the term ‘railroad carrier’ has the meaning given to that term in chapter 201 of title 49;

“(12) the term ‘serious bodily injury’ has the meaning given to that term in section 1365;

“(13) the term ‘spent nuclear fuel’ has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

“(14) the term ‘State’ has the meaning given to that term in section 2266;

“(15) the term ‘toxin’ has the meaning given to that term in section 178(2); and

“(16) the term ‘vehicle’ means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking “**RAILROADS**” in the chapter heading and inserting “**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**”;

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

“1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.”

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

“**97. Railroad carriers and mass transportation systems on land, on water, or through the air 1991**”.

(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking “1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),” and inserting “1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air).”;

(B) in section 2339A, by striking “1993,”; and
 (C) in section 2516(1)(c) by striking “1992 (relating to wrecking trains),” and inserting “1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CARTER OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title II insert the following:

Subtitle J—Terrorist Penalties Enhancement Act of 2004

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the “Terrorist Penalties Enhancement Act of 2004”.

SEC. 2222. PENALTIES FOR TERRORIST OFFENSES RESULTING IN DEATH; DENIAL OF FEDERAL BENEFITS TO TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

“§ 2339E. Terrorist offenses resulting in death

“(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

“(b) As used in this section, the term ‘terrorist offense’ means—

“(1) a Federal felony offense that is—

“(A) a Federal crime of terrorism as defined in section 2332b(g) except to the extent such crime is an offense under section 1363; or

“(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 236 of the Atomic Energy Act of 1954; or

“(2) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).

“§ 2339F. Denial of Federal benefits to terrorists

“(a) An individual or corporation who is convicted of a terrorist offense (as defined in section 2339E) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

“(b) As used in this section, the term ‘Federal benefit’ has the meaning given that term in section 421(d) of the Controlled Substances Act, and also includes any assistance or benefit described in section 115(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, with the same limitations and to the same extent as provided in section 115 of that Act with respect to denials of benefits and assistance to which that section applies.”.

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of the chapter 113B of title 18, United

States Code, is amended by adding at the end the following new items:

“2339E. Terrorist offenses resulting in death.

“2339F. Denial of federal benefits to terrorists.”.

(c) **AGGRAVATING FACTOR IN DEATH PENALTY CASES.**—Section 3592(c)(1) of title 18, United States Code, is amended by inserting “section 2339E (terrorist offenses resulting in death),” after “destruction),”.

SEC. 2223. DEATH PENALTY IN CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994.

Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

“(c) **DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.**—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term ‘especially heinous, cruel, or depraved’, as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language ‘in that it involved torture or serious physical abuse to the victim’, and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.”

Conform the table of sections accordingly.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTLE OF DELAWARE, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of the bill, insert the following new section:

SEC. 5 . REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) **SHORT TITLE.**—This section may be cited as the “Good Samaritan Volunteer Firefighter Assistance Act of 2004”.

(b) **LIABILITY PROTECTION.**—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(c) **EXCEPTIONS.**—Subsection (b) does not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(d) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (c) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term “person” includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term “fire control or fire rescue equipment” includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term “volunteer fire company” means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(f) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (b), is donated on or after the date that is 30 days after the date of the enactment of this Act.

(g) ATTORNEY GENERAL REVIEW.—

(1) IN GENERAL.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of the enactment of this Act.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Attorney General of the United States shall publish and submit to the Congress a report on the results of the review conducted under paragraph (1). The report shall include, for each State, the most effective way to fund firefighter companies, whether first responder funding is sufficient to respond to the Nation's needs, and the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOLEY OF FLORIDA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 328, after line 7, insert the following (and amend the table of contents accordingly)

Subtitle F—Treatment of Aliens Who Commit Acts of Torture, Extrajudicial Killings, or Other Atrocities Abroad

SEC. 3121. INADMISSIBILITY AND DEPORTABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) in clause (ii), by striking “has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible” and inserting “ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible”;

(2) by adding at the end the following:

“(iii) COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS.—Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

“(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

“(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

is inadmissible.”; and

(3) in the subparagraph heading, by striking “PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE” and inserting “PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

(b) DEPORTABILITY.—Section 237(a)(4)(D) of such Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) by striking “clause (i) or (ii)” and inserting “clause (i), (ii), or (iii)”;

(2) in the subparagraph heading, by striking “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE” and inserting “PARTICIPATED IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of the enactment of this Act.

SEC. 3122. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) GROUND OF INADMISSIBILITY.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

“(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), is inadmissible.”.

(b) GROUND OF DEPORTABILITY.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

“(E) PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien described in section 212(a)(2)(G) is deportable.”.

SEC. 3123. WAIVER OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended—

(1) in subparagraph (A), by striking “and 3(E)” and inserting “and clauses (i) and (ii) of paragraph (3)(E)”; and

(2) in subparagraph (B), by striking “and 3(E)” and inserting “and clauses (i) and (ii) of paragraph (3)(E)”.

SEC. 3124. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by striking the period at the end of paragraph (8) and inserting “; and”; and

(2) by adding at the end the following:

“(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).”.

SEC. 3125. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(h)(1) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority to detect and investigate, and, where appropriate, to take legal action to denaturalize any alien described in section 212(a)(3)(E).

“(2) The Attorney General shall consult with the Secretary of the Department of Homeland Security in making determinations concerning the criminal prosecution or extradition of aliens described in section 212(a)(3)(E).

“(3) In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to—

“(A) the availability of criminal prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

“(B) the availability of extradition of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this subtitle) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 3126. REPORT ON IMPLEMENTATION.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this subtitle that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations and other components within the Department of Justice and the Department of Homeland Security in a manner consistent with the amendments made by this subtitle;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this subtitle; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 235, after line 21, insert the following:

**Subtitle J—Pretrial Detention and
Postrelease Supervision of Terrorists**

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the “Pretrial Detention and Lifetime Supervision of Terrorists Act of 2004”.

SEC. 2222. PRESUMPTION FOR PRETRIAL DETENTION IN CASES INVOLVING TERRORISM.

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting “or” before “the Maritime”; and

(B) by inserting after “or 2332b of title 18 of the United States Code” the following: “, or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code”; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after “violence” the following: “, or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code”.

SEC. 2223. POSTRELEASE SUPERVISION OF TERRORISTS.

Section 3583(j) of title 18, United States Code, is amended in subsection (j), by striking “, the commission” and all that follows through “person,”.

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARK GREEN OF WISCONSIN, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 252, line 18, strike “**DEPORTATION**” and insert “**REMOVAL**” (and amend the table of contents accordingly).

Page 258, after line 5, insert the following (and amend the table of contents accordingly):

SEC. 3034. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended to read as follows:

“(i) IN GENERAL.—Any alien who—

“(I) has engaged in a terrorist activity;

“(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

“(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

“(IV) is a representative (as defined in clause (v)) of—

“(aa) a terrorist organization; or

“(bb) a political, social, or other group that endorses or espouses terrorist activity;

“(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

“(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

“(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi); or

“(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years,

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.”.

(b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

“(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this subparagraph, the term ‘engage in terrorist activity’ means, in an individual capacity or as a member of an organization—

“(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

“(II) to prepare or plan a terrorist activity;

“(III) to gather information on potential targets for terrorist activity;

“(IV) to solicit funds or other things of value for—

“(aa) a terrorist activity;

“(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(V) to solicit any individual—

“(aa) to engage in conduct otherwise described in this clause;

“(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

“(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

“(aa) for the commission of a terrorist activity;

“(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

“(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi); or

“(dd) to a terrorist organization described in clause (vi)(III), unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.”

(c) **TERRORIST ORGANIZATION DEFINED.**—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

“(vi) **TERRORIST ORGANIZATION DEFINED.**—As used in this section, the term ‘terrorist organization’ means an organization—

“(I) designated under section 219;

“(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

“(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(2) acts and conditions constituting a ground for inadmissibility occurring or existing before, on, or after such date.

SEC. 3035. DEPORTABILITY OF TERRORISTS.

(a) **IN GENERAL.**—Section 237(a)(4)(B) (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

“(B) **TERRORIST ACTIVITIES.**—Any alien who would be considered inadmissible pursuant to subparagraph (B) or (F) of section 212(a)(3) is deportable.”.

(b) **DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.**—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

“(E) **RECIPIENT OF MILITARY-TYPE TRAINING.**—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization, as defined in section 212(a)(3)(B)(vi), is deportable.”.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts and conditions constituting a ground for removal occurring or existing before, on, or after such date.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOSTETTLER OF INDIANA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 243, beginning on line 12, strike “and the officer determines that the alien has been physically present in the United States for less than 1 year”.

Page 244, beginning on line 7, strike “if the officer determines that the alien has been physically present in the United States for less than 1 year”.

Page 245, line 5, strike “the central motive” and insert “a central reason”.

Page 254, strike line 6 and all that follows through line 24 on page 255 and insert the following:

SEC. 3032. DETENTION OF ALIENS BARRED FROM RESTRICTION ON REMOVAL PENDING REMOVAL.

(a) **IN GENERAL.**—Section 241 of Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

“(j) **DETENTION OF ALIENS BARRED FROM RESTRICTION ON REMOVAL PENDING REMOVAL.**—

“(1) **IN GENERAL.**—In order to protect the United States from those aliens who would threaten the national security or endanger the lives and safety of the American people, the Secretary of Homeland Security may, in the Secretary’s unreviewable discretion, determine that any alien who has been ordered removed from the United States and who is described in subsection (b)(3)(B) is a specially dangerous alien and should be detained until removed. This determination shall be reviewed every six months until the alien is removed. In making this determination, the Secretary shall consider the

length of sentence and severity of the offense, the loss and injury to the victim, and the future risk the alien poses to the community.

“(2) ALIENS GRANTED PROTECTION RESTRICTING REMOVAL.—Any alien described in paragraph (1) who has been ordered removed, and who has been granted any other protection under the immigration law, as defined in section 101(a)(17), restricting the alien’s removal, shall be detained. The Secretary of State shall seek diplomatic assurances that such alien shall be protected if removed from the United States.”.

(b) SEVERABILITY.—If any amendment, or part of any amendment, made by subsection (a), or the application of any amendment or part of any amendment to any person or circumstance, is held to be unconstitutional—

(1) the Secretary of Homeland Security shall continue to seek the removal of any alien described in section 241(j)(1) of the Immigration and Nationality Act, as amended by this Act, consistent with any protection described in section 241(j)(2) of such Act; and

(2) the Secretary of State shall continue to seek diplomatic assurances that any alien described in section 241(j)(2) of the Immigration and Nationality Act, as amended by this Act, would be protected upon removal.

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHRISTOPHER SMITH OF NEW JERSEY, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Strike section 3006 (page 242, line 18 through page 244, line 9) and redesignate provisions and conform the table of contents accordingly.

15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHRISTOPHER SMITH OF NEW JERSEY, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Strike section 3007 (page 244, line 10 through page 247, line 18) and redesignate provisions and conform the table of contents accordingly.

16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BARTON OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

After section 5010 insert the following new section:

SEC. 5011. DIGITAL TELEVISION CONVERSION DEADLINE.

(a) FINDINGS.—The Congress finds the following:

(1) Congress granted television broadcasters additional 6 MHz blocks of spectrum to transmit digital broadcasts simultaneously with the analog broadcasts they transmit on their original 6 megahertz blocks of spectrum.

(2) Section 309(j)(14) of the Communications Act of 1934 requires each television broadcaster to cease analog transmissions and return 6 megahertz of spectrum by December 31, 2006, or once just over 85 percent of the television households

in that broadcaster's market can view digital broadcast television channels using a digital television, a digital-to-analog-converter box, cable service, or satellite service, whichever is later.

(3) Twenty-four megahertz of spectrum currently occupied by the television broadcasters has been earmarked for use by first responders once the television broadcasters return the spectrum broadcasters currently use to provide analog transmissions.

(4) This spectrum would be ideal to provide first responders with interoperable communications channels.

(5) Large parts of the vacated spectrum could be auctioned for advanced commercial services, such as wireless broadband.

(6) The "85-percent penetration test" could delay the termination of analog television broadcasts and the return of spectrum well beyond 2007, hindering the use of that spectrum for these important public-safety and advanced commercial uses.

(7) Proposals to require broadcasters to return, on a date certain, just the spectrum earmarked for future public-safety use would not adequately resolve the identified need for improved public-safety communications interoperability. Broadcasters estimate that the public-safety only approach would dislocate as many as 75 stations, including some in major markets, airing major network programming, sometimes even in digital form. Unless broadcasters are required to return concurrently all the spectrum currently used for analog transmissions, it will be exceedingly difficult to relocate these 75 stations, which also serve a critical public safety function by broadcasting weather, traffic, disaster, and other safety alerts.

(8) Proposals to require broadcasters to return, on a date certain, just the spectrum earmarked for future public-safety use also would neither address the digital television transition in a comprehensive fashion nor free valuable spectrum for advanced commercial services.

(b) SENSE OF CONGRESS.—Now, therefore, it is the sense of Congress that section 309(j)(14) of the Communications Act of 1934 should be amended to eliminate the 85-percent penetration test and to require broadcasters to cease analog transmissions at the close of December 31, 2006, so that the spectrum can be returned and repurposed for important public-safety and advanced commercial uses.

17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OSE OF CALIFORNIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of title III of the bill, insert the following:

Subtitle F—Security Barriers

SEC. 3121. EXPEDITED COMPLETION OF SECURITY BARRIERS.

(a) IN GENERAL.—In order to construct the physical barriers and roads described in section 102 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208, div. C), the tracts of land

described in subsection (b) shall be exempt from the requirements of the provisions listed in subsection (c).

(b) LEGAL DESCRIPTION.—The tracts of land referred to in subsection (a) are as follows:

(1) ZONE WEST.—A tract of land situated within Section 2, 3, 4, 5, 7, 8, 9, 10, and 11, Township 19 South, Range 2 West of the San Bernadino Meridian, within the County of San Diego, State of California, more particularly described as follows: Beginning at the Southwest corner of Fractional Section 7, T19S, R2W; said Point-of-Beginning being on the United States/Mexico International Boundary Line and also being a point of mean sea level of the Pacific Ocean (at Borderfield State Park); thence, N 02°31'00" W, a distance of approximately 800.00 feet to a point. Thence, N 84°44'08" E, a distance of approximately 1,845.12 feet to a point. Said point being on the Section line common to Section 7 and 8, T19S, R2W. Thence, S 01°05'10" W, along said Section line, a distance of approximately 270.62 feet to a point. Thence, S 89°49'43" E, a distance of approximately 1,356.50 feet to a point. Thence, N 45°34'58" E, a distance of approximately 1,901.75 feet to a point. Said point being on the Section line common to Sections 5 and 8, T19S, R2W. Thence, N 00°40'00" E, a distance of approximately 300.00 feet to a point. Thence, S 89°54'53" E, a distance of approximately 1,322.05 feet to a point. Thence, S 00°25'27" W, a distance of approximately 300.00 feet to a point. Said point being on the Section line common to Sections 5 and 8, T19S, R2W. Thence, S 89°37'09" E, along the Section line common to Section 4, 5, 8, and 9, T19S, R2W, a distance of approximately 5,361.32 feet to a point. Thence, N 00°12'59" E, a distance of approximately 400.00 feet to a point. Thence, N 90°00'00" E, a distance of approximately 1,349.81 feet to a point. Said point being on the Section line common to Sections 3 and 4, T19S, R2W. Thence, S 00°30'02" W, a distance of approximately 410.37 feet to a point. Said point being the Section corner common to Sections 3, 4, 9, and 10, T19S, R2W. Thence, S 89°36'11" E, along the Section line common to Sections 2, 3, 10, and 11, T19S, R2W, a distance of approximately 6,129.36 feet to a point. Thence, along the arc of a curve to the left, having a radius of 518.88 feet, and a distance of 204.96 feet to a point. Thence, S 89°59'41" E, a distance of approximately 258.66 feet to a point. Thence, S 00°00'00" E, a distance of approximately 111.74 feet to a point. Said point being within the NW $\frac{1}{4}$ of fractional section 11, T19S, R2W, on the United States/Mexico International Boundary. Thence, S 84°41'20" W, along said United States/Mexico International Boundary, a distance of approximately 19,210.48 feet to the Point-of-Beginning. Said tract of land containing an area of 396.61 acre, more or less.

(2) ZONE EAST.—A tract of land situated within Section 32 and 33, T18S, R1E of the San Bernadino Meridian, County of San Diego, State of California, and being described as follows: Beginning at the $\frac{1}{4}$ Section line of Section 32, T18S, R1E. Said Point-of-Beginning being on the United States/Mexico International Boundary Line and having a coordinate value of X = 6360877.25 Y = 1781730.88. Thence, N 00°32'02" W, a distance

of approximately 163.56 feet to a point. Thence, N 78°33'17" E, a distance of approximately 1,388.23 feet to a point. Thence, N 84°37'31" E, a distance of approximately 1,340.20 feet to a point. Thence, N 75°00'00" E, a distance of approximately 1,000.00 feet to a point. Thence, S 88°06'07" E, a distance of approximately 1,806.81 feet to a point. Thence, N 80°00'00" E, a distance of approximately 1,050.00 feet to a point. Thence, N 87°00'00" E, a distance of approximately 1,100.00 feet to a point. Thence, S 00°00'00" W, a distance of approximately 300.00 feet to a point. Said point being on the United States/Mexico International boundary. Thence, S 844°09' W, along said boundary, a distance of approximately 7,629.63 to the Point-of-Beginning. Said tract of land having an area of approximately 56.60 acres more or less.

(c) EXEMPTION FROM CERTAIN REQUIREMENTS.—The provisions referred to in subsection (a) areas as follows:

(1) Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), as amended by Quiet Communities of 1978 (P.L. 95-609).

(2) Clean Air Act and amendments of 1990 (42 U.S.C. 7401-7671q).

(3) Clean Water Act of 1977 (33 U.S.C. 1342).

(4) Executive Order 11988 (Floodplain Management), as amended by Executive Order 12608.

(5) Executive Order 11990 (Protection of Wetlands), as amended by Executive Order 12608.

(6) Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)).

(7) Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901-6992k) as amended by Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616; 98 Stat. 3221).

(8) Comprehensive, Environmental Response, Compensation, Liability Act of 1980 (42 U.S.C. 9601-9675), as amended by Emergency Planning and Community Right-To-Know-Act of 1986 (42 U.S.C. 11001 et seq.).

(9) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.).

(10) Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544).

(11) Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712).

(12) Bald and Golden Eagle Act of 1940, as amended (16 U.S.C. 688-688d).

(13) National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), as amended Executive Order 13007—Sacred Sites Presidential Memorandum regarding government to Government Relations (April 29, 1994).

(14) Native American Graves Protection and Repatriation Act (43 CFR Part 10).

(15) Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa-470ii).

(16) Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) of 1994.

18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOSSELLA OF NEW YORK, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 606, after line 17, insert the following (and redesignate the subsequent subsections accordingly):

(d) MULTI-YEAR INTEROPERABILITY GRANTS.—

(1) MULTI-YEAR COMMITMENTS.—In awarding grants to any State, region, local government, or Indian tribe for the purposes of enhancing interoperable communications capabilities for emergency response providers, the Secretary may commit to obligate Federal assistance beyond the current fiscal year, subject to the limitations and restrictions in this subsection.

(2) RESTRICTIONS.—

(A) TIME LIMIT.—No multi-year interoperability commitment may exceed 3 years in duration.

(B) AMOUNT OF COMMITTED FUNDS.—The total amount of assistance the Secretary has committed to obligate for any future fiscal year under paragraph (1) may not exceed \$150,000,000.

(3) LETTERS OF INTENT.—

(A) ISSUANCE.—Pursuant to paragraph (1), the Secretary may issue a letter of intent to an applicant committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an interoperability communications project (including interest costs and costs of formulating the project).

(B) SCHEDULE.—A letter of intent under this paragraph shall establish a schedule under which the Secretary will reimburse the applicant for the Federal Government's share of the project's costs, as amounts become available, if the applicant, after the Secretary issues the letter, carries out the project before receiving amounts under a grant issued by the Secretary.

(C) NOTICE TO SECRETARY.—An applicant that is issued a letter of intent under this subsection shall notify the Secretary of the applicant's intent to carry out a project pursuant to the letter before the project begins.

(D) NOTICE TO CONGRESS.—The Secretary shall transmit a written notification to the Congress no later than 3 days before the issuance of a letter of intent under this section.

(E) LIMITATIONS.—A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31, United States Code, and is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(F) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed—

(i) to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued; or

(ii) to apply to, or replace, Federal assistance intended for interoperable communications that is not

provided pursuant to a commitment under this subsection.

(e) **INTEROPERABLE COMMUNICATIONS PLANS.**—Any applicant requesting funding assistance from the Secretary for interoperable communications for emergency response providers shall submit an Interoperable Communications Plan to the Secretary for approval. Such a plan shall—

(1) describe the current state of communications interoperability in the applicable jurisdictions among Federal, State, and local emergency response providers and other relevant private resources;

(2) describe the available and planned use of public safety frequency spectrum and resources for interoperable communications within such jurisdictions;

(3) describe how the planned use of spectrum and resources for interoperable communications is compatible with surrounding capabilities and interoperable communications plans of Federal, State, and local governmental entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(4) include a 5-year plan for the dedication of Federal, State, and local government and private resources to achieve a consistent, secure, and effective interoperable communications system, including planning, system design and engineering, testing and technology development, procurement and installation, training, and operations and maintenance; and

(5) describe how such 5-year plan meets or exceeds any applicable standards and grant requirements established by the Secretary.

19. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CURT WELDON OF PENNSYLVANIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of chapter 2 of subtitle H of title V (page 602, after line 16), add the following:

SEC. ____ . EMERGENCY PREPAREDNESS COMPACTS.

Section 611(h) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by indenting paragraph (2) (as so redesignated); and

(3) by striking the subsection designation and heading and inserting the following:

“(h) **EMERGENCY PREPAREDNESS COMPACTS.**—(1) The Director shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

“(A) identifying and cataloging existing emergency preparedness compacts for acts of terrorism, disasters, and emergencies at the State and local levels of government;

“(B) disseminating to State and local governments examples of best practices in the development of emergency preparedness compacts and models of existing emergency preparedness

compacts, including agreements involving interstate jurisdictions; and

“(C) completing an inventory of Federal response capabilities for acts of terrorism, disasters, and emergencies, making such inventory available to appropriate Federal, State, and local government officials, and ensuring that such inventory is as current and accurate as practicable.”.

20. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MICA OF FLORIDA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 198, after line 22, insert the following (and redesignate subsequent subparagraphs of the quoted matter accordingly):

“(D) PRESCREENING INTERNATIONAL PASSENGERS.—Not later than 60 days after date of enactment of this subparagraph, the Secretary of Homeland Security, or the designee of the Secretary, shall issue a notice of proposed rule-making that will allow the Department of Homeland Security to compare passenger name records for any international flight to or from the United States against the consolidated and integrated terrorist watchlist maintained by the Federal Government before departure of the flight.

Page 199, strike lines 17 through 22 and insert the following:

“(F) APPEAL PROCEDURES.—

“(i) IN GENERAL.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any erroneous information.

“(ii) RECORDS.—The process shall include the establishment of a method by which the Assistant Secretary will be able to maintain a record of air passengers who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers, the Transportation Security Administration record shall contain information determined by the Assistant Secretary to authenticate the identity of such a passenger.

Page 203, lines 5 and 6, strike “explosive detection systems” and insert “explosive detection devices”.

Page 203, line 9, insert “backscatter x-ray scanners,” after “shoe scanners,”.

Page 213, after line 9, insert the following (and conform the table of contents of the bill accordingly):

SEC. 2188. IN-LINE CHECKED 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.

Page 213, line 10, redesignate section 2188 of the bill as section 2189 and conform the table of contents of the bill accordingly.

21. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BARTLETT OF MARYLAND, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 478, insert after line 15 the following:

SECTION 5010. STUDY OF EXPANSION OF AREA OF JURISDICTION OF OFFICE OF NATIONAL CAPITAL REGION COORDINATION.

(a) **STUDY.**—The Secretary of Homeland Security, acting through the Director of the Office of National Capital Region Coordination, shall conduct a study of the feasibility and desirability of modifying the definition of “National Capital Region” applicable under section 882 of the Homeland Security Act of 2002 to expand the geographic area under the jurisdiction of the Office of National Capital Region Coordination.

(b) **FACTORS.**—In conducting the study under subsection (a), the Secretary shall analyze whether expanding the geographic area under the jurisdiction of the Office of National Region Coordination will—

(1) promote coordination among State and local governments within the Region, including regional governing bodies, and coordination of the efforts of first responders; and

(2) enhance the ability of such State and local governments and the Federal Government to prevent and respond to a terrorist attack within the Region.

(c) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report such recommendations (including recommendations for legislation to amend section 882 of the Homeland Security Act of 2002) as the Secretary considers appropriate.

22. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHADEGG OF ARIZONA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

In title V, at the end of chapter 3 of subtitle H (page 609, after line 21) add the following:

SEC. ____ . PILOT STUDY TO MOVE WARNING SYSTEMS INTO THE MODERN DIGITAL AGE.

(a) **PILOT STUDY.**—The Secretary of Homeland Security, from funds available for improving the national system to notify the general public in the event of a terrorist attack, and in consultation with the Attorney General and the heads of other appropriate Federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, shall conduct a pilot study under which the Secretary may issue public warnings regarding threats to homeland security using a warning system that is similar to the AMBER Alert communications network.

(b) **REPORT.**—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a re-

port regarding the findings, conclusions, and recommendations of the pilot study.

23. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PORTER OF NEVADA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of subtitle C of title V (page 493, after the item after line 21) add the following:

SEC. ____ . UNDER SECRETARY FOR THE PRIVATE SECTOR AND TOURISM.

(a) ESTABLISHMENT OF UNDER SECRETARY FOR THE PRIVATE SECTOR AND TOURISM.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is further amended by redesignating paragraphs (2) through (10) in order as paragraphs (3) through (11), and by inserting after paragraph (1) the following:

“(2) An Under Secretary for the Private Sector and Tourism.”.

(b) FUNCTIONS.—Section 102(f) of such Act (6 U.S.C. 112(f)) is further amended—

(1) by striking so much as precedes paragraph (1) and inserting the following:

“(f) UNDER SECRETARY FOR THE PRIVATE SECTOR AND TOURISM.—The Undersecretary for the Private Sector and Tourism shall be responsible for—”; and

(2) by striking “and” after the semicolon at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a semicolon, and by adding at the end the following:

“(9) employing an analytic and economic staff who shall report directly to the Under Secretary on the commercial and economic impact of Department polices;

“(10) coordinating with the Office of State and Local Government on all matters of concern to the private sector, including the tourism industry; and

“(11) coordinating with the Assistant Secretary for Trade Development of the Department of Commerce on means of promoting tourism and travel to the United States.”.